

26 March 2018

Hamid Sharif
Director General
Compliance, Effectiveness and Integrity Unit
Asian Infrastructure Investment Bank
B-9 Financial St., Xicheng District
Beijing, China 100033

Re: Comments on Second Phase of Draft Complaints Handling Mechanism

Dear Mr. Sharif:

We appreciate the opportunity to comment on the draft Project-Affected People's Mechanism (PPM) policy. As you know, our organizations have extensive experience supporting project-affected people and communities in using Independent Accountability Mechanisms (IAMs) of development finance institutions to prevent harms and seek redress. Our recommendations are based on the unique insights we have gained from this experience. As such, we trust that our recommendations will be carefully considered and incorporated into the final version.

We have closely reviewed the draft policy and, while we are pleased to see the contours of a mechanism with a dispute resolution, compliance, and advisory function, regrettably, we have serious concerns about fundamental aspects of the proposed mechanism and each of these functions. If the policy is adopted without significant reforms, we would have strong reservations that it can truly function as an IAM and remedy the harms to project-affected people. Far from adopting best practice from other IAMs, the draft policy would create a mechanism that is markedly less accessible and transparent than most other IAMs. Despite its proposed name, and repeated assertions in the draft, we do not agree that the mechanism will be "people-centered." We are of the firm view that its structural deficiencies, coupled with the procedural hurdles it poses to potential users, will result in an IAM that fails to achieve its core purpose of preventing and resolving harms experienced by project-affected communities, and enhancing institutional accountability and continuous learning within AIIB. We urge you to substantially revise the draft policy to ensure that the mechanism is empowered and equipped to meet these important goals.

This submission is composed of three parts.

- This cover letter sets out our most significant concerns, organized according to the following three principles: accessibility, transparency, and legitimacy. We note with concern that these are not included among the policy's own five overarching principles.
- Annex 1 assesses the draft policy against the initial best practice recommendations contained in our first submission dated 23 June 2017. We find that the draft policy only fully incorporates 12 of the 60 recommendations.
- Annex 2 is a marked-up version of the draft policy, identifying the specific paragraphs and text that we find problematic, with cross-references to our recommendations where relevant.

Accessibility

The draft PPM policy makes a prediction that the mechanism will not receive many complaints in its first few years of operation,¹ basing this conclusion on the caseloads at other IAMs. Our analysis of the draft leads us to a similar conclusion, but for different reasons. The draft policy describes a mechanism that would be inaccessible to many project-affected communities, creating barriers that would prevent or dissuade its use.

Exclusion of complaints concerning co-financed projects: The draft excludes an entire class of complaints—those relating to projects co-financed by other international financial institutions (IFIs) when the policies of that institution, and not of the AIIB, apply. Complainants should be able to choose the mechanism most appropriate to their case and that will best serve their needs. As is the case at other mechanisms, when complaints are filed at more than one, the IAMs can coordinate to maximize positive outcomes, both for the case at hand and institutional learning and accountability. Accountability must follow the investment, regardless of which policies apply. As long as the AIIB is invested in a project, it should be accountable for that project's impacts and learn from its shortcomings. As the draft stands, however, not only are co-financed complaints barred from the PPM, but the AIIB would have no obligation to cooperate with other IAM processes or respond to the findings of another institution's IAM, effectively absolving the AIIB from all responsibility for the impacts of these investments. Nor is any process established for the AIIB to learn from such cases – an important purpose of IAMs, especially at a new institution. As a result, institutional accountability would be absent. This restriction on accessibility is particularly concerning in light of the fact that the majority of the AIIB's current portfolio consists of projects co-financed with other IFIs.

Unrealistic requirements to demonstrate “substantial” harm: The eligibility requirements of the draft policy set the bar unrealistically high for project-affected communities. Submissions must “make a credible case of potential or actual adverse impact or harm.” A footnote to that paragraph further specifies that the “substantial” adverse impact or harm must be demonstrated, to the satisfaction of the PPM.² There are two problems with this. First, there is a risk that the PPM will unduly deny complaints by applying arbitrary and unreasonable definitions of “substantial adverse impact.” Second, the implication that complaints must include evidence to demonstrate harms creates an impractical barrier for complainants. Affected communities are almost always poor and marginalized, and sometimes illiterate, and may not have access to legal representation or support (which is indeed restricted by the PPM policy). At other mechanisms, an initial assessment process allows the IAM to conduct preliminary research, including through interviews of the parties to establish whether there is a valid basis for the complaint, and that it is not frivolous or vexatious. This is an important initial part of the IAM's function, and the burden of providing evidence up front should not be shifted to affected communities. Relatedly, the draft policy requires that for complaints on projects that use country or client systems, the complainants must establish that AIIB has been “grossly negligent” in determining that the country/client environmental and social protection standards are materially consistent with the AIIB's own. This legalistic requirement is wholly unrealistic and inappropriate for a “people-centered” complaints mechanism.

¹ Paras. 96-98

² FN17

Unreasonable preconditions to filing submissions: The draft policy establishes two preconditions for filing a complaint: using the project-level grievance mechanism and approaching AIIB staff. No other IAM requires a complainant to first access a project-level grievance mechanism, in part because the project-level grievance mechanism is often designed and operated by the very actor causing the harm. The evidence shows that project-level grievance mechanisms are not effective at addressing the types of complex issues that are usually presented to IAMs. We understand from our engagement with the MD-CEIU that this precondition is intended, in part, to strengthen the acknowledged short-comings of project-level grievance mechanisms. If they are accessible, independent, and effective, project-affected communities are likely to use project-level grievance mechanisms; however simply *requiring* their use will not make them more fair and effective, and instead exposes already vulnerable people to the risk of retaliation without the protection of an external legitimate complaints handling process. We would instead encourage the AIIB to work with or urge its clients to improve project-level grievance mechanisms, which, if effective, would likely lead to fewer cases of harm and thus a reduced need for complaints to the PPM.

Exclusion of nonlocal assistance: The draft would restrict complainants from receiving assistance from “nonlocal” civil society organizations unless that assistance is “adequately justified” by complainants and “endorsed by the PPM.”³ The term “assistance” is so broad that it could be interpreted to prohibit all forms of advice, funding, or other support from regional or international CSOs. If adopted, this would be an astonishing attempt to curtail CSO cooperation and activity. We understand from the MD-CEIU that this provision is intended to help build the capacity of local civil society organizations. While we agree with the notion that local CSOs, which play a crucial a role in supporting communities, should have every opportunity to increase their experience and expertise, we do not think that the PPM is well-placed to build CSO capacity, or that excluding the involvement of international CSOs is the most effective way to do so. In fact, our experience consistently shows that the best outcomes – both for cases and capacity building – are reached when experienced international CSOs work side-by-side with local CSOs to support communities using IAMs. Multiple factors, such as capacity levels, political environment, and security risks, determine whether affected communities request local and/or international CSO representation and other assistance in navigating IAM processes, and the nature and degree of that support. Thus, even if the language in the policy were revised to apply only to nonlocal *representation* of complainants, we would still be concerned. If the policy were truly people-centered, it would allow project-affected communities to work with or be represented by anyone of their choosing – just as the AIIB and its clients may choose to involve their legal counsel in IAM cases, when they wish to do so.

Confusing complaint nomenclature: Instead of simply establishing procedures for submission of “complaints,” the draft PPM creates three types of “submissions” – a “concern,” a “request for dispute resolution,” and a “request for compliance review.”

There are multiple problems with this complex typology and submission filing structure. For one, the terminology is confusing. A “concern” is vaguely defined as a project-related issue that “has not yet crystallized into an identified dispute.”⁴ Additionally, it is unclear whether there is any practical difference between a “concern” and a “request for dispute resolution,” as both

³ Para. 15

⁴ Page iii

seemingly result in a dialogue process. Further, the preconditions and requirements for filing a “concern” and also a “request for dispute resolution” are identical to those for filing a request for a compliance review: in order to file a “concern,” project-affected people must have already approached the AIIB and been dissatisfied with the response received.⁵ They must also meet the high bar of making a credible case of potential or actual substantial harm.⁶ It is clear, therefore, that all three submission types are the same in substance.

Second, given the complexity of investment projects, in reality many cases involve both “concerns” about future impacts --as for example, a project expands or evolves into subsequent phases of development or operation-- and complaints about actual harms that have already occurred --for example, during the early stages of development. Therefore, separating these two categories is artificial and impractical, and will ultimately cause the PPM logistical difficulties in handling complaints in an efficient and effective manner.

Thirdly, since all three submission types are true “complaints” as understood by all other grievance mechanisms, the complex typology is unhelpful in achieving the AIIB’s stated goal of “destigmatizing” the complaints process. We could not agree more that “problems are part of the difficult business of development and to satisfactorily solve them is, in fact, an integral part of good development practice.”⁷ “Destigmatizing” the complaints process requires a cultural shift within the institution. That shift will not be achieved by calling a complaint by another name. Instead, characterizing a complaint as a “concern” or a “request for dispute resolution” serves to marginalize and minimize complainants’ grievances – and therefore ironically to stigmatize these genuine complaints.

Complex and rigid filing system: The complex submission structure acts as a barrier to access. Although the policy claims to take a people-centered approach, it proposes a system that would be difficult for project-affected communities to navigate, requiring them to identify which type of complaint to file at what stage in the project and overcoming obstacles in order to transition from one function to another. There should be no hierarchy in the functions that a mechanism performs. Dispute resolution and compliance review are two different roads that should lead to the same destination, remedy for the complainant and accountability of the institution. The policy itself stigmatizes compliance review by making it more difficult for complainants to request it in the first instance, or to switch from dispute resolution to compliance review, referring to the latter as “escalation.”⁸

Further, if the dialogue process undertaken for a concern and/or a request for resolution fails before the project has been approved, the complainant must wait until project approval to file a complaint requesting compliance review. There is no reason compliance review could not occur prior to project approval since the bank has standards that apply, and against which compliance can be assessed, during the due diligence phase of the project. Indeed, the mechanisms of the World Bank Group, the AfDB, and the ADB, among others allow this compliance review at pre-approval stages.

⁵ Para. 24

⁶ Para. 17, FN17

⁷ Para. 9

⁸ Para. 31

A more people-centered approach would allow project-affected people to file a complaint as early in the project cycle as possible and choose whatever function or functions best suits their needs and the sequence of those functions.

Confusing and impractical roles of various parties: The draft policy is unclear and internally inconsistent about the role of complainants, clients, and the AIIB in the different functions. For concerns, the policy seems to suggest that the PPM and Bank Management will identify “timely and cost-effective ways in which the issues raised by the concern can be reasonably addressed”⁹ without input from the complainant on the adequacy of those measures to address the issues raised. Elsewhere, the policy says that concerns would result in a dialogue between “AIIB staff, the Project-affected people *and or* Client concerned.”¹⁰ That appears to allow for the possibility that the client but not the complainant would be consulted on the outcome. In dispute resolution, it is the client whose role is unclear. The text seems to suggest that the dialogue would take place between AIIB staff and the complainant, but not the client. The bank would “ensure that the Client is kept fully informed during the resolution of eligible concerns and disputes raised by Project-affected people, and as needed work with the Client to ensure appropriate implementation of the agreed measures.” This is contrary to the way dispute resolution is conducted by all other IAMs in which the dialogue takes place between the complainants and the client, and often without the participation of bank staff. The proposal is unworkable since any effective dispute resolution process must involve the primary parties to that dispute, which will almost always be the project implementer/owner, whose activities are directly causing the harms and the community experiencing those harms. While project financiers, such as the AIIB, play an important role in dispute resolution and remediation, the primary actor cannot be feasibly removed from the process if it is to have a chance of success.

Transparency

It is standard practice for IAMs to publish all relevant documentation regarding a complaint, including the complaint, the eligibility determination, the final report or agreement, and monitoring reports (subject to complainant confidentiality requests). The draft appears to commit to disclosing only summaries of PPM findings and assessments.¹¹ That will prevent complainants and other stakeholders from monitoring the PPM to ensure it is fulfilling its mandate. Similarly, access to the compliance review reports and the bank’s response to them are necessary to ensure that the bank is meeting its environmental and social obligations and its responsibilities under the complaint process. For the mechanism to be regarded as credible, it is essential that there is disclosure of these documents.

Legitimacy

Legitimacy refers to a mechanism that, through its structure and procedures, is capable of achieving its mission, and which engenders trust from the people who would use it. The PPM policy as drafted creates serious problems of legitimacy.

⁹ Para. 58

¹⁰ Para. 23 (emphasis added).

¹¹ Para. 72, 85 [but see para. 40]

Conflicts of interest: The policy claims that combining oversight functions into one unit – the CEIU – is a “governance innovation among international financial institutions,”¹² without explaining how this approach actually improves on previous models. There is a reason why other IFIs have created separate, independent offices for these functions: such separation and independence are critical for ensuring the success of the mechanisms’ work. Although the MD-CEIU has a reporting line to the Board, the mechanism itself is not independent from the other functions of the CEIU unit. The policy is explicit that the staff in the unit will multi-task, presumably working on PPM and the other functions within the unit. Conflicts of interest may arise between the evaluation function and the PPM if a complaint is received on a project that the evaluation team has already reviewed. Any potential or actual conflicts of interest would, it asserts, be adequately and effectively addressed. Even if it were possible to ensure a separation at the staff level, it is difficult to envision measures that would adequately address the conflict, much less the appearance of one. After all, the MD-CEIU directs all of the functions within the unit.

Impractical vesting of multiple responsibilities in the MD-CEIU: The policy is explicit that the staff in the unit will multi-task. The MD-CEIU is tasked with directing all functions of the PPM, even chairing every task-force created to conduct a compliance review. The structure yields serious risk that staff will be too burdened to give each complaint the care it requires, and that the MD-CEIU him or herself will end up being a bottle-neck in the PPM’s process.

Lack of independence from board: The mechanism also lacks additional hallmarks of independence found at other IAMs. Key among these is the mandate to determine whether a compliance review is warranted without approval from the Board. The PPM policy should contain clear eligibility criteria for the mechanism to apply in making such a determination. Allowing the Board to overrule that determination would undermine the independence of the mechanism.

Undue discretion on remedial action plans: The draft policy leaves it to the discretion of the PPM and the Board to request that Management prepare a remedial action plan to respond to findings of non-compliance. Should the PPM or the Board allow the bank to ignore the PPM’s findings of non-compliance, the legitimacy and the independence of the mechanism would be in serious jeopardy. Management should be required to prepare an action plan any time an investigation finds non-compliance.

No external stakeholders in selection of key staff: The draft policy also lacks provisions to include external stakeholders on selection of key staff and strong pre- and post-employment restrictions—all of which further promote the independence of the mechanism.

Conclusion

Given the above significant concerns, in addition to those detailed in the annexes, the undersigned organizations call for a substantial revision of the policy before it is considered by the Board of Directors for its adoption. If you have any questions about this submission, please contact Kris Genovese (k.genovese@somo.nl), SOMO, who will coordinate our organizations’ responses and input.

¹² Para. 4

Sincerely,

Accountability Counsel
Bank Information Center
Bank Information Centre Europe
Both ENDS
CEE Bankwatch Network
Center for International Environmental Law
Centre for Research on Multinational Corporations (SOMO)
Forest Peoples Programme
Green Alternative
Inclusive Development International
International Accountability Project
NGO Forum on ADB
Oxfam
Urgewald

	Submission recommendation	IAM Examples	Relevant Paragraph of PPM Draft	Recommendation Accepted?
1	<p>Mandate: The overarching mandate of the Asian Infrastructure Investment Bank (AIIB) Complaints Handling Mechanism (CHM) should be two-fold: first and foremost, to prevent harms and provide effective remedy to project-affected people; and second, to ensure institutional accountability and continuous improvement vis-à-vis social and environmental risks and impacts of AIIB-supported projects.</p>	<p>As a best practice example, the International Finance Corporation’s Compliance Advisor Ombudsman (IFC’s CAO) Operational Guidelines (para. 1.1) state: “CAO’s mandate is to:</p> <ul style="list-style-type: none"> □ Address complaints from people affected by IFC/MIGA[Multilateral Investment Guarantee Agency] projects (or projects in which those organizations play a role) in a manner that is fair, objective, and equitable; and □ Enhance the environmental and social outcomes of IFC/MIGA projects (or projects in which those organizations play a role). In executing this mandate, the CAO process provides communities and individuals with access to a grievance mechanism that offers redress for negative environmental and/or social impacts associated with IFC/MIGA projects. This includes impacts related to business and human rights in the context of the IFC Policy and Performance Standards on Environmental and Social Sustainability.” 	11, 12	<p>No – The stated purpose aligns with our recommendations, but the policy has several problematic provisions that undermine this purpose. Furthermore, the overarching principles guiding the PPM’s activities should be the ‘effectiveness criteria’ from the UN Guiding Principles on Business and Human Rights – the PPM should be legitimate, accessible, predictable, equitable, transparent, rights-compatible, and a source of continuous learning. Para. 12’s inclusion principle is more appropriate for the institution, not the mechanism. Concerning proportionality, the mechanism should determine compliance with the Environmental and Social Policy (ESP). If environmental and social requirements are applied differently depending on the project, that should be in the ESP, not determined by the mechanism.</p>

	Submission recommendation	IAM Examples	Relevant Paragraph of PPM Draft	Recommendation Accepted?
2	Functions - Compliance: To effectively fulfill its mandate, the CHM should have three complementary functions: Compliance Review, Dispute Resolution, and Advisory. The compliance review function should be an impartial fact-finding body that investigates claims of social and environmental harm, or foreseeable harm, linked to non-compliance with bank policies and standards by the AIIB and its clients, or that result from weaknesses and gaps in AIIB policies.	The United Nations Development Programme’s Social and Environmental Compliance Unit (UNDP’s SECU) (para. 2): “provides UNDP, and those affected by UNDP projects, with an effective system of independently and objectively investigating alleged violations of UNDP’s social and environmental commitments. SECU seeks to protect locally-affected communities and, in particular, disadvantaged and vulnerable groups, and to ensure participation of local stakeholders.”	32	Yes – The policy does have a compliance review function (however, it is problematic in many ways that we will discuss below). The PPM will be limited to only investigating claims of non-compliance with the ESP.
3	Functions - Dispute resolution: The dispute resolution function should be empowered and equipped to use a range of tools and approaches to assist parties in reaching resolutions to address or remediate adverse social and environmental risks and impacts. The mechanism should remain impartial and independent in this process, while also seeking to address the power imbalances between the parties.	The African Development Bank’s Independent Review Mechanism’s (AfDB’s IRM) website characterizes its problem-solving function as: “restor[ing] an effective dialogue between the requestors and any interested persons with a view to resolving the issue(s) underlying a request, without seeking to attribute blame or fault to any such party.”	23, 25, 60	Yes – The policy does have a dispute resolution function (however, it is problematic in many ways that we will discuss below). The pre-emptory review function (para. 23) could also be considered a form of dispute resolution (again, problematic). However, the client’s role in dispute resolution is not clear.

	Submission recommendation	IAM Examples	Relevant Paragraph of PPM Draft	Recommendation Accepted?
4	Functions - Advisory: The advisory function should derive thematic and systemic lessons from trends in the CHM's caseload, both compliance and dispute resolution, in order to provide guidance to AIIB leadership on improving the institution's social and environmental performance. The advisory function helps to embed an institutional culture of continuous learning and improvement of policy and practices.	The Guidelines of the IFC's CAO (para. 1.2) state: "CAO is a source of independent advice to the President and the senior management of IFC and MIGA. Advice is based on insights gathered from CAO's dispute resolution and compliance interventions and is focused on broader environmental and social policies, guidelines, procedures, strategic issues, trends, and systemic issues based on the experiences gained through its case work, with the goal of fostering systemic improvements in IFC/MIGA."	21, 36	Yes – However, instead of just calling it the advisory function, the policy splits this function into three related functions, which is potentially unnecessary and could be confusing for readers.
5	Reporting line: The CHM should report to the Board of Directors rather than to the President of AIIB.	The World Bank's Inspection Panel's (WB's IP) Operating Procedures (para. 6) state: "[t]he Panel reports to the Board. The Board's Committee on Development Effectiveness (CODE) is designated as the main interlocutor for the Panel."	4, 5, 48 (Figure 2)	No – While the PPM is under the CEIU, which is independent and reports to the Board, the PPM itself does not directly report to the Board.

