

Asian Infrastructure Investment Bank Project-Affected People's Mechanism External Review

Dr. Zeinab Bashir Elbakri¹

May 2024

¹ Dr. Zeinab Elbakri is an international development expert with extensive experience in operations as well as independent accountability. She is a former member of the World Bank Inspection Panel, former Vice President of Sector Operations of the African Development Bank, and former Director Delivery Unit of His Highness the Prime Minister of Kuwait.

Abbreviations

ADB	–	Asian Development Bank
AfDB	–	African Development Bank
AIIB	–	Asian Infrastructure Investment Bank
ARC	–	Audit and Risk Committee
BSTDB	–	Black Sea Trade and Development Bank
CAO	–	Compliance Advisor Ombudsman
CDB	–	Caribbean Development Bank
CEIU	–	Complaints-resolution, Evaluation and Integrity Unit
EBRD	–	European Bank for Reconstruction and Development
EIB	–	European Investment Bank
ESF	–	Environmental and Social Framework
ESS	–	Environmental and Social Standards
ESP	–	Environmental and Social Policy
FI	–	Financial Intermediary
GCF	–	Green Climate Fund
GRM	–	Grievance Redress Mechanism
IAM	–	Independent Accountability Mechanism
IDB	–	Inter-American Development Bank
IFC	–	International Finance Corporation
IFIs	–	International Financial Institutions
INVIT	–	Infrastructure Investment Trust
IPAM	–	Independent Project Accountability Mechanism of the European Bank for Reconstruction and Development
		Independent Recourse Mechanism of the African Development Bank
IRM	–	Bank
IRM	–	Independent Redress Mechanism of the Green Climate Fund
LOD	–	Line of Defense
MICI	–	Independent Consultation and Investigation Mechanism of the Inter-American Development Bank
OIT	–	Oriental Infrastructure Trust
OM	–	Oversight Mechanism
OSD	–	Operational Services Department
PSC	–	Policy and Strategy Committee of the Board of Directors
PBF	–	Policy Based Financing
		Project-Affected People’s Mechanism of Asian Infrastructure Investment Bank
PPM	–	Investment Bank
PPP	–	Public Private Partnerships
VPPS	–	Vice-President Policy and Strategy
PSC	–	Policy and Strategy Committee
CSOs	–	Civil Society Organizations
WB	–	World Bank

Contents

Abbreviations.....	<i>ii</i>
Executive Summary.....	<i>vi</i>
1. Introduction, Purpose, and Methodology	1
2. Positioning of PPM within AIIB Accountability Structure.....	4
2.1 Background of AIIB	4
2.2 Positioning of PPM within AIIB Accountability Structure	4
3. Internal Handling of Complaints at AIIB.....	7
4. Institutional Issues of Relevance to PPM.....	10
4.1 Reliance on Peer IAMs in Co-financed Projects.....	10
4.2 Responsible Exit.....	10
5. Reviews of PPM by CSOs	12
6. Issues Raised in Consultations	13
6.1 Timing of the PPM Policy Review	13
6.2 Proposed Change/Reforms identified by the Policy Review should not be restricted to PPM Policy	14
6.3 Reliance on Peer IAMs in Co-financed Projects.....	14
6.4 Eligibility of Projects Involving Financial Intermediaries.....	15
6.5 Communication, Accessibility and Visibility	15
6.6 Project-level GRMs and Handling of Complaints by Management	16
6.7 Structure, Positioning, Independence and Resourcing of PPM	16
6.8 Retaliation.....	17
6.9 Learning	17
6.10 PPM Capacity.....	17
7. Review of the PPM Policy and Benchmarking with Peer IAMs.....	18
7.1 Remedy	18
7.2 Policies Against which Compliance will be Assessed	19
7.3 Persons Who May File a Submission/Representation.....	20
7.4 Requirement of Good Faith Efforts.....	21
7.5 Implications of Arbitral or Judicial Proceedings	22
7.6 Initiation of Compliance Review	22
7.7 Recommendations for Remedial Actions after a Compliance Review	25
7.8 Monitoring of Remedial Actions.....	25
8. Conclusions and Recommendations	27
8.1 Conclusions	27
8.2 Recommendations.....	27
8.3 Recommendations for Changes to the PPM Policy	28
8.4 Institutional Recommendations	29
Annex 1: Terms of Reference.....	32
Annex 2: Persons Interviewed	34
Annex 3: References.....	35