	Submission recommendation	IAM Examples	Relevant Paragraph of PPM Draft	Recommendation Accepted?
6	<p>Leadership: The CHM should be run by a director, who oversees dispute resolution and compliance function managers and a permanent staff. Complainants need to be assured that their cases are being handled in a predictable and consistent manner, which can be undermined when the mechanism operates on a roster model, rather than through a permanent staff.</p>	<p>The Inter-American Development Bank's Independent Consultation and Investigation Mechanism (IDB's MICI) Policy states (para. 8): "The MICI is headed by a director, who is assisted by phase coordinators and the operations and administrative staff necessary to perform the Mechanism's work efficiently and effectively. All MICI staff including consultants will report to the Director."</p>	6, 44-46, 49, 97	<p>No – Having the Managing Director of the CEIU (MD-CEIU) overseeing the PPM as well as the other CEIU functions will potentially stretch the MD quite thin and arguably concentrates too much power in the position. The PPM should have its own director, not someone with other tasks. Although the policy states in para. 44 that there will be PPM staff and PPM Secretariat, the structure is still a little unclear because there will be reliance on staff from the larger CEIU. There is also the question of how big of a role do task force members have vis-à-vis the PPM. The task force appears to follow a roster model, which is problematic. Additionally, the policy does not designate a lead within the mechanism for the dispute resolution function.</p>

	Submission recommendation	IAM Examples	Relevant Paragraph of PPM Draft	Recommendation Accepted?
7	External participation in selection process: External stakeholders should participate in the hiring process for the mechanism's director and function managers. Additionally, the selection committees for mechanism principals should not include members of AIIB management.	As explained on the IFC's CAO's website, the current head of the CAO was appointed by the World Bank Group President following an independent selection process led by civil society, industry and academia.	48	No – The policy does not provide details on the hiring of the CEIU director. External stakeholders are not involved in the hiring of the head of the PPM Secretariat.
8	Recruitment: CHM staff should be selected by the mechanism's director and function managers. The mechanism should be responsible for hiring its own staff.	The IFC's CAO Guidelines (para.1.3) state: "CAO staff are recruited by the CAO Vice President."	44-46, 48, 97	No – While the policy includes provisions on PPM and CEIU staff, it's unclear who does this hiring. There is no discussion on the hiring of function managers. We do know that the head of the PPM Secretariat is appointed by the MD-CEIU and that the MD-CEIU can engage external experts.

	Submission recommendation	IAM Examples	Relevant Paragraph of PPM Draft	Recommendation Accepted?
9	Recruitment of consultants: The function managers should be empowered to hire outside consultants with technical expertise relevant to the complaint.	The IDB's MICI Policy provides (para. 56): "The MICI Director is authorized to contract any external expert necessary, in strict compliance with the Bank's policies and procedures. In consultation with the Human Resources Department, the MICI Director will also prepare and maintain a list of independent expert consultants with specialized knowledge in areas such as mediation, dispute resolution, compliance, auditing, resettlement, indigenous peoples, environmental and social safeguard policies, and other required areas of expertise. These experts will not come from Management."	46, 51	Yes – However, this hiring is done by the MD-CEIU. It is unclear if there are function managers.

	Submission recommendation	IAM Examples	Relevant Paragraph of PPM Draft	Recommendation Accepted?
10	Cooling off period: There should be a pre-employment cooling off period of at least five years.	<p>The Asian Development Bank's Accountability Mechanism (ADB's AM) Policy states (paras. 109, 113): "The SPF must not have worked in any ADB operations departments for at least 5 years before the appointment" and "[d]irectors, alternate directors, directors' advisors, Management, staff, and consultants will be ineligible to serve on the CRP [Compliance Review Panel] until at least 3 years have elapsed from their time of employment with ADB."</p> <p>The African Development Bank's Independent Review Mechanism (AfDB's IRM) Rules and Procedures provide (para. 85): "Executive Directors, Alternate Executive Directors, Senior Advisers and Advisers to Executive Directors, any Officer or Staff member of the Bank or persons holding consultant appointments shall not serve on the Roster of Experts at the end of their service with the Bank."</p>	50, 52	No – The policy contains no such provisions for staff other than external experts. It is positive that there is a pre-employment cooling off period for experts, but the one year stipulated is insufficient.

	Submission recommendation	IAM Examples	Relevant Paragraph of PPM Draft	Recommendation Accepted?
11	Post-employment ban: There should be a post-employment ban for the principals of the mechanism and a cooling off period for staff.	The IFC's CAO Guidelines include an employment ban for the head and a cooling off period for staff (para. 1.3): "Contracts for CAO staff restrict specialists and staff above that level from obtaining employment with IFC or MIGA for a period of two years after they end their engagement with CAO. The CAO Vice President is restricted for life from obtaining employment with the World Bank Group."	50, 52	No – Task-force members are external experts (para. 50) and there are no provisions for staff other than external experts. It is positive that there is a post-employment cooling off period for experts, but the one year stipulated is insufficient.
12	Conflict of interest: Person(s) with a conflict of interest must recuse themselves from the complaint process. In the event that a member of the mechanism or a consultant has a conflict of interest in regards to a particular complaint, he or she should disclose that conflict of interest and recuse him or herself from the complaint process.	The IFC's CAO Guidelines include an employment ban for the head and a cooling off period for staff (para. 1.3): "If a CAO staff or consultant has a conflict of interest in relation to a particular case, that person will withdraw from involvement in that case. In exceptional circumstances, contractual arrangements for CAO consultants may impose time-bound restrictions on their future involvement with IFC or MIGA."	44-45, 52, 97	No – The policy does mention that conflicts of interest will be managed/addressed but does not include details on how this will be done. Task force members (i.e., consultants) must sign a Conflict of Interest Declaration.

	Submission recommendation	IAM Examples	Relevant Paragraph of PPM Draft	Recommendation Accepted?
13	<p>Publicising the existence of the mechanism: The AIIB should require clients and sub-clients to disclose the existence of the mechanism to project-affected communities. The AIIB should require clients and sub-clients to disclose the existence of the mechanism during project consultation processes and through other appropriate means. Bank staff should also be required to work with clients to ensure disclosure of information for all types of financing, including indirect lending through financial intermediaries.</p>	<p>The ADB's AM Policy, for example, states (para. 211): "Staff, working with the borrower, will disseminate information early in the project cycle about the Accountability Mechanism and its availability as a recourse in case other mechanisms for dealing with harmful project effects are not successful. The intensity and format of this activity will vary with the nature of the project. Operations departments will focus on projects with a high degree of safeguard risks, such as projects with heavy resettlement. Pamphlets in national or official languages, community notice boards, audiovisual materials, or other appropriate and effective means will be used to inform people."</p>	42, 67	<p>No – Para. 67 includes very poorly worded and confusing provisions that give the PPM power to pressure management if management did not ensure that the client disseminated information about the project-level mechanism or the PPM. It would be difficult for a community to file a complaint to the PPM about this if they did not have the information about the PPM in the first place. Para. 42 should include a requirement that clients should disseminate information about the PPM.</p>
14	<p>Public disclosure about the mechanism: Information about the mechanism should be included in relevant AIIB publications and feature prominently on its website. A link to the mechanism's webpage should be displayed prominently on the Bank's website in a manner similar to the current link to "Report fraud or corruption," which is displayed on every page within the AIIB's website. Further, AIIB management should collaborate with the CHM in support of its efforts to publicize its role.</p>	<p>The IDB's MICI Policy states (para. 60): "The MICI Director will coordinate with other Bank offices and units to ensure that information about the Mechanism is integrated into Bank activities and publications designed to promote information about the institution. Management will support the MICI's efforts to publicize the Mechanism."</p>	42	<p>No – Para. 42 does say that the PPM will "work with AIIB operational units to strengthen effective interaction with interested stakeholders" and outlines various activities. However, it is not clear what will be on the PPM's website and what will be directly available on the AIIB's website.</p>

	Submission recommendation	IAM Examples	Relevant Paragraph of PPM Draft	Recommendation Accepted?
15	Information available in different languages: Information about the CHM, including a model complaint letter, should be produced in multiple languages and accessible formats. Informational documents about the CHM regarding its policies, guidelines, and other relevant materials should be produced in digital and printed formats in multiple languages. A simple model complaint letter, such as the template provided by the IFC's CAO, should be produced to guide communities to submit the necessary information for registering a complaint.	The IFC's CAO Guidelines (para. 1.6) commit to publishing: "CAO Operational Guidelines, CAO's Terms of Reference, information brochures, and other materials in the official languages of the World Bank Group [Arabic, Chinese (Mandarin), English, French, Russian, Spanish, and Portuguese], and additional languages where deemed necessary, and mak[es] these documents available in hard copy, online, and by other culturally appropriate means."	18, 42, 81-82	No – There are some commitments to having accessible formats in para. 42 but no provisions on information being provided in multiple languages. There is also the preference for submissions in English and national languages in para. 18 that could translate to outreach efforts as well.
16	Public outreach about the CHM: The CHM should develop a public outreach strategy, including accessible events in the DFI's countries of operation, with adequate budget to support participation by potentially affected communities. Independent accountability mechanisms from multiple DFIs have begun to hold regular outreach events, sometimes jointly, such as one held in June 2017 in Bangkok by the WB's IP, the IFC's CAO, and the ADB's AM.	The IDB's MICI Policy states (para. 60): "The MICI office has a mandate to conduct public outreach throughout Latin America and the Caribbean. The MICI Director will develop and implement an outreach strategy to inform civil society."	38, 42-43	Yes – However, the CEIU did not organise in-country consultations on this draft policy itself. Instead, civil society organisations and government ministries organised consultations, which the CEIU then attended.

	Submission recommendation	IAM Examples	Relevant Paragraph of PPM Draft	Recommendation Accepted?
17	Complaint registry: The CHM should publish a complete and updated complaint registry. The registry should include pending, completed, and closed cases, including ineligible complaints, with links to complaint letters (redacted if complainants request confidentiality), decisions on complaint eligibility, assessment reports, dispute resolution reports and agreements, terms of references for compliance review investigations, investigation reports, management responses and proposed remedial actions, monitoring reports, conclusion reports, and other relevant documentation. This registry should be published online, in a similar manner to other accountability mechanisms.	The IDB's MICI publishes all complaints received, even those later declared ineligible, and all related materials (para. 62): "The Mechanism will maintain a virtual Public Registry that will provide up-to-date information on Requests submitted to the Mechanism and their processing, and will include the publication of the public documents provided for under this Policy."	40, 53, 69, 72, 85, 86	No – The policy commits to publishing some information online but also limits this to mostly summaries of documents. The extent of disclosure is also unclear in other provisions in the policy: compare paras. 72 and 85 with para. 40.
18	External advisory group: The CHM should establish an external stakeholder advisory group to regularly provide strategic guidance, advice and feedback. The advisors should include representatives from CSOs and technical experts in fields such as accountability, sustainable development and conflict resolution.	The IFC CAO's website specifies: "CAO meets with a Strategic Advisors Group comprised of professionals from civil society, private industry, academia, and the field of mediation and conflict resolution."	101	No – Although the policy includes a commitment to dialogue in para. 101, it does not commit to an established advisory board that meets regularly.

	Submission recommendation	IAM Examples	Relevant Paragraph of PPM Draft	Recommendation Accepted?
19	Membership of IAM network: The CHM should join the IAM Network. According to the IAM Network criteria, for the CHM to participate it must be, inter alia, a “citizen-driven complaint and response mechanism” and be “operationally independent.”	Some IAM policies, such as that of the Independent Complaints Mechanism (ICM) of the Netherlands Development Finance Company (FMO) and the German Investment and Development Corporation (DEG), codify membership in the IAM Network (para. 1.2.7): “The ICM is a member of the global network of Independent Accountability Mechanisms (IAM).”	38, 71 (FN 31)	Yes – In FN 31, the PPM commits to joining the IAM Network (Note: the Network has to allow the PPM to join).
20	Public reviews of policy and process: The CHM should regularly review its policy and guidelines through a public process. In order to ensure that the mechanism continually improves and remains responsive to project-affected communities, it should conduct public reviews at regular intervals. The review should include a public consultation process, soliciting input from project-affected communities, complainants and other stakeholders. In addition to regular reviews, the CHM should implement systems to collect information about its own performance.	The European Bank for Reconstruction and Development’s Project Complaint Mechanism (EBRD’s PCM) Rules of Procedure enshrines a regular review (para. 72): “The PCM will be reviewed by the Board every five (5) years or as needed.”	37, 81, 90-91	No – The PPM commits to regular reviews, but the ability for the AIIB President to request a review is potentially problematic. Language should be added to paragraphs 90 and 91 on public consultation, etc.

	Submission recommendation	IAM Examples	Relevant Paragraph of PPM Draft	Recommendation Accepted?
21	Scope of application: The CHM should accept complaints across all AIIB operations, and all stages of operations, including activities co-financed with other DFIs. The jurisdiction of the mechanism should extend to all AIIB-supported operations and activities.	<p>The IFC's CAO's jurisdiction (para. 4.1) extends to "all IFC's business activities including the real sector, financial markets, and advisory services."</p> <p>The European Investment Bank's Complaints Mechanism (EIB's CM) Operating Procedures state (para. 4.3): "A complaint is considered admissible if the allegations relate to a decision, action or omission by the EIB."</p>	14, 19, 78-80	No – There are many limitations on which projects can be the subject of a grievance, including time limits, limited to ESP, parallel proceedings, country systems, co-financing, etc.
22	Eligibility requirements: The eligibility requirements should be simple. Complainants to the CHM should simply be required to outline how the alleged harm or potential harm affecting them is tied to AIIB-supported activities.	The IFC's CAO Guidelines state (para. 2.2.1) that the CAO will deem a complaint eligible if it: "1. ...pertains to a project that IFC/MIGA is participating in, or is actively considering. 2. The issues raised in the complaint pertain to CAO's mandate to address environmental and social impacts of IFC/MIGA projects. 3. The complainant is, or may be, affected by the environmental and/or social impacts raised in the complaint."	17, 33-34	No – The policy contains troubling language: "credible," "reasonable likelihood," "substantial adverse." Also, complainants should not have to cite to specific provisions of the ESP.
23	Timing of complaints: Complaints should be admissible prior to project approval. In order to prevent or mitigate potential adverse impacts, complainants should be able to bring complaints to the mechanism before the project is approved by the AIIB's Board.	Under the IFC's CAO Guidelines (para. 2.2.1), it can accept complaints if "[t]he complaint pertains to a project that IFC/MIGA is participating in or is actively considering."	15, 57, Figure 1 (p.9)	No – Complainants can only submit "concerns" and requests for dispute resolution prior to project approval. They cannot request a compliance review.

	Submission recommendation	IAM Examples	Relevant Paragraph of PPM Draft	Recommendation Accepted?
24	<p>Time limits: Complaints should be admissible for a reasonable period of time following project completion. The CHM should accept complaints throughout the project lifecycle and for a period of time after the project is closed.</p>	<p>The Guidelines of UNDP's SECU (sec. 1.1) exclude complaints: "relating to projects or programmes [...] for which UNDP's support has ended and its role can no longer reasonably be considered a cause of the concerns raised in the claim." However, "when UNDP's support has ended, but impacts can fairly and reasonably be traced to UNDP's involvement, the SECU will accept complaints that are likely to provide institutional learning, prevent future mistakes and abuses, or support resolution of concerns of communities."</p> <p>The ADB AM's Policy states (para. 142(iv)): "Complaints will be excluded if they are: ... about an ADB-assisted project for which 2 or more years have passed since the loan or grant closing date."</p>	19, FN 19, FN 20	<p>No – The PPM will accept submissions up to 24 months after project completion in "exceptional cases," which is not outlined in detail. Also, the PPM will not make a recommendation to develop an action plan in those cases</p>

	Submission recommendation	IAM Examples	Relevant Paragraph of PPM Draft	Recommendation Accepted?
25	Pre-conditions: Complainants should not be required to take other steps to resolve their grievances as a precondition to filing a complaint (e.g. discussing with project manager).	The ADB's AM Policy (para.144) states that the AM: "will not require complainants' good faith efforts to solve problems with project-level grievance redress mechanisms as a precondition for their access to the Accountability Mechanism."	3, 19, 26, 33	No - The draft policy requires that concerns, requests, or complaints must have been taken up with AIIB management or a project-level grievance mechanism in the first instance. Complainants should not be required to take other steps to resolve their grievances as a precondition to filing a complaint to the PPM
26	Number of complainants: The CHM should accept complaints from one or more individuals. Even just one complainant should have the right to seek redress for harm through the CHM.	The IFC's CAO Guidelines state (para. 2.1.2): "Any individual or group of individuals that believes it is affected, or potentially affected, by the environmental and/or social impacts of an IFC/MIGA project may lodge a complaint with CAO."	15	No - The draft policy stipulates that submission must be by two or more people. The PPM should accept submissions from even just one person. This requirement wrongly assumes that there are no circumstances under which just one person may have been aggrieved.

	Submission recommendation	IAM Examples	Relevant Paragraph of PPM Draft	Recommendation Accepted?
27	Parallel proceedings: Judicial or other parallel proceedings should not automatically bar complaints. The CHM should only opt to bar or suspend a complaints process if parallel proceedings already instituted would interfere in their handling of the complaint, or vice versa. This is more likely to be the case with dispute resolution, as multiple processes involving the same parties and issues are usually not conducive to a positive outcome. As compliance review by CHM uniquely relates to AIIB policy, which will not be the subject of any other mechanism or proceeding, interference is unlikely, and the complaints process should be able to proceed.	The Guidelines of the IFC's CAO outline (para. 1.1): "CAO has no authority with respect to judicial processes. CAO is not an appeals court or a legal enforcement mechanism, nor is CAO a substitute for international court systems or court systems in host countries...where CAO is engaged in complaints that overlap the jurisdiction of other organizations' accountability mechanisms, CAO will collaborate ... to ensure that the complaint is handled in a manner that is fair and efficient."	78-79	No – Even though the ESP does not block access to PPM for users of country systems, the language on "contradictory findings" is troubling. Also, the language on co-financing in paras. 77 and 78 effectively blocks concurrent or sequential complaints to more than one IAM.
28	Representation and advice: Complainants should be allowed to have representation or advisors support them throughout the complaint process. The CHM should respect this relationship and be open to the involvement of legitimate advisors in a manner requested by the complainants. Moreover, due to potential reprisals, affected communities may need to file complaints via a representative. Both local and international organizations should be allowed to represent and/or support the complainants.	The EBRD's PCM Rules (para. 5) allow for an Authorised Representative to serve as a: "point of contact for all formal communications between the PCM Officer and the Complainant."	15-16	No – The policy allows for assistance/representation but puts limits on international assistance. The language is also unclear on what assistance is limited.

	Submission recommendation	IAM Examples	Relevant Paragraph of PPM Draft	Recommendation Accepted?
29	<p>Appropriate and available format: The CHM should ensure that the complaint process is culturally appropriate, gender responsive, and equally available to all. For example, complainants should be able to submit complaints in a variety of forms, either in writing, orally, or via recording, and in their own language.</p>	<p>UNDP's SECU Investigation Guidelines state (sec. 7): "Complaints are received by mail, email, telephone, facsimile, and SECU's dedicated online submission form."</p> <p>The Guidelines of the IFC's CAO (para. 1.6): "The working language of CAO is English, but CAO works to facilitate communications with its stakeholders in any language, including the submission of complaints and publication of CAO reports and materials."</p>	18	<p>No – Para. 18 says that the PPM will try to respond to submissions in "in the most practically informative, useful and inclusive ways for the Project-affected people concerned." However, does not provide detail on how to do this. The policy also does not allow submissions in complainants' own language. The policy also seems to focus on written submissions.</p>

	Submission recommendation	IAM Examples	Relevant Paragraph of PPM Draft	Recommendation Accepted?
30	Site visits: The CHM should routinely conduct site visits during eligibility phase and as often as necessary throughout process.	The WB's IP Procedures provide (para. 37): "During the twenty-one day period, a Panel team normally conducts a field visit to the project area to help confirm the technical eligibility of the Request and inform the Panel's recommendation to the Board. During the field visit, the Panel team meets with the Requesters, and briefs them orally about relevant information in the Management Response, including any proposed remedial actions, as relevant to the Panel's recommendation to the Board. Bank staff of the country office, officials of the implementing agency and other interested parties may provide relevant information."	61, 66, 75-76	No – While the policy allows the PPM to do site visits, the policy does not require the PPM to routinely conduct site visits during the eligibility phase. The policy also includes the problematic provision about consulting with AIIB member governments about the site visits.
31	Choice of function: Complainants should be allowed to choose dispute resolution, compliance review, or both and their sequence. The CHM should be empowered to conduct dispute resolution and compliance review contemporaneously or sequentially, as appropriate and as requested by the complainants.	UNDP's SECU Guidelines provide (sec. 8.3): "If both processes are applicable, the Complainant will be informed that both are applicable, and be given the choice to proceed with compliance review, stakeholder response [dispute resolution], or both."	30, 31, 33	No – For submissions that request compliance review, the PPM prefers that the complainant would have engaged in DR first. For complainants already engaged in DR, they have to meet certain conditions in para. 30 to request CR. It does not appear that complainants can go from CR to DR or request both at the same time.