Acknowledgments

The external reviewer would like to thank all stakeholders, both within and outside of the Asian Infrastructure Investment Bank (AIIB), who have contributed to this External Review whether through availing of their time for discussions or provision of valuable information in an open and constructive manner. These have included AIIB Board members, AIIB Management and Staff, Civil Society representatives, Requesters, Clients, staff of peer Independent Accountability Mechanisms and accountability experts. Special thanks go to Mr. Marvin Taylor-Dormond, Managing Director of the Complaints-resolution, Evaluation and Integrity Unit (CIEU) of AIIB and Mr. Shamas ur Rehman Toor, Head of the Project-affected People's Mechanism (PPM) Secretariat. Mr. Toor helped coordinated the interviews and provided valuable documentation, direction and ideas. Special thanks also go to Yuan Chang for invaluable administrative support throughout the process of producing this Report. This work could not have been completed without the valuable support and assistance of all the aforementioned stakeholders.

Zeinab Bashir Elbakri
External Reviewer

Executive Summary

The Project-affected People's Mechanism (PPM) is the independent accountability mechanism (IAM) of AIIB. The PPM Policy was adopted on December 7, 2018, becoming effective on March 31, 2019, just three years after AIIB started its operations. The accompanying Rules and Procedures were issued by the Managing Director of the Complaints-Resolution Evaluation and Integrity Unit (CEIU) on June 13, 2019.

According to the Policy document "The Policy shall be reviewed no later than five years from its adoption. The Managing Director of the Complaints-resolution, Evaluation and Integrity Unit (MD-CEIU) shall initiate and guide the review. The review shall take into account the views gathered through public consultations, including with Project-affected communities, AIIB Members, clients and other stakeholders." The Policy Review's main objective is to assess the effectiveness of the PPM and make recommendations to the Board of Directors (the Board) for enhancing the PPM's visibility, accessibility, and responsiveness to Project-affected People, and AIIB's accountability."

In turn, the objective of this External Review of the Project-affected People's Mechanism (PPM) as stated in the Terms of Reference "is to assess overall experience of PPM as independent accountability mechanism of AIIB since its establishment. This would entail review of PPM's role in AIIB's accountability, structure, functions, policy, rules of procedure, effectiveness, visibility, accessibility and resources."

This External Review is commissioned by the MD-CEIU and constitutes an integral part of a series of associated activities of PPM Policy Review, including the survey on the visibility and accessibility of the PPM, the development of a PPM Review Approach Paper and stakeholder consultations. All of these activities and findings of the External Review will inform the Managing Director of the Complaints Resolution, Evaluation and Integrity Unit (MD-CEIU) and provide advice in guiding the PPM Policy Review.

The External Review is based on several principles including the following: getting as wide a spectrum of stakeholder views on PPM, its positioning within AIIB and its operation, while avoiding any regression or weakening of

the Policy. This External Review has used a combination of methods, notably a thorough examination of relevant literature in addition to extensive interviewing of stakeholders both internal and external to the AIIB. Stakeholders have included the following groups: AIIB Board members, AIIB Staff and Management, Management of peer IAMs, representatives of CSO community, selected clients, and experts in accountability and the IAMs space. In addition to the above, a literature review of the policies, rules and procedures of the main IAMs and recent writings on accountability was undertaken.

It is important to note that AIIB sees itself as a unique Bank, in that the majority of Members are developing economies, and that the Bank should serve their demands at the project level. This includes having a client-driven culture. This was reflected in certain features of PPM design, which were deliberately developed based on consideration of AIIB's needs and experience of its peers, and after a lengthy deliberative process during the formulation of the PPM policy in 2017-2018.

However, PPM has a rather limited experience in handling complaints. It has directly received only three complaints, all of which were declared ineligible. On the other hand, independent accountability mechanism of peer MDBs have received 33 complaints on 9 AIIB co-financed. During its first five years, PPM has conducted several outreach events with civil society organizations (CSOs) and implementing agencies in collaboration with peer IAMs. It has also undertaken a range of in-reach activities with internal stakeholders.

The PPM has recently been the subject of two reports produced by CSOs. Both reports address the issue of accessibility to PPM, especially in view of the absence of eligible cases going through the PPM process to date. These reports also highlight several other issues related to the PPM Policy, undertake some benchmarking, and finally, make recommendations for the conduct of the policy review emphasizing the importance of consultations with different groups of stakeholders.

The External Review also considered several issues raised in consultations with various

stakeholders, including AIIB Management and Staff, AIIB Board members, CSOs, Clients and Accountability experts. Generally, the consultations have indicated that there is strong support for a comprehensive PPM Policy Review process, accompanied by wide ranging consultations covering all relevant stakeholders, with the objective of reinforcing the premise that IAMs like PPM are a key part of enhancing AIIB's institutional accountability and the process of developing ambitious social and environmental standards in MDBs including AIIB.

Key issues raised by stakeholders include: timing of the PPM Policy Review; scope of proposed change/reforms identified by the external review; AIIB's ability to rely on co-financier's IAMs in certain situations; who can file a submission to PPM; who can trigger PPM apart from the project-affected people; eligibility of projects involving financial intermediaries for PPM; communication and outreach of PPM; accessibility and visibility of PPM; structure, positioning, independence and resourcing of PPM; retaliation, learning and capacity of PPM; and finally, effectiveness of project-level GRMs and handling of complaints by Management.

In light of this External Review, several questions arise in relation to the specific features of the PPM Policy: are they fit for purpose, do they impact accessibility to the PPM, do they match and conform to current best practices among IAMs? The issues raised and proposed changes made in the report are benchmarked against the policies and practices of peer IAMs. The proposed changes to the PPM Policy relate to the following: inclusion of language on Remedy in PPM's mandate; policies against which PPM should assess AIIB's compliance; persons who may file a submission and their representation; requirement of good faith efforts for resolving issues prior to contacting PPM; implications of parallel arbitral or judicial proceedings; initiation of compliance review, including self-initiation by PPM; PPM's ability to make recommendations for remedial actions; and PPM's mandate of monitoring the remedial actions.

In conclusion, it is important to reiterate and emphasize the origins of the PPM Policy and the underlying justifications for the current Review. These include the following: the infrastructure sector in which AIIB operates is generally one with a greater potential for generating complaints in peer MDBs, this is accompanied by a rising awareness of potential harms resulting from infrastructure projects, in

addition to innovations in the accountability space. All of these reasons point out to the necessity of such a Review at this point in time.

The main objective is to render a PPM more effective, more fit for purpose, allowing it to be an important contributor to AIIB's overall accountability, which should result not only in providing remedy for complainants, but also generating lessons learnt for the institution itself, thus contributing to its greater development effectiveness. While a more effective PPM can contribute to enhancing AIIB's accountability, any proposed changes to PPM Policy, rules and procedures must be accompanied by changes in other parts of AIIB as well as on the development of a stronger learning culture and of institutional accountability.

Within such a context, other conclusions of this External Review include the need to revise the PPM Policy and accompanying procedures in the direction of making them simpler and more aligned with international best practice incorporating elements that have worked elsewhere, all while recognizing aspects of the uniqueness of AIIB, its history and relatively young age. Also, there is a need for strengthening management complaints-handling processes and strengthening of project-level GRMs to allow for early resolution of issues.

Based on the above, this External Review makes several recommendations, grouping them into two areas: Recommendations for Changes in PPM Policy and Recommendations for Institutional Changes. Recommendations for changes in the PPM Policy are benchmarked against the policies and practices of peer IAMs. Recommendations for institutional changes are intended to improve the handling of cases on co-financed projects, visibility and capacity of PPM, and handling of complaints by AIIB Management.

1. Introduction, Purpose, and Methodology

1. Despite the best of efforts, projects supported by International Financial Institutions (IFIs), including Multilateral Development Banks (MDBs), are often linked to adverse social and environmental impacts. While many kinds of environmental and social issues may be addressed on a day-to-day basis through project teams, through supervision and capacity building, others are addressed by Independent Accountability Mechanisms (IAMs), project-level grievance redress mechanisms (GRMs) or other remedial mechanisms that aim to protect people from harmful impacts of projects². It is imperative that all of these avenues and ways by which project-affected people and communities can have their concerns heard, addressed and remedied, are accessible, effective and robust.