	Submission recommendation	IAM Examples	Relevant Paragraph of PPM Draft	Recommendation Accepted?
32	Timelines: The CHM should adhere to clearly established timelines for each stage of the complaint process. The CHM should strictly adhere to its established timelines and provide clear reasons to complainants when it cannot meet those timelines.	The IFC's CAO Guidelines state (paras. 2.3-2.4): "CAO will complete the assessment within 120 working days of the date a complaint was determined eligible for assessment. CAO will provide an Assessment Report to the parties, the President, the Board, and the public...If the nature of the complaint or special circumstances requires more flexibility, CAO, in consultation with the parties, will review the timeline for handling the complaint."	35, 61, 67, 81, 85	No – Complaint process related deadlines are found in paras. 61, 67, and 85. However, para. 35 indicates that the full set of timelines will be included in the implementing guidelines. This is particularly problematic since these guidelines do not appear to be subject to public consultation (see para. 81)
33	Communication with complainants: The CHM should keep complainants regularly updated on the status of their case, even if there is little progress to report. Communication should be culturally and gender sensitive, in the complainants' own language, and should account for the complainants' literacy levels.	The AfDB's IRM assigns this responsibility to the director of the CRMU (para. 79(e)): "Sending out notices of registered Requests to all interested persons; noting the progress of each Request on the Register and, if required by the circumstances, providing additional updates on such progress to the Requestors and other interested persons; responding to requests for information from Requestors and other interested persons in respect of a particular Request."	18, 35, 61, 85	No – The policy does not include much detail about how the PPM will keep complainants updated. Paragraph 18's provisions make it unlikely that the PPM would respond in complainants' own language. Para. 61 does include some information about the disclosure of draft and final compliance reports.

	Submission recommendation	IAM Examples	Relevant Paragraph of PPM Draft	Recommendation Accepted?
34	Prevention of retaliation: The CHM should take measures to prevent and address retaliation against complainants. The mechanism should develop a protocol for addressing threats of and actual retaliation against complainants or those associated with the complaint process.	The WB's IP has developed such a protocol whose objective is to (sec. 3): "(i) identify and monitor potential risks of retaliation, including emerging risks; (ii) plan and adopt preventive measures to address and reduce these risks; and (iii) identify appropriate responses if retaliation occurs."	54, 68, 70-71	Yes – It is positive that the AIIB has included provisions on retaliation. However, the approach should not be limited to complainants who have requested confidentiality. The definition of retaliation should be expanded to cover more than just parties to a complaint - potential complainants, family members, community members, NGOs, etc. Note that the approach to confidentiality is based on having complainants request confidentiality rather than having a presumption of confidentiality (paras. 54, 68).
35	Confidentiality: Prior to publishing or disclosing the complaint to other parties, including the AIIB, the CHM should seek complainants' permission to do so and ask if they wish to keep their identities confidential.	The Policy of the FMO/DEG's ICM states (para. 3.1.8) that the mechanism will: "strictly respect and safeguard the absence of explicit consent by a complaining natural person, and refrain in such cases from disclosing the Complainants' identity to internal and external parties."	54, 68-69	No – It's positive that the mechanism has provisions for confidentiality. However, the mechanism does not need to obtain consent for disclosing identities; instead it relies on requests for confidentiality. Additionally, the policy does not contain explicit provisions on keeping identities confidential from AIIB.

	Submission recommendation	IAM Examples	Relevant Paragraph of PPM Draft	Recommendation Accepted?
36	Project suspension in case of harm: The CHM should have the power to recommend the suspension of the project in the event of imminent harm. The CHM should have the mandate to ensure that, if needed, measures are taken to protect affected communities from harm throughout the process.	UNDP's SECU Guidelines allow (sec. 13) the Lead Compliance Officer to: "recommend to the Administrator that UNDP take interim measures pending completion of compliance review... Such interim measures could include suspending financial disbursements or taking other steps to bring UNDP into compliance with its social and environmental commitments, or to address the imminent harm. The Lead Compliance Officer will endeavor to consult potentially affected people on these measures, depending on time and related constraints."	35 (FN 23), 67	No – Para. 67 says that the MD-CEIU can raise the matter with the President and alert the Board. It is not clear that this includes recommendations of suspension.
37	Management and staff cooperation: AIIB management and staff should be required to cooperate fully with the CHM in order to ensure effective functioning of mechanism. Upon the request of the CHM, both compliance review and dispute resolution, AIIB management and staff should, inter alia, provide full access to project-related information, respond frankly to questions posed by the CHM in the course of its activities, and assist in arranging travel to the project site and field offices.	The ADB's AM Policy contains a provision requiring ADB management and staff to cooperate in a number of listed ways in the mechanism's processes (para. 137): "ADB Management and Staff will (i) ensure that the OSPF and CRP have full access to project-related information in carrying out their functions; (ii) provide assistance to the OSPF in problem-solving; (iii) coordinate with the CRP on compliance review; [...]" etc.	73, 76	Yes – However, para. 76 contains problematic provisions on AIIB member concurrence for site visits.

	Submission recommendation	IAM Examples	Relevant Paragraph of PPM Draft	Recommendation Accepted?
38	<p>Mechanism-initiated investigations: In addition to accepting complaints from project-affected people, the CHM should have the authority to initiate a CR itself. In limited circumstances—for example if the CHM becomes aware of information suggesting serious non-compliance by the DFI or if the filing of a complaint would entail significant risk to project-affected people—the CHM should initiate its own investigation.</p>	<p>The IFC’s CAO has exercised this authority, resulting in significant policy reform in a few cases. The CAO Guidelines state (para. 4.2.1): “Compliance appraisals of one or more IFC/MIGA projects are initiated in response to any of the following circumstances: A request from the CAO Vice President based on project-specific or systemic concerns resulting from CAO Dispute Resolution and Compliance casework.”</p>	37	<p>No – Para. 37 gives the PPM the authority to undertake “project implementation real-time assessments,” but does not clarify what this entails. It does not appear to follow the same process as a compliance investigation, however, as the paragraph indicates that only summary findings would be submitted to the Board, not a full report. It provides no detail on whether the findings would be made publically available. This process, if not clarified could overlap with the duties of the AIIB’s environmental and social specialists.</p>

	Submission recommendation	IAM Examples	Relevant Paragraph of PPM Draft	Recommendation Accepted?
39	Scope of compliance: The CHM should assess compliance against a set of criteria appropriate to the case at hand. These criteria could derive from, for example, applicable AIIB policies, standards, guidelines, environmental and social assessments, host country legal and regulatory requirements and international standards.	The Guidelines of the IFC's CAO state (para. 4.3): "The compliance investigation criteria include IFC/MIGA policies, Performance Standards, guidelines, procedures, and requirements whose violation might lead to adverse environmental and/or social outcomes. Compliance investigation criteria may have their origin, or arise from, environmental and social assessments or plans, host country legal and regulatory requirements (including international legal obligations), and the environmental, social, health, or safety provisions of the World Bank Group, IFC/MIGA, or other conditions for IFC/MIGA involvement in a project."	61	No – Para. 61 discusses a TOR for the compliance review. The policy limits CR to the analysis of compliance against the ESP.
40	Learning: The CHM should additionally seek to identify weaknesses and gaps in AIIB policies and standards that result in adverse social and environmental risks and impacts. Such identification should then lead to policy improvements, reducing the risk of negative impacts in the future.	The IFC's CAO Guidelines (para. 4.2.1), for example, seeks to determine whether: "[t]here are indications that a policy or other appraisal criteria may not have been adhered to or properly applied by IFC/MIGA" and whether "[t]here is evidence that indicates that IFC/MIGA's provisions, whether or not complied with, have failed to provide an adequate level of protection."	36	No – Although the policy includes provisions for learning for effectiveness, it lacks provisions on the identification of weaknesses and gaps in AIIB policies in the context of individual compliance review investigations.

	Submission recommendation	IAM Examples	Relevant Paragraph of PPM Draft	Recommendation Accepted?
41	Legal counsel: The CHM should be allowed to seek outside legal counsel for advice.	The IDB's MICI Policy provides (para. 64): "Except with regard to the Bank's rights and obligations, the MICI Director may also, at any time, seek external legal advice on Request-related issues as they arise."	92-93	No – The language on managing conflicts of interest does not make the use of the General Counsel the same as the ability to seek independent legal advice.

	Submission recommendation	IAM Examples	Relevant Paragraph of PPM Draft	Recommendation Accepted?
42	<p>Action on non-compliance: The CHM should make recommendations to bring the project into compliance and redress harms. Where the CHM finds non-compliance that has contributed to harms or the risk of harm, the CR report should include a set of recommendations for remedial measures. Both the complainants and the AIIB should have an opportunity to comment on the recommendations at the same time as they comment on other parts of the draft CR report.</p>	<p>The EBRD's PCM Rules (paras. 44-45) give the experts the authority to make recommendations and allow complainants to comment on them: "If the Compliance Review Expert concludes that the Bank was not in compliance with a Relevant EBRD Policy, the Compliance Review Expert will issue a Compliance Review Report which will include recommendations to: a) address the findings of non-compliance at the level of EBRD systems or procedures in relation to a Relevant EBRD Policy, to avoid a recurrence of such or similar occurrences, and/or b) address the findings of non-compliance in the scope or implementation of the Project, taking account of prior commitments by the Bank or the Client in relation to the Project." And: "Taking account of the Management Action Plan and Complainant's comments, the Compliance Review Expert may adjust his or her recommendations."</p>	67	<p>No – Although the MD-CEIU may request that management take follow-up steps to address a limited spectrum of non-compliance (including failure to disclose the PPM and the project level grievance mechanism), the policy does not indicate that the MD-CEIU can make specific recommendations about the specific areas of non-compliance outside the narrow scope of para. 67.</p>

	Submission recommendation	IAM Examples	Relevant Paragraph of PPM Draft	Recommendation Accepted?
43	<p>Input to compliance review: All parties should have the opportunity to comment simultaneously on a draft CR report. Most IAMs allow complainants to review a draft of the CR report to suggest factual corrections. Best practice by the IAMs, represented by the IDB's MICI and the ADB's CRP, is to share the draft with complainants and the DFI simultaneously for their comment.</p>	<p>The ADB's AM Policy states (para. 185): "Upon completion of its compliance review, the CRP will issue a draft report of its findings to the complainants, the borrower, and Management for comments and responses within 45 days [...] Each party will be free to provide comments, but only the CRP's final view on these matters will be reflected in its final report."</p> <p>The IDB's MICI Policy (para. 44) states: "Once the MICI has completed its investigation, it will issue a draft report including a review of its main findings of fact and recommendations, and forward them to Management and the Requesters for their comments. Management and the Requesters will have a term of 21 Business Days to send comments on the draft report."</p>	61	Yes
44	<p>Input into final report and action plan: The final CR report should be shared simultaneously with complainants and the AIIB Board and management. Complainants should have access to the CR report before entering into dialogue with management regarding the action plan to give effect to the recommendations. Complainants also require the final report in order to inform the Board of their perspectives on its findings and the proposed recommendations to address them.</p>	<p>The AfDB's IRM represents best practice on this element (para. 63): "...the Compliance Review Report shall be made available to the Requestors at the same time as it is submitted for consideration and decision [by the President or Board]."</p>	61	No - There is no provision to share the final report with complainants at the same time it is submitted to the Board.

	Submission recommendation	IAM Examples	Relevant Paragraph of PPM Draft	Recommendation Accepted?
45	Action plans: AIIB management must be required by Board-approved policy to develop and implement an action plan to give effect to the CHM's recommendations as approved by the Board.	The Policy of the ADB's AM represents best practice (para. 190): "If the CRP concludes that ADB's noncompliance caused direct and material harm, Management will propose remedial actions to bring the project into compliance with ADB policies and address related findings of harm."	62	No – The policy only says that the final report " <i>may</i> include a request" for a Board-approved management action plan.

	Submission recommendation	IAM Examples	Relevant Paragraph of PPM Draft	Recommendation Accepted?
46	<p>Consultation on action plans: Management should consult with complainants on the development of the plan, and the Board should have the benefit of the complainants' perspective on its adequacy prior to approving the plan.</p>	<p>Procedures of the WB's IP require consultation with complainants (para. 70): "Management will communicate to the Panel the nature and the outcomes of the consultations with the affected parties on the action plan agreed between the Borrower and the Bank. The Panel may submit to the Board, for its consideration, a written or verbal report on the adequacy of these consultations."</p> <p>Under the Rules of Procedure for the EBRD's PCM, complainant's comments on the action plan are shared with the Board (para. 46): "The PCM Officer will then: ... b) submit the Management Action Plan and the Complainant's comments on the Management Action Plan to the Board of Directors or the President, as the case may be, who may decide to accept the Management Action Plan or to reject it in whole or in part."</p>	62	<p>Yes – However, this only applies in the cases where an action plan is requested.</p>

	Submission recommendation	IAM Examples	Relevant Paragraph of PPM Draft	Recommendation Accepted?
47	Monitoring: The CHM should have the mandate to monitor the case until all instances of non-compliance have been remedied. It is not sufficient for the IAM to monitor the implementation of the action plan because the measures taken by management might not bring the project back into compliance. The duration of the monitoring period should not be prescribed by the policy.	The Guidelines of the IFC's CAO represents best practice in this regard (para. 4.4.6): "In cases where IFC/MIGA is/are found to be out of compliance, CAO will keep the compliance investigation open and monitor the situation until actions taken by IFC/MIGA assure CAO that IFC/ MIGA is addressing the noncompliance. CAO will then close the compliance investigation."	63	No – Although it is positive that there is no set monitoring period, the policy still only limits monitoring to the action plan and not the findings of non-compliance. Moreover, action plans are not required in every case.

	Submission recommendation	IAM Examples	Relevant Paragraph of PPM Draft	Recommendation Accepted?
48	Consultation on monitoring process: The CHM should consult with parties in the development of its monitoring reports and conduct site visits, as appropriate, to verify information provided to it. Cases should not be closed unless there is verifiable evidence that the non-compliance has been remedied. That will require the CHM to consult with all parties involved and conduct site visits to document progress or lack thereof.	<p>The EBRD's PCM Rules state (para. 47): "The PCM Officer will issue Compliance Review Monitoring Reports at least biannually or until the PCM Officer determines that monitoring is no longer needed. In the preparation of each report, the PCM Officer will consult with the Relevant Parties as appropriate."</p> <p>The ADB's AM Policy provides (para. 194): "The methodology for monitoring may include (i) consultations with the complainants, the borrower, the Board member concerned; Management; and staff; (ii) a review of documents; and (iii) site visits. The CRP will also consider any information received from the complainants and the public regarding the status of implementation."</p>	63	No – There is no provision for consultation with complainants prior to preparing monitoring reports.
49	Project suspension: The CHM should have the power to suspend a project if non-compliance is not remedied		67	No – Para. 67 says that the MD-CEIU can raise the matter with the President and alert the Board. There is no provision in the policy that allows the PPM to suspend a project itself.

	Submission recommendation	IAM Examples	Relevant Paragraph of PPM Draft	Recommendation Accepted?
50	Remedy fund: The AIIB should establish a fund to assist in providing remedy to complainants for harm that it contributed to by its non-compliance with its commitments. Clients should not be solely responsible for providing remedy; the DFI must discharge its own responsibility for the harm that was caused. The fund should also be available when the client is unable or unwilling to address the harm. The AIIB should establish a permanent fund available for this purpose.			No
51	Mediation: The DR function should appoint a neutral, professional mediator, or other facilitator as appropriate, agreed to by the parties. The mediator's background and skills should be suitable to the context and dynamics of the case. Parties should agree to the mediator.	The rules of procedure of the FMO/DEG's ICM state (para. 3.2.6): "In the Dispute Resolution phase, a Complaint may be handled by the Independent Expert Panel or mediators selected by the Panel, as long as all parties agree on the selected mediator."	23,28, 60	No – Although the policy gives room for the hiring of external DR experts, it is troubling that the PPM will mediate disputes itself in most instances, including in response to "concerns." The parties do not have the ability to agree on the facilitator.
52	Rights and entitlements: The CHM should raise awareness among all parties of the rights and entitlements of project-affected people, including entitlements under AIIB's Environmental and Social Framework (ESF), which should form the basis of resolutions reached. The CHM should also ensure that any resolutions reached comply with host country and international law.	The IFC's CAO Guidelines state (para. 3.2.2): "In pursuit of resolution, CAO will not support agreements that would coerce one or more parties, be contrary to IFC/MIGA policies, or violate domestic laws of the parties or international law."	29	No – Para. 29 states that "the PPM will not support dispute resolution arrangements that effectively coerce one or more parties, that are contrary to AIIB policies and procedures, or that violate any local or national laws or regulations." This does not include language on raising awareness of rights and entitlements.

	Submission recommendation	IAM Examples	Relevant Paragraph of PPM Draft	Recommendation Accepted?
53	Outcomes consistent with policies: If compliance review is completed prior to or during a DR process, the findings should be used to help ensure DR outcomes are consistent with AIIB policies, including ESF.		31	No – It does not appear that complainants have the ability to go from compliance review to dispute resolution.
54	Withdrawal from dispute resolution process: Complainants should have the right to withdraw from DR at any time and have their complaint handled by the compliance function. If at any stage complainants believe that the DR process is not productive or fair, they should be free to withdraw, without repercussions or penalty. In this instance, their complaint should be transferred to the compliance function unless they explicitly request to withdraw their complaint entirely.	The Policy of the ADB's AM provides (para. 153): "The complainants will decide and indicate whether they want to undergo the problem-solving or compliance review function. They can exit the problem solving function and file for compliance review. Complainants can also request compliance review upon the completion of step 3 of the problem solving process [...] if they have serious concerns on compliance issues. Complainants can exit or disengage from either the problem solving or compliance review function at any time, which will terminate the process." (Step 3 is the actual problem solving process in which the mechanism facilitates engagement of the parties to resolve the problem. This can be completed on the initiation of the complainants themselves (or any other party) if they decide to walk away from the process because they do not consider it purposeful.)	30, 60	No – Para. 30 allows complainants to go from DR to CR but with preconditions. Note that any client concerned in a dispute can initiate a compliance review.