2. Project-Affected People's Mechanism (PPM): PPM is the independent accountability mechanism (IAM) of the Asian Infrastructure Investment Bank (AIIB). The PPM was established by the Board of Directors (the Board) of AIIB to provide an opportunity for an independent and impartial review of submissions from Project-affected people who believe they have been or are likely to be adversely affected by AIIB's failure to implement its Environmental and Social Policy (ESP) when their concerns cannot be addressed satisfactorily through project-level grievance redress mechanisms (GRM) or AIIB Management's processes. The Complaints-resolution, Evaluation and Integrity Unit (CEIU) is responsible for PPM.

3. PPM Policy Review: The PPM Policy was adopted on December 7, 2018, becoming effective on March 31, 2019. The accompanying Rules and Procedures were issued by the Managing Director of CEIU on June 13, 2019.³ According to the Policy document "The Policy shall be reviewed no later than five years from its adoption. The Managing Director of the Complaints-resolution, Evaluation and Integrity Unit (MD-CEIU) shall initiate and guide the review. The review shall take into account the views gathered through public consultations, including with Project-affected communities, AIIB Members, clients and other stakeholders."⁴ Thus, the PPM Policy Review (PPM Review) is due in 2024.

4. The Roadmap initiating the PPM Review process was endorsed by the Policy and Strategy Committee (PSC) of the Board on Dec. 4, 2023. In March 2024, the Board also discussed an Approach Paper which spells out the Roadmap of the PPM Policy Review. PPM Policy Review's main objective is to assess the effectiveness of the PPM and make recommendations to the Board of Directors (the Board) for enhancing the PPM's visibility, accessibility, and responsiveness to Project-affected People, and AIIB's accountability."⁵

5. Furthermore, in line with the approved Roadmap for the PPM Policy review, the PPM Policy Review is guided by the following principles: the MD-CEIU initiates and guides the review with a strict focus on the PPM Policy, transparency and disclosure of all relevant documents, inclusive and broad (internal and external) consultative process, build upon institutional experience and learning, clear distinction between findings of the review and potential policy revisions. As per the Rules of Procedure of the Board of Directors, the President, based on the MD-CEIU's proposal, will submit and include in the Board agenda any final recommended revisions of the policy to the Board. This is in addition to improving

² United Nations Human Rights Office of the High Commissioner, "Remedy in Development Finance: Guidance and Practice", 2022, p.1.

³ Asian Infrastructure Investment Bank Rules of Procedure of the Project-Affected People's Mechanism, June 2019.

⁴ Asian Infrastructure Investment Bank, "Policy on Project-Affected People's Mechanism", 2018, Clause 11.4.

⁵ AIIB RoadMap of the Project-Affected People's Mechanism (PPM) Policy Review, p.4

upon the current policy and further aligning it with best practices based on lessons learned from the experience of other IAMs.⁶

6. PPM not having registered complaints to date must not be interpreted as a lack of policy violations on the part of AIIB, or the absence of potential harms caused by its projects, rather, it has meant that AIIB has not been able to fully make use of the valuable institutional learning and advice that may be produced as a result of handling complaints, which in turn would lead to greater development effectiveness of the institution. Justification for undertaking the PPM Policy Review at this point in time, despite the absence of any eligible complaints since its establishment to date, is twofold. First, the PPM Policy Review (of which the External Review is a part) is mandated by the PPM Policy, as stated above, and secondly, since the time of the policy's development, the accountability space where IAMs are situated has been characterized by many new developments and innovations that have manifested themselves in the policies, procedures and structures of the various IAMs.