	Submission recommendation	IAM Examples	Relevant Paragraph of PPM Draft	Recommendation Accepted?
55	Monitoring of dispute resolution outcomes: The CHM should have the power to monitor the implementation of agreements reached and commitments made through the DR process. The CHM should consult with the parties as part of its monitoring role.	<p>The IFC's CAO Guidelines (para. 3.2.3) state: "Any agreements reached by the parties will usually contain a program and timelines for implementation. The CAO Dispute Resolution team will monitor whether the agreements have been implemented, and publicly disclose the outcomes on CAO's website."</p> <p>The Policy of the ADB's AM provides (para. 174): "As part of the monitoring process, the [Special Project Facilitator] will consult with the complainants, the borrower, and the operations department concerned."</p>	29, 60, 65	Yes – The policy does not include language on consultation but that could perhaps be included in the language in paragraph 29 on assisting parties to monitor through "mutually agreed upon timelines and performance indicators"
56	Remedy fund: As with CR, the experience of DR processes at other IAMs has revealed the need for a dedicated fund that can be accessed to cover costs associated with mitigation or remedial actions that are agreed to through a DR process, but which fall outside the scope of the client's responsibilities. For example, following an agreement reached by an AIIB client and complainants on land boundaries between the project and the affected households, the fund might cover the costs of land registration for the households to give full effect to the agreement and ensure the community's tenure security, preventing the reemergence of disputes.			No

	Submission recommendation	IAM Examples	Relevant Paragraph of PPM Draft	Recommendation Accepted?
57	Claims window: The CHM should have a small claims window that people can access for quick resolution of small-scale harms resulting from an AIIB-funded project. This window should only be triggered when explicitly requested by the complainants and the issues raised in the complaint are clearly defined, limited in scope, and appear to be amenable to a rapid solution in the interests of the complainants. Such a small claims window should be designed with specific parameters in consultation with CSOs. A complainant should not be required to use the small claims window prior to DR or CR. The use of the small claims window --whatever the outcome-- should not prevent complainants from accessing DR or CR, if they wish to avail themselves of these processes.			No
58	Independent analysis for learning: The CHM should undertake and publish independent analysis on trends and systemic issues arising from its cases.	The CAO has published advisory papers on numerous re-occurring issues from its dispute resolution and compliance work, including the: CAO Grievance Mechanism Toolkit (July 2016); Advisory Series Lessons from CAO Cases: Land (August 2015); and Participatory Water Monitoring: A Guide for Preventing and Managing Conflict (2008). The publications identify tools to help project-affected communities and clients overcome common challenges.	37	Yes

	Submission recommendation	IAM Examples	Relevant Paragraph of PPM Draft	Recommendation Accepted?
59	Learning for policy improvement: The CHM should provide input on the development and revision of the AIIB's policies and guidelines.	<p>The IFC's CAO published its Review of IFC's Policy and Performance Standards on Social and Environmental Sustainability and Policy on Disclosure of Information (May 2010) to inform the IFC's review of its Sustainability Framework. The CAO's recommendations to strengthen the IFC's Framework were based on 10 years of casework.</p> <p>Similarly, the WB's IP's lessons learned series from its caseload were important considerations in the update of the World Bank's environmental and social safeguard policies. The World Bank benefited from the Inspection Panel's insights—despite the absence of the mechanism's official advisory mandate.</p>	36, 39	No – The policy states that the PPM will contribute to the improvement of the AIIB's policies but does not include provisions for participation in the reviews of the policies.
60	Advisory function: The CHM should provide its advice to AIIB Board and Management in writing and monitor the AIIB's implementation of its advice. To maintain the transparency and accountability for the advice provided, the CHM should provide advice in writing and disclose it publicly. Just as with the dispute resolution and compliance review functions, the CHM should monitor the actions taken to implement its advice under its advisory function.	The IFC's CAO Guidelines represent best practice among IAMs (paras. 5.1.2 and 5.3.3): "CAO advice is given formally in writing." And: "Advice will be integrated into CAO's monitoring and evaluation activities. CAO monitors IFC's/MIGA's implementation of advice and reports CAO's findings to the President."	37, 40	No – Advice will be provided in writing, but there are no provisions on monitoring of the response to this advice.

LIST OF ACRONYMS

ADB's AM	Asian Development Bank's Accountability Mechanism
AfDB's IRM	African Development Bank's Independent Review Mechanism
AIIB	Asian Infrastructure Investment Bank
CHM	Complaints Handling Mechanism
CODE	Committee on Development Effectiveness
CR	Compliance Review
CRP	Compliance Review Panel
CSOs	Civil Society Organizations
DFI	Development Finance Institution
DR	Dispute Resolution
EIB's CM	European Investment Bank's Complaints Mechanism
EBRD's PCM	European Bank for Reconstruction and Development's Project Complaint Mechanism
ESF	Environmental and Social Framework
ESP	Environmental and Social Policy
IAM	Independent Accountability Mechanism
ICM of FMO & DEG	Independent Complaints Mechanism (ICM) of the Netherlands Development Finance Company (FMO) and the German Investment and Development Corporation (DEG)

IDB's MICI	Inter-American Development Bank's Independent Consultation and Investigation Mechanism
IFC's CAO	International Finance Corporation's Compliance Advisor Ombudsman
MD-CEIU	Managing Director of the CEIU
PPM	Project-Affected People's Mechanism (PPM)
UNDP's SECU	The United Nations Development Programme's Social and Environmental Compliance Unit
WB's IP	World Bank's Inspection Panel

ENHANCING AIIB'S ACCOUNTABILITY: THE PROJECT-AFFECTED PEOPLE'S MECHANISM

Draft AIIB Complaints Handling Mechanism for Phase II Public Consultation

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Abbreviations

AIIB	Asian Infrastructure Investment Bank
CEIU	Compliance, Effectiveness and Integrity Unit
CSO	civil society organization
ESF	Environmental and Social Framework
ESP	Environmental and Social Policy (including ESS)
ESS	Environmental and Social Standards
GRM	Grievance Redress Mechanism
IAM	independent accountability mechanism
MDB	multilateral development bank
MD-CEIU	Managing Director, CEIU
NGO	nongovernmental organization
PIIP	Public Information Interim Policy
PPM	Project-Affected People's Mechanism
PSI	Project Summary Information

Glossary

Client	The recipient or beneficiary of the Bank financing for a Project or any other entity responsible for implementation of the Project (AIIB Environmental and Social Policy , 2016, p. 8).
Complaint	Any Project-related issue that involves perceived ESP-related non-compliance by AIIB that reasonably shows likelihood of substantial potential or actual adverse impact in the Project area of influence.
Concern	Any Project-related issue that involves perceived ESP-related non-compliance by AIIB that has not yet crystallized into an identified dispute. The Project-related issue must relate to a perceived ESP non-compliance that is likely to cause potential adverse impact in the Project area of influence.
Continuous learning for effectiveness	Continuous, practical and targeted feedback and knowledge sharing so that lessons learned from PPM interventions meaningfully inform and improve AIIB operational activities, procedures, directives and policies to prevent future grievances and harm.
Good international practice	The exercise of professional skill, diligence, prudence, and foresight that would reasonably be expected from skilled and experienced professionals engaged in the same type of undertaking under the same or similar circumstances globally or regionally. The outcome of the exercise should be that the Project employs the most appropriate approaches in the Project-specific circumstances (adapted from AIIB Environmental and Social Policy, 2016, p. 51).
Financing	A Sovereign-backed Financing or a Non-sovereign-backed Financing for a Project. Such Financing may be provided in a variety of ways including, <i>inter alia</i> , making loans, investing in the equity capital of an enterprise, and guaranteeing, whether as primary or secondary obligor, in whole or in part, loans for economic development (AIIB Operational Policy on Financing , 2017, pp. 1, 3-4).
Joint Submission – Annex 2: Mark-up	

Author

Comment [1]: Problems:

- The definitions of and requirements for a complaint – and a concern and request for resolution – are inconsistent across this draft document. Ensure synched definitions and requirements. (Compare Glossary: "Complaint," paras. 15, 17 and fn 17, 26, 33-34, 56, 57).
 - The requirement for the showing of harm is too high and phrased inconsistently across this document: various paragraphs require "substantial harm," or "substantial material harm," or a "credible case" of "adverse harm," etc. This document should be redrafted to ensure that concerns, requests for resolution, and complaints are all held to the same simple requirement: to show experience or anticipation of "harm."
 - Some of the language implies complainants must provide evidence of harm. Nowhere in the PPM text should complainants be required to provide evidence at the stage of filing a submission (i.e. a concern, request for resolution, or request for compliance review).
- See rec. 22.

Author

Comment [2]: Problems:

- The terms "concern" and "request for resolution" confuse what can simply be understood as "complaints." This nomenclature is confusing and vague – utilizing, for example, unique and undefined concepts like "crystallization." The nomenclature diminishes and marginalizes the validity of the grievances of project-affected people. Finally, and ironically, it further stigmatizes "complaints" by avoiding labeling "concerns" and "requests for resolution" as what they are – complaints.
 - As outlined in the letter, the signatory organizations recommend streamlining the three-part process into one more commonly utilized at other IAMs: As soon as a project-affected person has experienced or anticipates experiencing a harm from an AIIB-supported project, the project-affected person (complainant) may file a complaint and seek remedy through requesting a dispute resolution, a compliance review, both simultaneously, or both in (any) sequence.
- See also Glossary: "Concern," 11, 15, 22, 30, 35, 57.
--See recs. 23, 31.

Inclusion	To empower people to participate in, and benefit from, the development process in a manner consistent with local conditions, including promoting equity of opportunity and non-discrimination and embracing action to remove barriers against vulnerable groups (AIIB Environmental and Social Policy. 2016. p. 3).	
Integrity	To operate transparently, with impartiality, independence, fairness, honesty and professionalism.	
Meaningful consultation	Meaningful consultation is a process that (i) begins early in the preparation stage of the Project and is carried out on an ongoing basis throughout the implementation and life cycle of the Project; (ii) ensures that all parties have a voice in consultation, including national and subnational government, the private sector, nongovernmental organizations and people affected by the Project, including, as applicable, Indigenous Peoples; (iii) provides additional support as needed to ensure participation of women, elderly, young, the disabled, minorities, and other vulnerable groups; (iv) provides timely disclosure of relevant and adequate information that is understandable and readily accessible to the people affected by the Project and other stakeholders; (v) is undertaken in an atmosphere free of intimidation or coercion; (vi) is gender inclusive, accessible, responsive and tailored to the needs of vulnerable groups; and (vii) enables the consideration of relevant views of people affected by the Project and other stakeholders in decision-making. It involves continued consultation with stakeholders throughout Project implementation as necessary on issues related to environmental and social performance and implementation of the Project-level grievance mechanism (AIIB Environmental and Social Policy. 2016 p. 30).	
Member	The member of the Bank (or other agency of the member which is authorized effectively to pledge the member's full faith and credit) in whose territory the Project is located or for whose benefit the Financing is provided (AIIB Operational Policy on Financing. 2017. p. 2).	
Non-sovereign-backed Financing	Any financing extended by the Bank that is not a Sovereign-backed Financing; it includes any financing to or for the benefit of a private enterprise or a sub-sovereign entity (such as a political or administrative sub-division of a Member or a public sector entity) that is not backed by a guarantee or counter-guarantee and indemnity provided by the Member to the Bank (AIIB Operational Policy on Financing. 2017. p. 2).	
Pre-emption Project	Operate in a collaborative, proactive and prevention-oriented manner. A specific set of activities for which AIIB is (i) considering to provide Financing (ii) or has committed to provide Financing or (iii) has provided Financing. For purposes of this definition, AIIB will be deemed to be "considering to provide Financing" if the Project Summary Information Sheet (PSI) for the relevant Project has been disclosed.	
Project-affected people	People within the Project area of influence who may be beneficially or adversely affected by an AIIB funded Project or program.	
Project area of influence	Project area of influence includes the area likely to be affected by the Project, including all its ancillary aspects, such as power transmission corridors, pipelines, canals, tunnels, relocation and access roads, borrow and disposal areas, and construction camps, as well	
Joint Submission –	Annex 2: Mark-up	

Author

Comment [3]: Problem:

• While adapting to local conditions is important to improve access to the PPM (e.g. through providing gender-sensitive consultation formats and translation of documents into local languages), this draft phrasing allows the possibility that inclusion could be reduced if reduction is deemed "consistent" with local conditions. "Local conditions" should never be a justification for reducing inclusion, only for tailoring the form of engagement to increase inclusion.

Author

Comment [4]: Problems:

• The term "Project area of influence" is very harmful in the PPM policy and more appropriate for the ESP text. Complainants may arise from areas (geographic, temporal, type of harm) beyond the "project area of influence" initially contemplated by AIIB Management. Such complainants may contest the AIIB's conception of project scope. In such cases, the PPM cannot adopt Management's conception of the project scope and deny eligibility to complainants outside of it. Instead, the PPM's responsibility is independently to assess potential impacts from AIIB-supported projects, in relation to non-compliance with the ESP, without artificial qualifiers of the project's scope of impact. All reference to "project area of influence" should be deleted, and occasionally replaced with "the project" or "from the project."

as unplanned developments induced by the Project (Adapted from AIIB Environmental and Social Policy. 2016. p. 53).

Proportionality	Ensure that application of ESP policies uses an approach that is appropriate to the nature and scale of the Project and reasonably reflects the level of the Project's potential environmental and social risks and impacts.
Request for Resolution	Any Project-related issue that involves perceived ESP-related non-compliance by AIIB that has become the subject of an identified disagreement or dispute, and that is likely to cause potential or actual adverse impact in the Project area of influence.
Retaliation	Any detrimental act, direct or indirect, recommended, threatened or taken against a party filing a submission under the PPM. It includes harassment, discriminatory treatment or withholding of an entitlement intended to silence or prevent the complainant from filing a submission, or taking any other related action under the PPM.
Sovereign-backed Financing	(i) a Loan to, or guaranteed by, a Member; or (ii) a Guarantee that: (A) covers debt service defaults under a loan that are caused by a Government's failure to meet a specific obligation in relation to the Project or by a borrower's failure to make a payment under the loan; and (B) is accompanied by a Member Indemnity (AIIB Operational Policy on Financing. 2017. p. 2).
Vulnerable groups or individuals	People who, by virtue of factors beyond their control, may be more likely to be adversely affected by the Project's environmental or social impacts and may be more limited than others in their ability to claim or take advantage of Project benefits (AIIB Environmental and Social Policy. 2016. p. 11).

Author

Comment [5]: Problem:

• This language suggests that the PPM should lower its standards for assessing the AIIB's compliance with ESP policies in response to the nature and scale of the project's potential impacts. Any proportionality in the implementation of the standards should be reflected in the ESP, not left to the discretion of the PPM. Instead, the PPM must ensure the AIIB complies with ESP policies consistently in all cases regardless of the type or level of potential impact.

Author

Comment [6]: Problem:

• This definition is overly narrow and should be expanded to include potential complainants, family members, community members, civil society groups, and others who may be at risk of retaliation. --See rec. 34.

1 INTRODUCTION

1. AIIB financed Projects aim to foster sustainable economic development, create wealth, and improve infrastructure connectivity in Asia. These interventions are guided by AIIB's strategy and policies, including those for public information disclosure,¹ Project operations, procurement, financing and environmental and social dimensions.

2. AIIB's 2016 Environmental and Social Framework (ESF)² guides sound environmental and social management for the identification, preparation and implementation of AIIB-funded Projects. Within the ESF, the Environmental and Social Policy (ESP) including its three associated mandatory Environmental and Social Standards (ESS) relating to environmental and social assessment and management, involuntary resettlement and Indigenous Peoples, applies to each AIIB financed Project.³ The ESP provides a mechanism for public consultation and disclosure of information on environmental and social risks and impacts of Projects.⁴ Therefore, ordinarily Project-affected people should have ample opportunity to raise any concerns with AIIB staff during the processing of a Financing.

3. The ESP provides that AIIB will establish an oversight mechanism to receive submissions from Project-affected people who believe they are already or likely to be adversely affected by AIIB failure to implement the ESP.⁵ In all instances, Project-affected people will have already raised their concerns, requests or complaints with AIIB Management⁶ and Management will have responded by making its best efforts to address them. The proposed Project-affected People's Mechanism (PPM) would facilitate and handle ESP-related concerns, dispute resolution and complaints submitted by Project-affected people which are considered not to have been satisfactorily addressed through AIIB Management processes.

2 OVERVIEW

4. AIIB founding Members provided for an oversight mechanism to assist the AIIB Board of Directors (Board) with its oversight function.⁷ The AIIB Compliance, Effectiveness and Integrity Unit (CEIU) acts as a specialized independent oversight and accountability unit reporting directly to the Board.⁸ To fulfil this role, CEIU combines several oversight functions within one unit. These are premised on principles of transparency, openness, independence, accountability and learning for effectiveness. Together, CEIU's various features make it a governance innovation among international financial institutions.

5. CEIU assigned functions are effectively exercised when it maintains its independence and, at the same time, can be fully engaged with Management and staff. This allows CEIU to be part of the internal dialogue on enhancing implementation of Projects financed by AIIB. A unique feature of AIIB is that CEIU's Managing Director (MD-CEIU) is invited to attend the AIIB Executive Committee and Management Committee as an independent observer. This ensures that CEIU is fully informed and strategically positioned to influence Management's decision-making process. However, CEIU is not part of regular

¹ AIIB. 2016. [Public Information Interim Policy](#) (PIIP). AIIB is currently updating the PIIP.

² AIIB. 2016. [Environmental and Social Framework](#).

³ These provisions include the ESP and its associated ESS 1, 2 and 3, respectively. The ESP also includes an environmental and social exclusion list (Exclusion List) pursuant to which AIIB will not knowingly finance a Project that involves activities or items specified in that Exclusion List.

⁴ ESP, paragraphs 59 and 60.

⁵ ESP, para 64.

⁶ Throughout, Management refers to the President, Vice Presidents, Chief Officer and General Counsel.

Author

Comment [7]: Problem:

Because both the ESP and ESS create "mandatory" requirements for projects (see ESF para. 2), it is critical that this PPM document asserts clearly its power to review compliance with both the ESP and the associated ESSs. As is, the current draft suggests the PPM will only review compliance with the ESP. To fix this, either include text here in this paragraph clarifying that further reference in this PPM document to the ESP also includes reference to the ESSs – or, throughout this entire document outlining the PPM, replace the term ESP with "ESP and associated ESSs."

Author

Comment [8]: Problem:

• This sentence should either be rephrased or deleted. In reality, project-affected people rarely know that an IFI is funding a project and lack the ability to access IFI staff. Unless the sentence is re-phrased to affirmatively guarantee project-affected people the opportunity to raise concerns with the PPM – e.g. "The AIIB shall (not "should") always (not just "ordinarily") afford to project-affected people (not "have" in passive tense) am...

Author

Comment [9]: Problems:

• Project-affected people should not be required to take steps as a precondition for filing a submission (i.e. concern/request for resolution/complaint) with the PPM. A requirement to first raise concerns with AIIB Management (or a GRM, or a local tribunal as mentioned in other parts of the text), and to wait for a response, is a ...

Author

Comment [10]: Problem:

• This language assumes that AIIB Management "will have responded by making its best efforts to address" concerns. This text cannot assume Management will have acted, nor in what manner. Therefore this language should be deleted.

Author

Comment [11]: Problem:

• This language is vague as to whose view of "satisfactory" resolution is measured. The language should be rephrased as follows: "...which are considered by complainants not to have been satisfactorily addressed or resolved through..."

Author

Comment [12]: Problems:

• The CEIU's oversight of several functions raises serious conflict of interest concerns for the PPM. For example, it is concerning that the CEIU could be tasked with conducting a general evaluation of the same project for which it oversees a PPM complaint.

⁷ AIIB. 2015. [Articles of Agreement](#). Article 26(iv). "The Board of Directors shall...in particular: (iv) supervise the management and the operation of the Bank on a regular basis, and establish an oversight mechanism for that purpose, in line with principles of transparency, openness, independence and accountability."

⁸ AIIB. 2017.[Organizational Structure](#).

operational-level decision-making processes or an observer on the AIIB Investment Committee. This is to preserve CEIU independence from operational management. These arrangements are regularly monitored by the Board in quarterly meetings with CEIU. The Board will continue to monitor and review the role of CEIU to ensure its continued independence and effectiveness in discharging its critical mandate.

6. The proposed PPM will operate within CEIU, directed and guided by MD-CEIU. The structure, organization and staffing of PPM are discussed below in paragraphs 44-46.

7. This paper on the proposed PPM is divided into the following sections:

- Part 3 provides a brief overview of and background to the establishment of the PPM.
- Part 4 details the purpose, guiding principles, scope, accessibility and functions of the proposed PPM.
- Part 5 elaborates on implementation issues such as registration of submissions, determinations of eligibility, processing (including undertaking site visits), resolution and interim remedies, addressing transparency, confidentiality, protection against retaliation and handling of special situations involving co-financing and use of country systems.
- Part 6 provides information on the way in which the proposed PPM will deal with certain operational matters, such as reports, legal advice and budgets, among others.
- Part 7 summarizes the overall resource implications for establishment and operation of the proposed PPM.
- Part 8 provides information on the consultative process followed in finalizing the PPM proposal.

3 BACKGROUND

8. The focus on establishing independent accountability mechanisms (IAM) in multilateral development banks (MDB) mostly arose from some serious cases of alleged noncompliance with environmental and social safeguards. This led to the establishment of the Inspection Panel at the World Bank in 1993. This was modelled on concepts drawn from ombudsperson offices in some countries and the inspectorate general function in United States governmental agencies.⁹ A "first generation" of IAMs followed this World Bank approach and were tasked to only carry out retroactive inspection reviews.

9. AIIB's new mechanism aims to promote cooperation between operational departments and the PPM to destigmatize and pre-empt problems in Project implementation which could adversely impact Project quality and potentially affect people in the Project area of influence. This cooperation is to be based on a recognition that problems are part of the difficult business of development and to satisfactorily solve them is, in fact, an integral part of good development practice. That recognition underscores the importance of a forward-looking and people-centered approach.¹⁰

10. The AIIB President and Board have emphasized that, while approval and disbursements of Financings are important, it is Project quality and results that underpin AIIB's lean, clean and green approach and its reputation as a 21st century bank. From this perspective, accountability and learning constitute fundamental drivers of positive and sustainable Project outcomes. Moreover, effective

⁹ The origin, role and functions of these officials in the United States is detailed in Nadia Hilliard, *The Accountability State: US Federal Inspectors General and the Pursuit of Democratic Integrity*. 2017.

¹⁰ For detailed background, see Independent Accountability Mechanisms Network, [Citizen-Driven Accountability for Sustainable Development: Giving Affected People a Greater Voice—20 Years On](#). June 2012. CDA Paper. A "Forward-looking Agenda" for IAMs is outlined at pp. 30-33.

Author

Comment [13]: Problem:

• The PPM should have complete independence through reporting directly to the Board, not through the CEIU. The PPM should ideally not be housed within the CEIU, but should stand as a truly separate and independent entity.
--See rec. 5.

Author

Comment [14]: Problem:

• The focus of the PPM should be to provide effective remedy to complainants and ensure institutional accountability.
--See rec. 1.

Author

Comment [15]: Problem:

• Emphasis on a "forward-looking" approach implies focus on improving bank practices. That is positive, but it must be balanced, in this paragraph, with ensuring remedy for people who have experienced or anticipate harm.

institutional risk management comes from sincere operational commitment, at senior management and staff levels, to destigmatize problems and to address them transparently and collaboratively. AIIB's Code of Conduct for Bank Personnel encourages a culture in which staff acknowledge "mistakes and errors regardless of consequences" and "tak[es] all actions necessary to redress them properly."¹¹

4 THE MECHANISM

4.1 PURPOSE

11. The proposed PPM aims to provide an independent, impartial and effective way to address concerns, requests for resolution of disputes (and related problem solving) and/or complaints from Project-affected people. This can also help enhance institutional accountability and continuous learning within AIIB to improve Project quality, effectiveness and sustainability. By the establishment and operation of the proposed PPM, AIIB affirms its bankwide commitment to stakeholder responsiveness and robust internal oversight to engender trust, confidence and constructive partnerships in Project design, processing and implementation.

4.2 GUIDING PRINCIPLES

12. Five overarching principles will guide PPM activities, operations and decisions: (i) integrity, (ii) inclusion, (iii) pre-emption, (iv) proportionality and (v) continuous learning for effectiveness. These principles underpin meaningful people-centered accountability¹² and AIIB's vision in the ESF.¹³

13. These principles and their intended outcomes are elaborated below:

- **Integrity:** To operate transparently, with impartiality, independence, fairness, honesty and professionalism.
- **Inclusion:** To encourage Project-affected people to participate in, and benefit from, the development process in a manner consistent with local conditions, including promoting equity of opportunity and nondiscrimination and embracing action to remove barriers affecting vulnerable groups.
- **Pre-emption:** To operate in a collaborative, proactive and prevention-oriented manner.
- **Proportionality:** To ensure that application of the ESP uses an approach that is appropriate to the nature and scale of the Project and reasonably reflects the level of the Project's potential environmental and social risks and impacts.
- **Continuous learning for effectiveness:** To ensure that lessons learned from PPM interventions meaningfully inform and improve AIIB operational activities, directives and policies through continuous, practical and targeted feedback and knowledge sharing to prevent future grievances and harm.

These guiding principles underpin the conduct of all PPM functions and activities.

¹¹ AIIB. 2016. [Code of Conduct for Bank Personnel](#), para 3.

¹² CDA Paper, pp. 9-10.

¹³ ESF, para 6 (Integrity, Insight, Innovation, Integration), p. 3; ESF Glossary, p. 51 (Inclusion); p. 54 (Vulnerable Groups); p. 51 (Good International Practice).

Author

Comment [16]: Problems:

- This is further example of language focusing on addressing "problems" instead of providing effective remedy to project-affected people.
- Again, destigmatizing the occurrence of complaints and the need for resolution is positive, but the terminology in the PPM policy serves to stigmatize complaints.

Author

Comment [17]: Problem:

- This section should clarify the "mandate" of the PPM, which is to a) prevent harms and provide effective remedy to project-affected people, and b) ensure institutional accountability and continuous learning with respect to environmental and social impacts.

--See rec. 1

Author

Comment [18]: Problem:

- Remove this aspirational phrasing.

Author

Comment [19]: Problems:

- Harms to project-affected people must be "resolved," not "addressed," a term that does not reflect resolution of the harms.
- See the comment to Glossary: "Concern" for criticism of the three-part terminology and procedural structure of the PPM. (See Glossary: "Concern," 11, 15, 22, 30, 35, 57.)

--See rec. 23, 31.

Author

Comment [20]: Problem:

- This is more appropriate as a principle of the AIIB itself, not the grievance mechanism. The bank should ensure that its investments promote inclusion. The PPM exists to ensure that the people—often a small sub-set of project-affected people—who are harmed receive redress.

Author

Comment [21]: Problem:

- This language on proportionality should be removed. The task of the PPM is simply to determine compliance with the ESP, not evaluate whether varying applications of the ESP are appropriate in the context. The PPM does not have the authority to "read into" the ESP language context-specific gradations or variations in the ESP's dictates.

--See rec. 1.

4.3 SCOPE AND ACCESSIBILITY¹⁴

4.3.1 All Projects

14. Subject to the eligibility requirements in paragraphs 15 and 19 and section 5.2, the scope of the proposed PPM covers any ESP-related concerns, requests and/or complaints (submissions) raised by Project-affected people at any stage of the Project cycle¹⁵. The Project concerned may be financed in whole or in part by AIIB, including a Project involving on-lending or re-lending of AIIB financing through public or private financial intermediaries. In situations involving application of environmental and social policies and procedures of a co-financier or under a country or corporate system, the PPM review process is subject to special considerations.¹⁶

4.3.2 Eligibility to File

15. Project-affected people may submit eligible: (i) concerns under the PPM in respect of a Project for which AIIB has disclosed a Project summary information (PSI) until approval of the Financing (or signing of the legal agreements in the case of a Non-sovereign-backed Financing; (ii) requests for resolution under the PPM once the PSI has been disclosed until Project completion (or the Loan closing date in the case of a Loan); and (iii) requests for compliance review under the PPM once the Financing has been approved (or the legal agreements for a Non-sovereign-backed Financing has been signed) until the Project completion (or the Loan closing date in the case of a Loan). The process to be followed in any of these situations is as follows:

- Direct submission by any two or more persons from the Project area of influence who are potentially or actually adversely affected by the Project; or
- Submission by any two or more affected persons in the Project area of influence with local assistance (see para. 16 below); or
- In exceptional cases, by two or more affected persons in the Project area of influence with nonlocal assistance that is adequately justified by the affected persons at the filing of their submission and the same is endorsed by the PPM.

16. Ordinarily, Project-affected people will be expected to file any submission themselves. However, they may seek assistance locally to file a submission. In exceptional circumstances, where adequate local assistance for filing a request is not available, such assistance may be sought internationally. If a submission is filed by a party other than the Project-affected people, the party must clearly identify the Project-affected people on whose behalf the submission is filed and provide evidence of the authority to file on behalf of such people. The filing party must have no conflict of interest and act with transparency and in good faith.

¹⁴ See related discussion under Part 5.2 on Eligibility.

¹⁵ For PPM review purposes, the Project cycle begins with the disclosure of the PSI and ends upon completion of the Project (or if the Financing is in the form of a Loan, at the Loan closing date). The disclosure of the PSI occurs after Concept Decision by the Investment Committee for a Sovereign-backed Financing and after the Final Review by the Investment Committee, or later date decided by the Investment Committee, for a Non-sovereign-backed Financing.

Author

Comment [22]: Problem:

• The PPM should accept complaints across all AIIB operations (regardless of instruments), and all stages of operations, including activities co-financed with other DFIs. (See also paras. 19, 77-80). The PPM should be able to assess compliance against all applicable commitments, including those that arise from host country legal and regulatory requirements, including international legal obligations. --See rec. 21, 39.

Author

Comment [23]: Problem:

• See paras. 77-79 for criticism of the proposed application of special considerations for co-financed projects and projects implemented according to the policies of corporate or country systems. --See rec. 21.

Author

Comment [24]: Problems:

• See the comment to Glossary: "Concern" for criticism of the three-part terminology and procedural structure of the PPM. (See Glossary: "Concern," 11, 15, 22, 30, 35, 57).
• Project-affected people should be allowed to file complaints before the financing has been approved or the legal agreements signed. ... [4]

Author

Comment [25]: Problem:

• A single person should be allowed to file a complaint. --See rec. 26.

Author

Comment [26]: Problems:

• The term "assistance" here is vague and could be interpreted to exclude not only representation but all other forms of advice or support.
• Non-local assistance should be permitted for all forms of assistance, including representation. ... [5]

Author

Comment [27]: Problems:

• Project-affected people should not be dictated whether they may file submissions by themselves, with local assistance, with international assistance, or with a combination of assistance. Instead, complainants must be free to file with whatever assistance they choose. ... [6]

Author

Comment [28]: Problem:

• This sentence should be removed: all parties to a dispute, not only the filing party, should act without conflict of interest and with transparency and good faith. The requirement, here, that only the filing party act in such manner betrays an impartiality against the complainant and, particu ... [7]

¹⁶ See Part 5.9 below.

4.3.3 Attribution to AIIB

17. PPM submissions must make a credible case of potential or actual adverse impact or harm¹⁷ to Project-affected people concerned in the Project area of influence resulting from AIIB's lack of compliance with applicable ESP provisions. The proposed PPM will not have authority to review the action or inaction of a Client or third parties. It is only authorized to review AIIB's own actions or inactions regarding application of the ESP.

4.3.4 Language

18. The preferred language for submissions to the PPM is English, the designated working language of AIIB.¹⁸ If a submitter is unable to make an English language submission to the PPM, the submission may be in a national language of the AIIB Member in whose territory the Project area of influence is located. The PPM will make its best efforts to respond to such submissions in the most practically informative, useful and inclusive ways for the Project-affected people concerned.

4.3.5 Subject Matter Exclusions

19. The substance of all Project-related concerns, requests or complaints must have been taken up with AIIB Management in the first instance. The proposed PPM will not handle or take cognizance of any concerns, requests or complaints arising from or relating to the following:

- Allegations of fraud, corruption or any other prohibited practices.
- Issues identified as relating to, or arising from, AIIB-financed procurement.
- Any matter relating to a policy other than the ESP.
- Issues or matters relating to the adequacy of the ESP, including any AIIB decision pursuant to paragraph 10 of the ESP to use the environmental and social policies and procedures of an MDB or a bilateral development organization in place of the ESP.
- Submissions that PPM considers to be frivolous, malicious or intended for improper purposes and/or to gain undue competitive advantage.
- Submissions that concern activities or parties or impacts outside the reasonable control of AIIB, including the actions or inactions of any Client or any third party.
- Submissions that relate to issues or matters for which a concern, request or complaint has already been initiated and/or processed and resolved by the PPM unless there is new evidence or circumstances unknown during earlier consideration by the PPM.
- Submissions that have not first been taken up with the Project-level Grievance Redress Mechanism (GRM), where one is available, or with AIIB Management or staff concerned.
- Submissions filed after Project completion (or if the Financing is in the form of a Loan, after the expiry of the Loan closing date).¹⁹ In exceptional circumstances, the PPM may conclude that a complaint should be considered after this date, provided that no complaint can be filed in any

¹⁷ "Substantial" adverse impact or harm must be demonstrated, to the satisfaction of the PPM, for an eligible complaint.

¹⁸ See Article 34(1) AIIB. 2015. [Articles of Agreement](#).

¹⁹ The Loan closing date is set out in the relevant Financing agreement for a Loan. It identifies the anticipated Project completion

Author

Comment [29]: Problems:

• See the comment to Glossary: "Complaint" for criticism on the burden of proof required for submissions (e.g. concerns/requests for resolution/complaints). Ensure synched definitions and requirements in accordance with the recommendation in that comment. ... [8]

Author

Comment [30]: Problems:

• Project-affected people should be allowed to submit complaints in their native language, and text to the contrary represents a serious restraint on accessibility. The purpose of a grievance ... [9]

Author

Comment [31]: Problem:

• See comments to para. 3. Preconditions on filing submissions with the PPM represent harmful restraints on accessibility. Further, the language here is inconsistent with similar language ... [10]

Author

Comment [32]: Problem:

• The PPM should be empowered to hear complaints concerning AIIB compliance with all applicable policies, standards, and obligations.
-See rec. 39

Author

Comment [33]: Problem:

• The PPM should be empowered to identify weaknesses and gaps in AIIB policies and standards that result in adverse social and environmental risks ... [11]

Author

Comment [34]: Problem:

• See paras. 77-78 for criticism of the proposed application of special considerations for co-financed projects.
--See rec. 21.

Author

Comment [35]: Problem:

• The PPM should not wholesale foreclose such submissions in this manner. It is unrealistic to assume that the actions of the client can be wholly ignored when assessing the AIIB's performance. ... [12]

Author

Comment [36]: Problems:

• Again, see comments to para. 3 criticizing preconditions on filing submissions with the PPM. Here, the language differs from that in other paragraphs both because it requires ... [13]

Author

Comment [37]: Problem:

• As identified in the comments to para. 15, under all circumstances, project-affected people must be allowed to file complaints up to two years after the ... [14]

Enhancing AIIB's Accountability: The Project-affected People's Mechanism (draft for Phase II public consultation)
date by which time all planned AIIB Loan disbursements are expected to have been made. In the event the Loan is cancelled prior to this date, the relevant date will be the date of Loan cancellation.

circumstances beyond 24 months following Project completion (or the Loan closing date, as applicable).²⁰

20. In the situations above, where appropriate, the PPM will direct the person(s) who made the submission to the appropriate reviewing authority that can deal with the matter. For example, for matters involving fraud, corruption or other prohibited practices, the submission will be referred to CEIU integrity staff. Submissions relating to procurement will be referred to the procurement unit in the Bank's Policy, Strategy and Budget Department. CEIU will, to the extent practically feasible, monitor the submission to facilitate issue of a timely and informed response by the concerned AIIB department, division, unit, group or authority.²¹

4.4 FUNCTIONS

21. The proposed PPM will have six main functions. The first three (pre-emptory review, dispute resolution and compliance review) relate to the submission of concerns, requests for resolution or complaints by Project-affected people. The remaining three PPM activities are linked (learning for effectiveness, training and outreach), and aim to promote continuous institutional improvement and responsiveness. Each function is summarized below.

4.4.1 Pre-emptory Review

22. Pre-emptory review is intended to proactively address any eligible concern about AIIB interventions submitted by Project-affected people after disclosure of a PSI for the Project but before the approval of a Sovereign-backed Financing or signing of the legal agreements for a Non-sovereign-backed Financing. Concerns refer to any Project-related issues that involve possible ESP-related noncompliance by AIIB that have not yet crystallized into any identified dispute under a Project. Any identified dispute may be the subject of a request for resolution. Project-affected people can withdraw a submitted concern at any time and instead file a request for resolution. Complaints may only be filed after approval of a Sovereign-backed Financing or the signing of the legal agreements for a Non-sovereign-backed Financing.

23. Concerns are those issues raised by Project-affected people during processing of the Financing that are considered by the PPM to be sufficiently material that, if left unresolved, are likely to result in potential adverse impact in the Project area of influence. The desired outcome of a pre-emptory review is that the PPM has facilitated a dialogue between AIIB staff, the Project-affected people and or Client concerned. This may lead to clarifications about the Project or timely measures to correct or improve Project preparation and Financing due diligence under the ESP.

24. Project-affected people filing a concern with the PPM must show that they have already approached AIIB Management or staff concerned but were not satisfied with their responses.

4.4.2 Dispute Resolution

25. A dispute over AIIB compliance with the ESP may arise at any time during processing of Financing up until the relevant Project completion (or Loan closing date, as applicable). When a Project-

²⁰ If the PPM permits filing of a complaint in such exceptional circumstances, the PPM may only make a finding of whether there has been noncompliance. In such situations, the PPM has no discretion to make any recommendation to the Board to

Author

Comment [38]: Problem:

- The "appropriate reviewing authority" should never be an entity within a national government; complainants should never be referred to a national government.

Author

Comment [39]: Problem:

- It may be confusing that the PPM has six main functions. Perhaps the three latter functions could be grouped under an umbrella "advisory" function.

--See recs. 4.

Author

Comment [40]: Problem:

- See the comment to Glossary: "Concern" for criticism of the three-part terminology and procedural structure of the PPM. A dispute exists wherever a person feels she has been or may be negatively impacted by a project. (See Glossary: "Concern," 11, 15, 22, 30, 35, 57.)

--See rec. 23, 31.

Author

Comment [41]: Problem:

- As identified in the Glossary: "Concern" and the comment to para. 15, project-affected people should be allowed to file a complaint at any time, including before approval of the financing or signing of the legal agreements (See Glossary: "Concern," 11, 15, 22, 30, 35, 57.)

--See rec. 23, 31.

Author

Comment [42]: Problems:

- The desired outcome should not be a process but the resolution of the grievance.
- It is unclear how concerns are different from requests for resolution when both result in facilitated dialogue. Mediation should be undertaken by a neutral, professional mediator or other facilitator as appropriate, with background and skills suitable to the context and dynamics of the case, as agreed to by the parties. It may not be appropriate for the PPM to undertake the mediation role itself. (See also paras. 28, 60.)
- The use of the term "and/or" should be deleted, as it suggests that the PPM could engage in the review with participation of only the client.

--See rec. 3, 51.

Author

Comment [43]: Problems:

- See comments to para. 3. Preconditions on filing submissions with the PPM represent harmful restraints on accessibility. Further, the language here is inconsistent with similar language elsewhere in this draft, adding confusion (compare paras. 3, 19, 24, 26, 33, 54, 79.)
- Here, the phrase "but were not satisfied with their response" suggests, unlike elsewhere in the above-mentioned

request Management to develop a remedial action plan, though the Board may recommend that Management take up remedial measures with the Client (see Part 5.3, paragraph 62).

²¹ Where a submission to the PPM is subject to any of these exclusions, the submitter is solely responsible for complying with any applicable time limits or deadlines designated by the appropriate authority.

Author

Comment [44]: Problem:

- This language should be removed, as it would defeat the purpose of filing a claim after the normal deadline. Of course the PPM must have authority (not discretion) to make a recommendation on remedial action to the Board even in these late filing scenarios. There may be measures the AIIB can take on its own or the client may have other existing financial relationships with the AIIB.

related dispute is clearly identified or crystallized, Project-affected people may wish to use a problem-solving approach to resolve the dispute. This option is designed to promote a dialogue between the parties on the issues and, as needed, a practical way forward to find a resolution of any disagreements.

26. To that end, the Project-affected people concerned must file a request for resolution with the PPM during the time period described in paragraph 25. The request identifies the issues in dispute, how these relate to alleged AIIB non-compliance with ESP provisions, and the potential or actual adverse impact that the Project-affected people who file the request believe they are likely to suffer. The request must adequately demonstrate that Project-affected people have taken up the matter with AIIB staff concerned and have not been able to reach a mutually satisfactory resolution. Where a GRM has been established, the Project-affected people must show that they have approached the GRM and that the GRM has not been able to resolve the dispute.

27. Efforts to identify workable solutions to an eligible request for resolution can include:

- Facilitation and information sharing.
- Joint fact-finding and framing of issues.
- Dialogue and negotiation by parties.
- Mediation and/or conciliation.
- Any other method acceptable to the parties.

28. The PPM will respond to eligible requests for resolution by facilitating alternative dispute resolution methods. The PPM will assist the parties involved to identify a roadmap of potential solutions. The major output of any dispute resolution process will be a set of specific and mutually agreed, time-bound and voluntary understandings and commitments contained in a document that can be monitored by the PPM.

29. The PPM will assist the parties to monitor implementation of the document through mutually agreed timelines and performance indicators. However, the PPM will not support dispute resolution arrangements that effectively coerce one or more parties, that are contrary to AIIB policies and procedures, or that violate any local or national laws or regulations.

30. The Project-affected people submitting the request for resolution or any Client concerned in the dispute can request the PPM to initiate a compliance review post-approval (or post-signing of the legal agreements in the case of a Non-sovereign-backed Financing). However, either party must be able to reasonably show that (i) successful dispute resolution appears improbable and that (ii) the likelihood of substantial adverse impact or harm to Project-affected people is serious or that there is a strong likelihood of substantial material harm to the Client due to delayed dispute resolution.

31. If any request for escalation to compliance review in either of the above situations is found eligible by the PPM, the requesting party may nevertheless opt out and reactivate the unresolved dispute resolution process at any time before a complaint-specific task force has been constituted.²²

4.4.3 Compliance Review

32. Project-affected people may submit a request for a compliance review by the PPM after the approval of a Sovereign-backed Financing or the signing of the legal agreements for a Non-sovereign-backed Financing, but before Project completion (or the Loan closing date in the case of a Loan).

Author

Comment [45]: Problem:

- Again, as stated in the comment to para. 17, project-affected people should not be required to identify the specific element of the ESP provisions that may have been violated in order to file a dispute.
- See rec. 22.

Author

Comment [46]: Problems:

- See comments to para. 3. Preconditions on filing submissions with the PPM represent harmful restraints on accessibility. Further, the language here is inconsistent with similar language elsewhere in this draft, adding confusion (compare paras. 3, 19, 24, 26, 33, 54, 79.)
- In this particular phrasing, the term "mutually satisfactory resolution" requires the solution to be satisfactory to project-affected people as well as the AIIB; such language again sets a slightly different requirement for the precondition.
- As explained in the comment to para. 19, project-affected parties should never be required to utilize GRMs. Here, the phrasing "the GRM has not been able to resolve the dispute" sets an even stronger requirement than that contemplated in earlier paragraphs, where the comp...

Author

Comment [47]: • See the comment to para. 23 for recommendations on mediation procedure.
--See rec. 3, 51.

Author

Comment [48]: Problem:

- Language should be added here to clarify that the PPM may enforce agreements requiring clients to comply with the ESP by meeting international environmental...

Author

Comment [49]: Problem:

- The CHM should additionally raise awareness among all parties of the rights and entitlements of project-affected people, including entitlements under AIIB's Environmental and Social Framework...

Author

Comment [50]: Problems:

- Again, as identified in the Glossary: "Concern" and the comment to para. 15, project-affected people should be allowed to file a complaint at any time. Further, the PPM must not require complainants...

Author

Comment [51]: Problem:

- See the comment to para. 30.
- See rec. 31.

Author

Comment [52]: Problems:

- Again, as identified in the Glossary: "Concern" and the comment to para. 15, project-affected people should be allowed to file a complaint at any time.

²² See Part 4.5.4.

Communicating concerns, making requests for resolution or filing complaints are all ways for Project-affected people to engage with the AIIB during the Project cycle. The proposed PPM could be pre-emptory during the processing of a Financing by accepting eligible concerns or requests for dispute resolution. Complaints, however, which are more likely to arise during Project implementation, are a means to address compliance issues after the Project has been designed.

33. An eligible compliance review requires that Project-affected people have submitted a clear and sufficiently detailed complaint post-approval of a Sovereign-backed Financing or post-signing of legal agreements for a Non-sovereign-backed Financing. The complaint must show that there is reasonable likelihood of substantial adverse potential or actual impact in the Project area of influence due to alleged AIIB noncompliance with ESP provisions. Project-affected people must show that they have approached AIIB staff/Management and the GRM, where one is available, and that these efforts, including preferably efforts at problem-solving through a dispute resolution process, have not led to a satisfactory result.

34. A complaint should (i) indicate the outcomes the complainant is seeking; (ii) provide copies of all relevant correspondence with AIIB Management, the Client or other concerned authorities, including with the GRM where one is available, and (iii) refer to the extent possible, to the relevant ESP provisions which it is considered AIIB has not followed. Figure 1 summarizes when concerns, requests for resolution and complaints would normally arise in the Project cycle.

35. The process followed by the PPM to determine eligibility for concerns, requests for resolution and complaints is elaborated in Part 5.2. Importantly, processing of a Financing and/or Project implementation, as the case may be, will continue notwithstanding any submission of a concern, request for resolution or complaint in the absence of any suspension mandated by the relevant authority.²³

Implementation guidelines issued by PPM will document the specific steps involved, including process flow, indicative timelines and applicable templates, eligibility determination, registration, fact-finding, assessment, conclusion, reporting and closure of submissions by Project-affected people.

4.4.4 Continuous Learning for Effectiveness and Training

36. AIIB has committed to building an institutional culture of continuous bankwide learning and accountability to better serve Project clients and communities. CEIU contributes to this objective by systematically capturing and sharing learning to improve the performance, responsiveness and results of AIIB policies, practices, projects and funding. The PPM's learning for effectiveness function is well placed to independently identify drivers of positive and negative Project impact and to recommend evidence-based improvements to ensure compliance with the ESP and prevent harm to Project-affected people.

37. The PPM learning and effectiveness function will derive lessons, insights, innovations and issues from stakeholder interactions, the PPM caseload and various CEIU reviews. The resulting documents would be made publicly available and presented as written findings to the AIIB Board, President and Management. CEIU activities will include:

- Thematic or sector-specific learning reviews and studies led by CEIU.
- Project implementation real-time assessments (summary findings submitted to the AIIB Board).
- Feedback summaries from stakeholders involved in PPM cases to derive lessons and improve practices.
- Periodic reviews of the PPM mechanism.

Joint Submission – Annex 2: Mark-up

Author

Comment [53]: Problem:

- This language would be deleted, as complaints are likely to arise at any stage during project preparation, implementation, and follow-up. This draft simply has chosen to adopt a uniquely narrow definition of "complaint."

Author

Comment [54]: Problems:

- See the comment to Glossary: "Complaint" for criticism on the burden of proof required for submissions (e.g. concerns/requests for resolution/complaints). Here, a "clear and sufficiently detailed" complaint is new phrasing, as is a "reasonable likelihood of substantial adverse potential or actual impact."

Author

Comment [55]: Problems:

- See comments to para. 3. Preconditions on filing submissions with the PPM represent harmful restraints on accessibility. Further, the language here is inconsistent with similar language in para. 33.

Author

Comment [56]: Problem:

- Again, as stated in the comment to para. 17, project-affected people should not be required, to any extent, to identify the specific element of the ESP provision that was violated.

Author

Comment [57]: Problem:

- Again, see the comment to Glossary: "Concern" for criticism of the tri-part terminology and procedural process. Here again, there is no "normal" time during which concerns, requests for resolution or complaints should be filed.

Author

Comment [58]: Problems:

- This draft must include the details to be incorporated into the Guidelines referenced here. Further, civil society must be consulted in the draft of the Guidelines (see also fn 26, para. 81).

Author

Comment [59]: Problem:

- The language should be clarified here to ensure that the PPM will provide input on the development and revision of AIIB's policies and guidelines (see also para. 39). --See rec. 59.

Author

Comment [60]: Problem:

- This list should also include a role of monitoring actions undertaken to implement the PPM's advice. --See rec. 60.

Author

Comment [61]: Problem:

- Care must be taken in project selection to avoid prejudicing a subsequent compliance review complaint. The result of the assessment should be included in the project selection process.

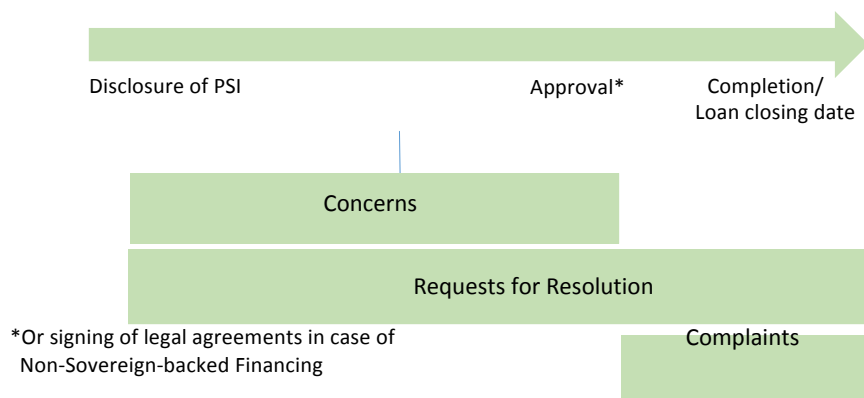
- Establishing a PPM information management and monitoring system.

²³ See Part 5.5 below.

- Exploring contacting, or creating partnerships with, stakeholder organizations for some PPM-related activities.

38. The PPM will seek opportunities to learn from and with other accountability mechanisms and PPM stakeholders, researchers, international and local nongovernmental organizations (NGOs) and civil society organizations (CSOs), and government and the private sector. It will also provide lessons and materials for PPM outreach and training activities and aim to derive lessons and insights from those events.

Figure 1: AIIB Project cycle



39. The PPM learning function would work under MD-CEIU with partners within and outside AIIB, as appropriate, to develop and share Learning and Action Briefs, electronic summaries, advisory papers, PPM learning reports and content for training and outreach.

40. The learning for effectiveness function would operate transparently and in accordance with AIIB's Public Information Interim Policy or any future policy pertaining to information disclosure. All official reports related to PPM complaint handling, compliance and learning for effectiveness work would be disclosed on the CEIU website. CEIU would not disclose (i) advisory information requested by the AIIB President and/or Board to inform AIIB internal decision-making or deliberative processes; or (ii) information or identities deemed confidential during problem-solving or compliance review.

41. PPM-assigned staff may also deliver PPM training to operational staff units across AIIB, including to the environmental and social staff in the Strategy, Policy and Budget Department. PPM staff will also develop practical training materials, interactive tools and guides for use in sequenced PPM e-training and in-person sessions.

4.4.5 Outreach

42. PPM-assigned staff will undertake inclusive outreach to Clients and their agencies, other development or financing partners, and external stakeholders that are interested in, or affected by, AIIB interventions. The proposed PPM will raise awareness about the existence and workings of the PPM. The PPM will also work with AIIB operational units to strengthen effective interaction with interested stakeholders by:

Author

Comment [62]: Problem:

• Paragraphs on reporting and publishing case data must be synchronized to ensure complete and transparent reporting by the PPM (compare paras. 40, 53, 69, 72, 85-86).
--See rec. 17.

Author

Comment [63]: Problems:

• Include in this list, "Publishing information about the PPM mechanism and how to access and use it, including through showing a model complaint, in relevant AIIB publications as well as prominently on the AIIB's website (like the current "Report Fraud" link). The material should be provided in multiple languages in multiple formats (digital, printed). AIIB management should collaborate with the PPM in support of its efforts to publicize its role.
--See recs. 14, 15.

- Publishing PPM user guides, tool kits, checklists, templates, information brochures and other materials in relation to PPM activities. These documents will be made available online, in hard copy and through other appropriate means, including for low literacy groups.
- Disseminating information about PPM through appropriate governmental and local authorities, CSOs, NGOs, private sector organizations, research, academic and other appropriate organizations and entities in the localities where AIIB does substantial business.
- Conducting online and in-person outreach activities for local communities; Project-level government authorities; local, national and international civil society and other stakeholders; to increase local awareness and capacities to use PPM.
- Addressing local constraints that may impede Project-affected people's access to the PPM and their participation in any PPM-related process.
- Collaborating with IAMs and MDBs in outreach activities.

43. Finally, the proposed PPM will use modern and innovative information technology and social media platforms and programs, such as mobile applications, to improve outreach in user-friendly, interactive and cost-effective ways.

4.5 ORGANIZATION AND STAFFING

4.5.1 Multitasking and Functional Firewalls

44. The proposed PPM structure is illustrated in **Figure 2** below. While PPM-specific staff will be hired to meet the workload of the PPM, professional CEIU staff will multitask while managing any real or potential conflict of interest. Staffing needs of CEIU are regularly reviewed by the Board to ensure that CEIU can fully carry out its mandate. Going forward, this will include review of resources for the PPM.

45. The proposed PPM Secretariat will have two CEIU staff groupings, each separately tasked to deal with (i) pre-emptive management of concerns and dispute resolution and (ii) compliance review. CEIU staff assignments for these two functions will be firewalled to avoid any actual or perceived conflict of interest. The CEIU staff assigned to compliance reviews will support a complaint-specific task force, with MD-CEIU as Chair, to review and investigate any complaints.²⁴

46. For matters requiring specialist expertise, MD-CEIU may engage external experts as necessary, in accordance with AIIB consultant recruitment procedures, for carrying out PPM functions. In the case of any compliance review, MD-CEIU may create a Project-specific task force comprising one or more members as necessary. MD-CEIU will be the chair of this task force.

4.5.2 Managing Director (MD)-CEIU

47. MD-CEIU will represent the proposed PPM in all matters before the Board and, as circumstances may require, before the President and his/her Management team. PPM-related responsibilities of the MD-CEIU will include (i) supervising and managing preparation and submission of all periodic and annual reports on PPM activities to the Board; (ii) finalizing and submitting annual budgetary and human resource requests for the PPM as part of the CEIU budget; (iii) directing and guiding the PPM Secretariat, particularly on eligibility determinations; (iv) constituting and handling all complaint-specific reviews and investigations, as chair of each assigned task force; (v) directing and supervising systemic and thematic reviews by PPM and conduct of PPM outreach initiatives and activities and (vi) any related communication or submissions to the Board, President and other senior Management members.

Joint Submission – Annex 2: Mark-up

Author

Comment [64]: Problems:

- It is critical that "clients" and "sub-clients" be included among the list of entities through which the PPM will disseminate information about the PPM grievance mechanism. The AIIB must require clients and sub-clients to proactively and effectively inform potentially impacted people about the PPM, using various accessible means of communication (bulletins, announcements, etc.).
- See rec. 13.

Author

Comment [65]: Problems:

- Seeking a "lean AIIB" must not result in a "lean PPM" forced to "multitask" on assignments unrelated to the functions of the PPM. This directly jeopardizes the capacity and legitimacy of the PPM to handle disputes and ensure effective remedy.

Author

Comment [66]: Problems:

- There are real conflict of interest concerns with having CEIU staff multitask on PPM cases as well as, for example, evaluations of projects. Greater care must be given here, in this document, to setting out criteria and principles by which conflicts will be managed to ensure impartiality and avoid harm to project-affected people raising complaints. This language should also state that persons having a conflict of interest must disclose and recuse themselves from a complaint process.
- See rec. 12.

Author

Comment [67]: Problem:

- Language should clarify here that staff for the PPM should be selected by the director and function managers (themselves selected through input from outside stakeholders: see comment to para. 48 below), not AIIB management.
- See rec. 8.

Author

Comment [68]: Problems:

- Requiring the MD-CEIU to chair every task force, in addition to his/her other duties, jeopardizes the swift processing of cases. There is no need to consolidate authority in such manner (see also paras. 45-47).

Author

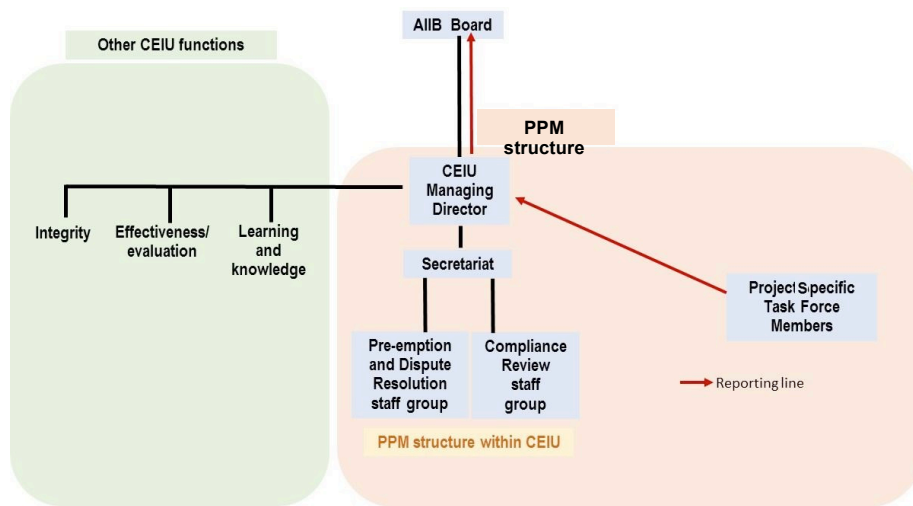
Comment [69]: Problem:

- As stated in the comment to para. 6, the PPM should have complete independence through reporting directly to the Board, not through the CEIU.
- See rec. 5.

²⁴ See Part 4.5.4 below.

48. MD-CEIU will appoint a CEIU staff member to serve as head of the PPM Secretariat (Head-PPM Secretariat). The MD-CEIU will provide guidance and direction to the Head-PPM Secretariat on all substantive matters involving functional areas of PPM responsibility.

Figure 2: Proposed PPM structure



Author

Comment [70]: Problems:

- External stakeholders (including civil society, academia, and industry) should participate in the hiring process for the director; the selection committee should not include members of AIIB Management.
 - External stakeholders should also participate in the hiring of “function managers” to handle particular functions within the PPM.
- See rec. 7.

4.5.3 CEIU-Assigned Staff; Head-PPM Secretariat

49. The Head-PPM Secretariat will be responsible for administration and operation of the PPM Secretariat under the supervision of the MD-CEIU. The PPM Secretariat will undertake activities including:

- Receiving, reviewing, recording and registering (or redirecting) submissions made to the PPM, including all necessary activities for effectively maintaining and managing the central CEIU database registry.
- Handling regular communications that involve the PPM, including managing online publication of PPM-related information such as for training and outreach.
- Developing and managing the PPM website, including all related online activities, and any information management system established by CEIU to record and monitor PPM operations.²⁵
- Assisting MD-CEIU in handling the recruitment, engagement and supervision of any external specialists engaged for specific assignments.
- Assisting and advising AIIB staff on the application of PPM procedures and guidelines.
- Preparing and updating all relevant documentation concerning any submitted concern, request for resolution or complaint, including for eligibility and related considerations.
- Preparing or arranging preparation of all advisory and learning materials, reports and publications for internal and/or external circulation.
- Preparing or arranging preparation of all PPM training materials, guides, checklists, templates and other tools for AIIB staff, internal and external stakeholders and potentially affected people or any third parties interested in the activities and operations of the PPM.

²⁵ See paragraphs 37 and 86.

- Assisting MD-CEIU in (i) preparing and managing the annual PPM budget and human resource needs; (ii) preparing all presentations, reports or other submissions made to the Board or AIIB Management, including annual or other reports or assessment of PPM operations and (iii) supporting and assisting complaint-specific task force members as needed.
- Explaining applicable PPM procedures and processes to parties seeking guidance, including the process for submitting concerns or complaints to the PPM, if requested.

4.5.4 Project-Specific Task Force

50. As chair of any Project-specific task force, MD-CEIU may select and appoint one or more external specialists to serve as task force members to review and resolve any eligible complaints submitted to the PPM. To the extent possible, task force membership should reflect gender equality.

51. Task force members should be well-respected experts with demonstrated integrity, professionalism, relevant qualifications and experience (particularly in infrastructure development, social, environmental and related fields) and with proven ability to interpret and apply rules and resolve disputes thoroughly and fairly. Such experts should have the ability to interact effectively with all parties concerned and, have relevant local or regional experience to deal responsively with the Project-affected people submitting the request for resolution or complaint.

52. An expert may not have been engaged by AIIB as a consultant or in any staff, managerial or Board position, for one year prior to the appointment as a task force member. Similarly, task force members will not be eligible for engagement by AIIB as a staff member, Board official, consultant or in any other remunerative capacity during the two years immediately after completion of their task force term. Appointed task force members will be required to sign a Conflict of Interest Declaration.

5 IMPLEMENTATION UNDER THE MECHANISM

5.1 REGISTRATION

53. Any submission filed by Project-affected people under PPM, (whether characterized as a concern, request for resolution or complaint), will be registered in a central internal database maintained by CEIU. The aim of this registry is to provide timely and accurate tracking, recording and follow-up on submissions and maintain a comprehensive information management system on PPM operations and other CEIU-related activities.²⁶ Basic information relating to the registration of PPM submissions will be publicly available through the PPM website.

54. The PPM Secretariat will register a submission from Project-affected people within the applicable timeframe.²⁷ Any such submission should:

- Adequately identify the party making the submission and, if relevant, any entity assisting the party in filing.

²⁶ CEIU will ensure that eligible PPM submissions and other representations arising out of, or related to, CEIU-mandated activities (for example, relating to integrity or effectiveness issues), are subject to inclusion in this central registry. CEIU will also undertake efforts, to the extent consistent with its broader institutional oversight role and available resources, to provide an administrative or procedural “one-stop shop” for submissions that are tantamount to complaints alleging maladministration by AIIB but that fall outside the ambit of direct CEIU oversight. For example, if a submission relates to matters such as procurement or risk management, the PPM will forward this reference to the AIIB

Author

Comment [71]: Problem:

- Remove the qualifier “to the extent possible”: a task force can always reflect gender equality. The excuse that there are no or insufficient qualified women candidates is unviable in this age, not least considering the diverse expertise required of task force members.

Author

Comment [72]: Problem:

- Extend this to five years.
- See rec. 10.

Author

Comment [73]: Problem:

- Rephrase this language to ensure that there is a complete ban on re-employment for principals and a five year cooling-off period for staff.
- See rec. 11.

Author

Comment [74]: Problem:

- The PPM should, in line with the draft PPI's commitment to generate maximum disclosure and presumption in favor of disclosure, commit to full disclosure of case-related information, while accommodating retaliation concerns (compare paras. 40, 53, 69, 72, 85-86).
- Publicly available information must include the status of all submission, including the grounds upon which any have been denied eligibility or later rejected.
- See rec. 17.

Enhancing AIIB's Accountability: The Project-affected People's Mechanism (draft for Phase II public consultation)
department or group concerned and undertake best efforts to ensure timely follow up and issuance of informed responses by such department or group.
²⁷ Applicable time limits for undertaking registration and taking other required steps in processing Project-affected people's submissions will be separately set out in PPM's implementation guidelines.

Author

Comment [75]: Problem:

- See the comment to para. 35 for criticism concerning the need for public comment on the Guidelines and the importance of clear timelines and regular status-related communication with project-affected people (see also paras. 35, 81).

--See rec. 32, 33.

- If considered necessary, expressly request confidentiality. The PPM Secretariat will respect any such request, but anonymous complaints will not be entertained.
- Include complete contact information for the party (and their authorized representative, if any), including residential and/or mailing address and, to the extent possible, telephone number, email address, and fax number.
- Identify the name or description of the AIIB project at issue, including the project location.
- Briefly summarize the perceived potential and/or actual harm in the project area of influence which the project has or is likely to cause.
- Briefly describe any efforts by the party to approach project-level authorities (including the GRM) and AIIB Management or project staff to address or resolve the issue giving rise to the perceived potential and/or actual harm and the results of the efforts.

55. Upon registration, the PPM Secretariat will send an acknowledgment to the party making the submission and undertake a determination of whether the submission is eligible for PPM review. If the PPM Secretariat is unable to register the submission, it will be returned to the submitting party—if the party has provided sufficient contact information—with an explanation as to why registration was not possible. The submitting party may make another submission to the PPM if it has addressed any deficiencies in its original representation identified by the PPM Secretariat. If the submission has been referred to another part of the AIIB, the PPM will inform the submitting party accordingly with a copy to the AIIB staff concerned.

5.2 ELIGIBILITY

56. The eligibility assessment process for all three PPM responses requires that (i) the submission has been duly registered by the PPM Secretariat; (ii) the submission is not subject to any of the exclusions described in Part 4.3.5; (iii) the submitting party meets the standing requirement for Project-affected people in Part 4.3.2 above and (iv) the submission reasonably shows a perceived misapplication or omission to apply any provision mandated under AIIB's ESP.

57. The following are additional eligibility conditions for each specific response route:

- *Concerns:* An eligible concern must be submitted prior to approval of a Sovereign-backed Financing or the signing of the legal agreements for a Non-sovereign-backed Financing and arise from or relate to matters that (i) occur following PSI disclosure, (ii) have not yet crystallized into, or become matters of, disagreement or dispute and (iii) are likely to cause potential adverse impact or harm in the Project area of influence due to AIIB noncompliance with ESP requirements.
- *Requests for dispute resolution:* An eligible request may be filed following PSI disclosure or at the latest before Project completion (or Loan closing date in the case of a Loan). The request must relate to matters that (i) have become the subject of an identified disagreement or dispute and (ii) are likely to cause potential or actual adverse impact or harm in the Project area of influence due to perceived AIIB noncompliance with ESP requirements.
- *Complaints:* A complaint requesting compliance review must be filed after approval of a Sovereign-backed Financing or after signing of the legal agreements for a Non-sovereign-backed Financing and show the reasonable likelihood of substantial potential or actual adverse impact in the Project area of influence from perceived AIIB noncompliance with ESP provisions.

Author

Comment [76]:

Author

Comment [77]: Problems:

• As stated in the comment to Glossary: "Project area of influence," the term "project area of influence" could create a harmful restraint on eligibility/access and should be removed entirely from this document. Here, the highlighted text should be replaced with "the harm experienced or likely anticipated from the project."

Author

Comment [78]: Problems:

• Again, see the comment to para. 3. Preconditions on filing submissions with the PPM represent harmful restraints on accessibility. Further, the precondition language is inconsistent throughout this document (compare paras. 3, 19, 24, 26, 33, 54, 79).
 • While preconditions to filing should not be set at all, here the language – including "any efforts" and "the results of the efforts" – slightly better permits complainants 1) flexibility to determine whether or not to engage in any pre-filing dispute resolution at all, and 2) ability to cease any such efforts before a preliminary review achieves "resolution". Note: the phrasing here requires explanation of the result of the "efforts," (which could permit explaining that the precondition process was avoided for fear of reprisal or stymied due to delay, ill-faith, etc.) and not the higher burden of explaining an actual preliminary DR "result."

Author

Comment [79]: Problem:

• Again, as stated in the comment to para. 17, project-affected people should not be required to identify the specific element of the ESP provisions that may have been violated in order to file a dispute.
 --See rec. 22.

Author

Comment [80]: Problems:

• Once again, the language in this section is significantly inconsistent with that in other sections outlining eligibility requirements, burden of proof, timelines and paths to remedy, and level of harm to be shown (compare Glossary: "Complaint" and "Concern," paras. 11, 15, 17, 22, 30, 33, 56, 57, sections 4.4.1, 4.4.2, and 4.4.3).

Author

Comment [81]: Problems:

• In particular, this new requirement (not provided elsewhere in the text), is problematic and should be removed. For example, the AIIB's ESS2 applies to resettlement that occurred in the "recent past," thus the language could be used to exclude eligible concerns.

5.3 PROCESSING

58. For eligible concerns, the PPM Secretariat will inform the AIIB Investment Operations Department and the Strategy, Policy and Budget Department about the concern received, providing a copy of the concern and requesting a response. When the response is received, an assessment will be made by PPM staff about the timely and cost-effective ways in which the issues raised by the concern can be reasonably addressed. Efforts will be targeted to ensure full compliance with ESP requirements, with support and endorsement by Vice President, Policy and Strategy (the Chief Compliance Officer), Environmental and Social Advisor and responsible Project staff. MD-CEIU may, if he or she considers it necessary, engage independent experts to assist in resolution of any complex matters arising out of any eligible concern.

59. Eligible dispute resolution requests will need to clearly identify the dispute(s) at issue and prioritize the major problems. The PPM Secretariat will then issue a notice to the AIIB Investment Operations Department to designate a representative with authority to reach agreement on behalf of Management. This representative will typically be a senior operations staff member or the Environmental and Social Advisor but not the Project Team Leader involved. The representative will interact with the requester through PPM Secretariat intermediation.

60. The PPM Secretariat will then facilitate the parties involved to develop a framework or road map of viable options to support a solutions-oriented dialogue within an agreed implementation timetable. The PPM Secretariat will mediate this process (with the assistance of contracted external alternative dispute resolution experts, if such expertise is not available in CEIU) to reach practical solutions through dialogue, negotiation, and mediation. Successful dispute resolution will require the AIIB Investment Operations Department, the Project-affected people concerned and the Client to commit to agreed measures and to implement them in a timely and appropriate manner. To this end, on receiving notification from the PPM Secretariat of eligible concerns and dispute resolution requests, the AIIB Investment Operations Department will notify and update the Client on the matters raised in the relevant submissions. The Investment Operations Department will take Client views and responses, if any, into account in responding to the PPM Secretariat and ensure that the Client is kept fully informed during the resolution of eligible concerns and disputes raised by Project-affected people, and, as needed work with the Client to ensure appropriate implementation of the agreed measures.

61. Where MD-CEIU determines a complaint to be eligible and proposes to carry out a compliance review, a report determining the eligibility and recommending conduct of a compliance review is circulated to the Board on a no-objection basis for at least 10 working days. Upon Board approval of the proposal, compliance review is then carried out using a four-step process. First, the complaint-specific task force constituted for the compliance review, with MD-CEIU as chair, will prepare a detailed terms of reference (TOR), including a proposed timetable for review. The task force will circulate the proposed TOR to the complainant and responsible AIIB operations staff for comment and then finalize the TOR, taking into consideration the comments. Second, the task force will undertake detailed fact-finding, including collation of relevant Project-based data, undertake any necessary site visits, and interview complainants and other parties concerned, including the representatives of AIIB and the Client. Third, the task force will prepare its findings regarding alleged AIIB noncompliance with ESP requirements and submit a draft report, through its chair, to the complainant and the assigned AIIB operations staff, for comment. AIIB operations staff will, in turn, update the Client and take Client views and suggestions into account in the Investment Operations Department response to the task force on the draft report. Fourth, taking the comments of all parties into account, the task force, through the chair, will submit a finalized report to the Board for information, documenting the findings of the task force.

Author

Comment [82]: Problems:

- Ensure this text includes direct and meaningful engagement of complainants in the resolution of any form of submission they offer (i.e. concern/request for resolution/complaint).
- The reference here to “cost-effective” ways in which the issue can be addressed is very problematic. The first responsibility of the PPM is to develop, in a consultative fashion, the best remedy for victims that ensures complete compliance with t... [29]

Author

Comment [83]: Problems:

- Once again, the language here is significantly inconsistent with that in other sections outlining eligibility requirem... [30]

Author

Comment [84]: Problem:

- This structure, as further described in para. 60, appears to envision dispute resolution between the AIIB and ... [31]

Author

Comment [85]: Problem:

- See rec. 3 for recommendations concerning the working of the dispute resolution function. ... [32]

Author

Comment [86]: • As noted in the comment to para. 23, mediation should be

- undertaken by a neutral, professional mediator or other facilitator as appr... [33]

Author

Comment [87]: Problem:

- In implementing a compliance review, the PPM must adhere to clearly established timelines for each stage of complain... [34]

Author

Comment [88]: Problem:

- This language suggests the MD-CEIU could determine a complaint is eligible but not carry out a compliance review. I... [35]

Author

Comment [89]: Problem:

- This text must be deleted. The PPM should be able to conduct a compliance review without Board approval. As it... [36]

Author

Comment [90]: Problem:

- The PPM should assess compliance against a set of criteria appropriate for the case at hand (could derive from app... [37]

Author

Comment [91]: Problem:

- This text should be deleted. Because a compliance review assesses the AIIB's compliance with its own policies, the... [38]

Author

Comment [92]: Problem:

- The final compliance review report should be shared simultaneously with complainants and the AIIB Board ar... [39]

62. If the final report of the task force indicates findings of noncompliance, it **may** include a request to the Board to approve a recommendation that Management prepare a time-bound and monitorable

Author

Comment [93]: Problem:
• Change "may" to "shall".
--See rec. 45.

remedial action plan (Action Plan) to remedy the Bank's noncompliance. If the Board agrees, Management is given the opportunity to prepare the time-bound Action Plan within a specified period. In preparing the Action Plan, Management should consult the Client and give due consideration to comments from the Client. Management should, through the PPM, also seek inputs of the complainant on the draft Action Plan and give due consideration to comments from the complainant. Management should then submit the Action Plan to the Board for review and approval, copied to MD-CEIU.

63. Upon Board approval of the Action Plan, AIIB Management will commence its implementation. Management will monitor and periodically report on its implementation to the Board with a copy to MD-CEIU. The PPM Secretariat, under guidance and supervision of MD-CEIU, will review these periodic reports and submit its observations to the Board on the status of implementation progress. Upon completion of measures under the Action Plan, Management will submit a final report to the Board. The PPM Secretariat, through MD-CEIU, will review this report and submit its observations to the Board. The Board will consider both the Management and CEIU reports together. The complaint process will close when the Board approves Management's final report.

5.4 RESOLUTION

64. Remedial action through the PPM for eligible concerns is essentially an agreement to address ESP-related concerns. This may, for example, include reconsidering or restructuring the design of the Project.

65. Targeted problem-solving is the practical remedy for handling requests for dispute resolution. It involves collaborative fact-finding and monitoring of agreed follow-up actions. PPM intervention attempts to achieve this by bringing the parties together to reach formal agreement through mediation or similar efforts. The PPM will actively monitor and follow up agreed commitments and periodically report to the Board on results achieved.

5.5 INTERIM REMEDIES

66. During the review of any eligible concern, request for resolution or complaint, MD-CEIU may, at the request of the PPM Secretariat or on his/her own volition, dispatch PPM staff for fact-finding through a site visit to the Project area of influence.

67. (i) If a PPM review concludes that AIIB Management has failed to comply with the ESP in the manner outlined in (ii) below, then MD-CEIU may issue a request to the Vice President and Chief Investment Officer (VP IO) to take appropriate follow-up steps within 60 days of the request to remedy the client's non-compliance. If such noncompliance continues beyond the 60-day period or any extended time mutually agreed between MD-CEIU and VP IO, or if at any time the PPM fact-finding concludes that there is serious likelihood of substantial, irreparable harm as a result of non-compliance by the Bank, the MD-CEIU may raise the matter with the President and inform the Board accordingly. (ii) For purposes of this paragraph 67, Management failure to comply with the ESP refers to a failure by Management to follow up adequately with the Client regarding a failure by the Client to establish the GRM within the time frame agreed with the Bank or to disseminate Project-level information about the GRM or PPM. It also refers to inadequate disclosure by the Bank of information about the GRM or PPM. It also includes situations in which PPM review concludes that there is serious likelihood of substantial, irreparable harm as a result of ESP non-compliance by the Bank.

5.6 CONFIDENTIALITY AND PROTECTION AGAINST RETALIATION

Author

Comment [94]: Problems:

- The PPM should have the mandate to monitor each case until all instances of non-compliance have been remedied (the duration of monitoring period should not be prescribed by the policy).
 - The PPM should conduct site visits during monitoring and consult with parties in the development of its monitoring reports, to verify information provided to it and document implementation or non-implementation of the action plan. Cases should not be closed unless there is verifiable evidence that the non-compliance has been remedied.
- See rec. 47-48.

Author

Comment [95]: Problem:

- Add "or canceling a project."

Author

Comment [96]: Problem:

- This sentence needs rephrasing: targeted problem-solving is not a "remedy" for handling dispute resolution, it is one component method of a dispute resolution, which itself seeks to afford remedy to complainants.

Author

Comment [97]: Problem:

- Explain here that this monitoring will include consultation with parties.
- See rec. 55.

Author

Comment [98]: Problems:

- Change "may" to "shall" in each place it appears to avoid leaving the decision to the MD-CEIU's discretion.
 - This text should give the MD-CEIU the power to recommend suspension of the project in the event of imminent harm.
 - This text should give the PPM the power to suspend a project if non-compliance is not being remedied.
 - This text should enable the MD-CEIU to make recommendations about the specific areas of non-compliance.
- See rec. 36, 49.

68. A party filing a submission under the PPM may request that its identity (or the identity of any specific parties providing material information relating to the submission) or particular information

submitted, remains confidential. The PPM Secretariat will respect any such request for confidentiality, including confidentiality of identities.

69. The PPM Secretariat will promptly inform the party concerned if it is unable to proceed with processing a concern, request for resolution or complaint without compromising such confidentiality. The party will then advise the PPM Secretariat if it wishes to withdraw the submission or continue without confidentiality. In relation to any registered submission, the PPM Secretariat will publicly note that disclosure of identity of a party has been restricted only if the disclosure does not compromise the confidentiality requested.

70. The PPM Secretariat will take measures to assess the potential or actual risk of retaliation²⁸ against any party submitting a request for confidentiality. A three-step approach to address issues of retaliation will be applied: (i) carrying out of an assessment of retaliatory risk in justifiable circumstances; (ii) use of preventive measures informed by the risk assessment as reasonably possible and (iii) development of a protection timeline with concrete contact processes and escalatory steps for senior AIIB Management to prioritize the safety and well-being of those under threat.²⁹ The PPM Secretariat will inform senior Management members concerned of all measures within the control of AIIB for combatting any threat of retaliation against Project-affected people who have filed or are seeking to file a submission under PPM. The implementation guidelines will provide further guidance on handling retaliation but will also clarify that the PPM is not an enforcement mechanism and thus has no direct ability to physically protect complainants or otherwise safeguard people from possible consequences of engaging in a PPM process or cooperating with PPM staff.³⁰

71. AIIB recognizes that retaliation is a genuine issue, as identified in other MDBs by their management and staff, as well as by NGOs/CSOs. AIIB will work with the IAM Network³¹ and other informed parties to find approaches to effectively deal with this serious issue. Such approaches may include developing an effective zero-tolerance policy and related measures including naming of agencies or clients involved in retaliation. The PPM will make ongoing efforts to incorporate emerging good practices into its approach to protect Project-affected people using, or intending to use, the PPM against possible retaliation.

5.7 TRANSPARENCY AND ACCESS TO STAFF

72. Meaningful information disclosure and transparency are essential features of PPM independence, impartiality and fairness in handling submissions. They are also critical for any effort to ensure overall AIIB institutional accountability in achieving effective development outcomes. The PPM Secretariat will actively maintain a publicly accessible, updated and informative website and will post timely summaries of PPM findings and assessments on pre-emptive, dispute resolution and compliance reviews, as well as its own annual reports.

²⁸ Retaliation for such purposes refers to any detrimental act, direct or indirect, recommended, threatened or taken against a party filing a submission under the PPM. It includes harassment, discriminatory treatment or withholding of an entitlement intended to silence or prevent the complainant from filing a submission, or taking any other related action under the PPM. For a related definition, see AIIB Policy on Prohibited Practices. 2016. Footnote 19, Section 2.1(31), p. 3.

²⁹ See World Bank (Inspection Panel), [Guidelines to Reduce Retaliation Risks and Respond to Retaliation During the Panel Process](#). 2016.

³⁰ See International Finance Corporation (IFC) Compliance Advisor Ombudsman, [CAO Approach to Responding to Concerns of Threats and Incidents of Reprisals in CAO Operations](#). 2017.

³¹ The IAM Network is a professional association of IAMs that the PPM will, once established, join.

Author

Comment [99]: Problem:

- Include language ensuring that this does not become a means through which the PPM effectively denies assistance by claiming inability to afford confidentiality. The PPM must demonstrate, if it fails to proceed on the grounds in this phrase, that it has made every effort to pursue the case under conditions of confidentiality.

Author

Comment [100]: Problem:

- Again, as stated in the comment to para. 35, civil society and other stakeholders must be afforded opportunity to comment on these Guidelines (see also para. 81). --See rec. 59

Author

Comment [101]: Problem:

- Paragraphs on reporting and publishing case data must be synchronized to ensure complete and transparent reporting by the PPM (compare paras. 40, 53, 69, 72, 85-86).
- The text insufficiently promotes transparency. This language here should be expanded to ensure the PPM publishes a complete and updated complaint registry including: pending, completed, and closed cases; ineligible complaints, with links to complaint letters (redacted if complainants request); explanations of determinations on complaint eligibility or non-eligibility; assessment reports; dispute resolution reports and agreements, subject to confidentiality agreements of the parties; terms of references for compliance review investigations; investigation reports; management responses and proposed remedial actions; monitoring reports; conclusion reports; and other relevant documentation. Case data must be available indefinitely, and not merely during the duration of the case. --See rec. 17.

73. For properly carrying out its functions, the PPM, through MD-CEIU, will have full access to AIIB staff and records related to the Project, including electronic and any other files or records maintained by AIIB. All AIIB staff will be required to cooperate fully with the PPM. Detailed modalities may be specified, as necessary, in the implementation guidelines.

74. The status and use of information gathered during PPM reviews and investigations is governed by the PIIP and/or any successor AIIB policy. No AIIB staff, PPM-recruited expert, task force member or other person involved in, or connected with, any PPM activity may disseminate electronic or hard copy documents or information restricted under the PIIP (and/or its successor policy) without approval from the appropriate authority empowered to authorize such disclosure.³²

5.8 SITE VISITS

75. Meaningful site visits and related community interaction can improve understanding of factors that contribute to eligible concerns, requests for resolution or complaints reviewed or investigated under the PPM.³³ PPM-originated site visits will be undertaken in the spirit of AIIB-Member (and Project proponent) partnership, given the practical necessity of sovereign consent.

76. The PPM Secretariat will obtain AIIB Member concurrence to undertake a site visit to the Project area of influence through the responsible AIIB operational department (following the usual approach for any AIIB fact-finding mission) on a Project-by-Project basis.³⁴ This approach is grounded in the recognition that AIIB Member collaboration is essential for any successful and sustainable resolution of submissions through the PPM.

5.9 USE OF A CO-FINANCIER'S OR A CLIENT'S SYSTEMS

77. The ESP allows use of a co-financier³⁵ or a Client's (whether a country borrower or a corporate client)³⁶ environmental and social policies and procedures where these are "materially consistent" with the ESP. This is distinct from the typical situation involving self-standing AIIB financing, or when AIIB is a lead co-financier. In both these latter situations, AIIB's own ESP provisions and use of the PPM apply for all Project-financed activities.

78. AIIB can agree to the application of ESP-equivalent provisions of a lead co-financier. In these cases, the co-financier's IAM will be the applicable mechanism for handling any submissions from Project-affected people about a co-financed Project. In these circumstances, however, the PPM will continue to monitor the co-financier's handling of submissions from Project-affected people under the co-financier's IAM procedures and make best efforts to coordinate with the IAM to ensure timely and responsive resolutions for any submissions from Project-affected people. Importantly, in such situations, any submission is excluded from PPM review if it relates to AIIB's decision to use a lead co-financier's ESP-equivalent provisions.³⁷

³² Prior written consent from the party which provided the document may also be required in some cases if mandated by the PIIP and/or any successor policy.

³³ Site visits may also occasionally be required in the context of eligibility assessments, particularly for complaints.

³⁴ The PPM Secretariat will seek assistance of AIIB Management and the Board Member representing the AIIB Member concerned, as necessary, to obtain the required visas and clearances for site visits by PPM staff, task force members and external specialists engaged for this purpose.

³⁵ ESP para 10 p. 3.

³⁶ ESP para 52 p. 19.

³⁷ See para 19 above.

Author

Comment [102]: Problem:

- This text must be deleted. To protect the impartiality and independence of the PPM, the PPM must have the freedom to conduct site-visits independently. This PPM document itself should assert a blanket commitment by members that they consent to site-visits being undertaken in their countries. Alternatively, each loan agreement, or the higher-level agreements setting out the conditions for countries' engagement with the bank, should include such a commitment. (See also paras. 61, 66, 76.)

--See rec. 30, 37.

Author

Comment [103]: Problem:

- Member collaboration should not be essential for the successful and sustainable resolution of submissions through the PPM, which are a matter between the AIIB, communities, and clients. AIIB Member involvement in site visits indeed jeopardizes the independence and integrity of such visits.

Author

Comment [104]: Problem:

- As stated in the comment to para. 14, the PPM should accept complaints related to activities co-financed with other DFIs. Bearing in mind that the majority of AIIB's portfolio consists of projects co-financed with other IFIs such as the European Bank for Reconstruction and Development, World Bank, and Asian Development Bank, it is imperative that the AIIB bears responsibility for the social and environmental outcomes of those projects. Further, not all IAMs have the same functions, and complainants should have the option to choose the IAM that best fits their interests.

--See rec. 21.

Author

Comment [105]: Problem:

- Submissions should be permitted which contest the AIIB's finding that another IAM's environmental and social policies are not materially consistent with the ESP (see also para. 80).

Author

Comment [106]: Problem:

- The PPM should routinely conduct site visits during the eligibility phase and as often as necessary through the complaint process. (See also paras. 61, 66, 75-76.)

--See rec. 30.

79. Use of country and corporate systems is permissible under AIIB's ESP under defined conditions.³⁸

Where AIIB allows the use of a country or corporate system, Project-affected people who wish to raise issues regarding Project-level noncompliance with any local ESP-equivalent provisions would be expected to use local dispute or complaint redress mechanisms. AIIB's ESP provides that "Use of a Client's systems does not preclude access of affected stakeholders to the Bank's oversight mechanism or Project-level grievance mechanisms."³⁹ In considering any submission, PPM will take into account any proceedings filed in local fora and the effect of any of its decision on local fora to avoid a situation where two contradictory findings may be made. PPM will avoid making any pronouncement on functioning of local courts or tribunals.

80. Any eligible submission in such cases will be reviewed by applying a standard of good international practice, except if the submission challenges AIIB's decision that the Client's environment and social management system is materially consistent with the ESP. In cases that challenge AIIB's determination of "material consistency," the complainant will need to establish that AIIB has been grossly negligent in the application of the ESP, given the relative complexity underpinning such determinations.⁴⁰

5.10 IMPLEMENTATION GUIDELINES

81. The PPM Secretariat will issue Implementation Guidelines (Guidelines), following approval by MD- CEIU, within 30 days from the effective date.⁴¹ These Guidelines will provide transparent, clear and user- friendly information for interested Project-affected people who may wish to initiate any process under the PPM. The Guidelines will be posted on the PPM website. Guidelines will be reviewed and updated periodically to reflect evolving good practice, user comments and concerns and to ensure maximum clarity and simplicity.⁴²

82. The Guidelines will detail the procedural steps and applicable timelines for submission filing, intake (including registration), eligibility determinations, and processing (including fact-finding and assessment) of concerns, requests for resolution and complaints under the PPM. The Guidelines will expand on related operational matters to facilitate accessibility and application by Project-affected people, including providing checklists, tools (for example, process flow diagrams) and templates showing each necessary procedural step for making a PPM submission under each of the three available response routes described above.

6 GENERAL PROVISIONS

6.1 ANNUAL AND OTHER REPORTS

83. The PPM Secretariat will prepare an annual report, under the direction and guidance of MD-CEIU, to describe PPM activities and learning during the preceding year. This report will be submitted to the Board, with a copy to the President, for information. It will be released to the public within 45 days after Board consideration and posted on the PPM website.

³⁸ ESP, paras 52-56.

³⁹ ESP, para 54.

⁴⁰ "Gross negligence" in this context refers to any action or omission by AIIB staff that evidences a major derogation of application

of good international practice which any international MDB professional staff would conclude is patently unreasonable in the circumstances. For example, this would include a failure by the AIIB staff concerned to consider a major policy or procedure of the Client in making any assessment of a country or corporate system in terms of material consistency with the ESP.

Author

Comment [107]: Problem:

• Again, see the comments to para. 3 and 19 critiquing preconditions on filing submissions with the PPM. Here, complainants should never be required to first use local dispute or complaint redressal mechanisms, or the GRM of a company. Local mechanisms would not be empowered to review the AIIB's due diligence process on those investments. Further, complainants may have very valid concerns about the integrity or utility of local mechanisms and/or company mechanisms, which prompt them to choose the PPM mechanism instead (compare paras. 3, 19, 24, 26, 33, 54, 79).
--See recs. 25.

Author

Comment [108]: Problem:

• This language should be clarified to explain that judicial or other parallel proceedings will not constitute an automatic or complete bar to complaints, but rather may only bar, limit, or suspend the PPM complaint process if the parallel proceeding would interfere in the process, or vice versa. Again, a contradictory [40]

Author

Comment [109]: Problem:

• This term has no firm meaning and should be replaced with "equivalence with the ESP, including all ESSs." As under the ADB AM policy, all projects (including co-financed, or those that use country systems) should be reviewed by the PPM. Such review should evaluate AIIB Management's determin [41]

Author

Comment [110]: Problem:

• Gross negligence is an incredibly high – and also vague – standard to place on submissions contesting the AIIB's finding of material consistency between the ESP and similar guidelines of other financiers (see also para. 78).

Author

Comment [111]: Problems:

• Again, as stated in the comment to para. 35, civil society and other stakeholders must be afforded opportunity to comment on these Guidelines. (Compare paras. 35, 81).
• Further, the PPM should regularly review its policy and guidelines through a p [42]

Author

Comment [112]: Problems:

• The Guidelines must be produced in multiple languages and accessible formats (digital, print), and must include a model complaint.
--See rec. 15.

Author

Comment [113]: Problem

• What is the reason for the delay in release of the annual report? If there is a reason, can the text clarify the reason?

⁴¹ See Part 6.5.

⁴² This process can be initiated by the PPM Secretariat, or at the motion of MD-CEIU, but any modifications or updates subsequent to establishment of the PPM must be approved by MD-CEIU before issue and posting on the PPM website.

84. CEIU will also prepare and publish periodic reports on specific PPM operations, particularly on learning and effectiveness activities. Such periodic reports will be submitted to the Board, with a copy to the President, for information, and may be released publicly (either in full or in summary), at the discretion of MD-CEIU, within a reasonable time following Board submission, but generally not exceeding 45 days.

85. Summaries (including brief updates) on the registration, processing and resolution of eligible concerns, requests for resolution and complaints will be prepared by the PPM Secretariat and publicly posted on the PPM website within the first 10 days of each quarter following the registration of each eligible submission, until the relevant case has been resolved or closed.

86. The PPM Secretariat will develop an online management information system to register and track the processing and resolution of all submissions by Project-affected people. Summaries will be provided from the system to the Board, with a copy to the President, for information at regular intervals. To the extent practically feasible, and consistent with confidentiality and PIIP-related disclosure considerations, MD-CEIU, through the PPM Secretariat, may permit selective disclosure of information housed in the management information system through a publicly accessible portal on the PPM website.

6.2 ANNUAL BUDGET

87. Under the direction and guidance of MD-CEIU, the PPM Secretariat will prepare a proposed annual budget for effective and efficient PPM operations each year. The submission will indicate the level of resources required for forecasted PPM activities in the following year.

88. The draft PPM annual budget will be incorporated into the overall CEIU budget and submitted for Board approval as part of the Bank's budget. CEIU will formulate its budget independently, although it may seek inputs from other parts of the Bank. Adequate resources will be prepared for the PPM, and expenditures that are fully justified will be protected. MD-CEIU will be responsible for determining the required allocation of resources, including within the PPM budget for carrying out each of the specific forecasted annual activities.

89. The PPM administrative budget, which will be part of CEIU's overall budget, would cover the costs of consultants, travel, communications, contractual services and other administrative expenses. The PPM operational budget would cover outreach activities, translation services, complaint eligibility determination, compliance review, monitoring of remedial actions, learning evaluations, preparation and publication of reports and outreach materials and any associated site or other visits by CEIU staff. Actual expenditures and expenditure categories would be reported in the PPM annual report and posted on the PPM website.

6.3 INDEPENDENT REVIEW

90. An independent review of PPM operations will be conducted under the guidance of the Policy and Strategy Committee of the Board, upon their own motion or upon the advice of MD-CEIU, five years from the date the PPM becomes effective. The President may also recommend to the Board that the PPM be reviewed. Such independent PPM reviews will be conducted once every five years thereafter.

91. Terms of Reference for each independent review will be approved by the Policy and Strategy Committee of the Board, taking into account any suggestions from the President, and be subject to endorsement by the Board. A review panel of external experts will be appointed by the Board, upon the recommendation of its Policy and Strategy Committee, to undertake each review.

Author

Comment [114]: Problem:

- Please see the comment to para. 72 for input on establishing a public, online complaint registry. Of particular note here, the registry must include explanations of determinations of both eligibility and ineligibility for all submissions (i.e. concerns/requests for resolution/complaints). Case data should be made available in full form not just summary form, consistent with confidentiality agreements between the parties, and should be accessible indefinitely and not merely for the duration of the case. (Compare paras. 40, 53, 69, 72, 85-86).

--See rec. 17.

Author

Comment [115]: Problem:

- See the comment to para. 85: the tone here implies a preference for optional, limited disclosure, rather than a commitment to transparency being the rule to which narrow exceptions may apply. The PPM should, in line with the draft PPI's commitment to generate maximum disclosure and presumption in favor of disclosure, commit to full disclosure of case-related information, while accommodating retaliation concerns (compare paras. 40, 53, 69, 72, 85-86).
- Publicly available information must include the status of all submission, including the grounds upon which any have been denied eligibility or later rejected.

--See rec. 17.

Author

Comment [116]: Problem:

- The tone here suggests that the PPM's budget will be under threat (requiring protection), and that only expenditures that are "fully justified" will be protected. "Fully justified" is an arbitrary term. CEIU must ensure that Management does not unduly affect its budget.

Author

Comment [117]: Problem:

- Language should be added here to ensure that independent reviews incorporate public consultations and engagement with users of the PPM's services, including complainants.

--See rec. 20.

6.4 LEGAL ADVICE

92. AIIB's Office of the General Counsel will provide legal advice to the PPM Secretariat and/or MD-CEIU, or a task force, as needed, on AIIB's rights and obligations in relation to any policy, directive and/or procedure or process subject to PPM review.

93. In providing any legal advice to the PPM, the Office of the General Counsel will ensure that there is no potential or actual conflict of interest or, should the case arise, adequately manage any such conflicts so that PPM can properly discharge its obligations in relation to any eligible submission on the basis of independent legal advice.

6.5 EFFECTIVE DATE

94. The effective date ("Effective Date") for commencement of PPM establishment and operation is expected to be July 1, 2018. Projects whose Financings are approved by AIIB prior to the Effective Date may be the subject of a request for resolution or complaint under the PPM.

95. Any submissions filed before July 1, 2018 will be handled by CEIU as closely as possible in accordance with the proposals in this paper.

7 RESOURCE IMPLICATIONS

96. The implementation of the PPM has modest budgetary and staffing implications. This is consistent with the limited and episodic nature of the anticipated PPM workload in coming years. It also reflects a targeted multitasking approach within CEIU, as AIIB's mechanism for institutional oversight, to ensure that AIIB remains lean and un-bureaucratic to maximize efficiency and operational effectiveness. In the event that the workload is more than anticipated, CEIU will submit a revised budget to ensure that it has the resources to fully carry out its mandate.

97. The proposed PPM will operate within CEIU.⁴³ CEIU will ensure that its existing staff composition is sufficiently flexible and nimble to undertake PPM work activities through the contemplated multitasking while adequately and effectively addressing any potential or actual conflict of interest situations. To the extent that additional PPM-specific staff positions are necessary at a later stage, the engagement of these new staff will only be undertaken if fully justified in terms of the PPM Project workload.

98. A review of existing IAMs suggests that the actual volume of eligible complaints processed annually within problem-solving, dispute and compliance review type functions has been exceptionally small.⁴⁴ AIIB will take time to build up its portfolio. In the early years, a substantial portion of AIIB's portfolio is likely to comprise co-financed Projects that use the IAMs of lead co-financiers. Therefore, modest resources are budgeted with provision to respond to greater demands on the PPM.

8 CONSULTATIONS

99. The PPM was designed through an open and collaborative approach to enhance its responsiveness to potential users. Dialogue with key stakeholder groups resulted in a two-phased approach to stakeholder public consultation. Phase I involved CEIU listening to and co-learning with

⁴³ See Part 4.5.1.

Author

Comment [118]: Problem:

- The PPM should be allowed to consult outside legal counsel for advice.

--Rec. 41.

Author

Comment [119]: Problem:

- This language betrays a very concerning expectation of few complaints, which may translate into staff action to *ensure* few complaints to meet those expectations and budgetary constraints. Such language is damaging to the integrity and legitimacy of the PPM. It also further stigmatizes the existence of problems and the need for remedy for project-affected people.

Author

Comment [120]: Problems:

- As outlined in the comment to para. 44, this text must set out the criteria and principles by which potential conflicts will be managed to ensure impartiality and avoid harm to project-affected people raising complaints (see also para. 44). This language should state that persons with conflicts of interest must disclose and recuse themselves from the complaint process.

--See rec. 12.

Author

Comment [121]: Problems:

- Stating this fact without adding context – namely, that the small number of complaints is largely due to inaccessibility and lack of awareness of complaint mechanisms, *not* lack of harm from projects – belies the reality of the critical need for the PPM. Language should be added here to counter-balance the impression created, reflecting understanding of the goal of increasing realization of remedy for all project-affected people.

⁴⁴ See, for example, [Information Matrix of Accountability Mechanisms of IFIs](#) ("IFI Information Matrix"). From available estimates, it appears reasonably accurate to conclude that, for most IAMs of established MDBs, compliance-related complaints annually total by number significantly less than one percent of the total number of Projects outstanding in MDB portfolios.

stakeholders and Phase II will be a focused dialogue on the draft PPM paper. CEIU arranged to initiate each phase with web-based calls for written submissions, interactive videoconferencing and in-person meetings with any interested stakeholder. AIIB Board representatives were briefed on PPM progress, gave feedback and suggestions at the September 2017 Board Meeting and also gave views on a draft of this paper. CEIU also reached out to Member governments through their Board representatives in Phase I. Several interviews were conducted and various constituencies provided meaningful feedback (it is anticipated that further feedback will be received when the draft paper is circulated in Phase II).

100. Phase I consultation generated 15 written submissions from NGOs, academics, the United Nations, business and professional bodies based in Asia (including Russia), Europe, the United States, South America and Australia. In addition, four group videoconferences, a roundtable discussion at the AIIB annual meeting, and several in-person meetings were convened. In total, some 340 individual points were raised for consideration. These were grouped and ranked to inform PPM drafting and are listed below:

1. **PPM and CEIU independence:** particularly from Management, and in CEIU staff selection to avoid conflict of interest and ensure expertise.
2. **PPM and CEIU outreach and site visits:** including for local awareness-raising about the PPM and for monitoring purposes.
3. **Complaint handling process:** taking an early and pre-emptory approach; accepting a complaint from even one or two complainants; allowing complainants to move flexibly between complaint channels; and using clear, easy, timely and transparent processes that are culturally sensitive and in appropriate languages.
4. **Complainant protection:** against retaliation and through anonymity.
5. **Remedial actions:** including a PPM role to propose and design actions; suspension; remedy funding and PPM monitoring of remedial action plans.
6. **Learning:** for policy improvement (including ESF) and documentation to improve practice.

101. After PPM approval and under the direction and guidance of MD-CEIU, the PPM Secretariat will undertake outreach activities periodically with governments, CSOs, NGOs, academic and research institutions, business forums and any other groups interested in AIIB PPM activities. These dialogues will aim to exchange information and inform the PPM Secretariat and MD-CEIU of emerging trends and evolving good practices. Topics may include Project-affected people's ease and quality of access to the PPM, and any other matters of concern to stakeholders. Outreach activities will be scheduled to dovetail with AIIB annual meetings, where possible.

Author

Comment [122]: Problem:

- The CEIU should post all of these points online in a comment matrix, with responses on why each recommendation was adopted or rejected.

Author

Comment [123]: Problem:

- The PPM should establish an external stakeholder advisory group to regularly provide strategic guidance, advice and feedback. The advisory group should include representatives from civil society and technical experts in fields such as accountability, sustainable development, and conflict resolution.
- See rec. 18.