7. The PPM Policy Review is also opportune and timely in view of the fact that, several IAMs of peer institutions are themselves undergoing policy reviews. This, therefore, presents an opportunity for ensuring consistency and harmonization across the various IAMs, very much in line with AIIB's own core values of mutual recognition and reliance on peer MDBs in the spirit of the Paris Declaration.⁷

8. **External Review of PPM:** It is within the above context that this External Review of the Project-affected People's Mechanism (PPM) is being undertaken. Its objective, according to the Terms of Reference (see Annex 1), is "to assess overall experience of PPM as independent accountability mechanism of AIIB since its establishment. This would entail review of PPM's role in AIIB's accountability, structure, functions, policy, rules of procedure, effectiveness, visibility, accessibility and resources. Findings of the external review will inform the MD-CEIU in guiding the PPM Policy Review."⁸

9. This External Review of PPM is commissioned by the MD-CEIU and constitutes an integral part of a series of associated activities of PPM Policy Review, including the survey on the visibility and accessibility of the PPM, the development of a PPM Review Approach Paper and stakeholder consultations. All of these activities and findings of the External Review will inform the Managing Director of the Complaints Resolution, Evaluation and Integrity Unit (MD-CEIU) and provide advice in guiding the PPM Policy Review.

10. The External Review is based on several principles including the following: getting as wide a spectrum of stakeholder views on PPM, its positioning within AIIB and its operation, while avoiding any regression or weakening of the Policy.

11. **Methodology:** In terms of methodology, this External Review has used a combination of methods, notably a thorough examination of relevant literature in addition to extensive interviewing of stakeholders both internal and external to the AIIB. A full list of those interviewed is provided in Annex 2. Interviews were guided by a semi-structured questionnaire which was adapted to the different groups of stakeholders. Stakeholders have included the following groups: AIIB Board members, AIIB Staff and Management, Management of peer IAMs, representatives of CSO community, selected clients and complainants, and experts in accountability and the IAMs space. In addition to the above,

⁶ Ibid, p.5

⁷ MDBs whose IAMs are currently undergoing reviews are the following: Asian Development Bank, European Bank for Reconstruction and Development, European Investment Bank and the World Bank

⁸ Ibid

a literature review of the policies, rules and procedures of the main IAMs and recent writings on accountability, was undertaken.

12. Organization of the Report: The report is organized in several sections. After the Introduction, the Report presents some background information on AIIB, this is followed by a discussion of issues of relevance to IPM including internal handling of complaints, co-financing and responsible exit. This is followed by an overview of the main issues raised by the various stakeholders indicating the various opinions on the issues presented. The Report then examines the PPM Policy, benchmarking it with peer IAMs, and indicating how it conforms to or diverges from best practices. This is followed by the presentation of the Report's main conclusions and recommendations for key changes in the PPM Policy and Institutional Recommendations.

2. Positioning of PPM within AIIB Accountability Structure

2.1 Background of AIIB

13. The AIIB was established to help foster sustainable economic development, create wealth and improve infrastructure connectivity in Asia by investing in infrastructure and other productive sectors. Its mandate also includes promoting regional cooperation and partnerships to address development challenges by working closely with other multilateral and bilateral development institutions. Although the AIIB is an MDB focused on developing Asia, it has Members from all over the world. It began operations in 2016 with 57 founding Members, 37 regional Members and 20 non-regional Members, by end of 2023 it had 109 approved Members.⁹

14. As per its Articles of Agreement, AIIB's purpose is to: "(i) Foster sustainable economic development, create wealth, and improve infrastructure connectivity in Asia by investing in infrastructure and other productive sectors; and "(ii) Promote regional cooperation and partnership in addressing development challenges by working in close cooperation with other multilateral and bilateral development institutions."¹⁰

15. AIIB adheres to the following three core values: lean, clean and green. AIIB's "Lean" core value strives to eliminate waste in production and processes while satisfying customer needs. Continuous improvement will remain central to AIIB's value proposition and ambition to deliver more value for clients through agile, fast and responsive services without compromising high standards. High project standards and good governance principles constitute an integral part of the Bank's "Clean" core value. Finally, AIIB embraces the concept of being a Green institution, and is committed to enhancing its sustainable operations both in terms of project investments as well as corporate practices.¹¹

16. AIIB sees itself as a unique Bank, in that the majority of Members are developing economies, and that the Bank should serve their demands at the project level. This includes having a client-driven culture. This was reflected in certain features of PPM design, which were deliberately developed based on consideration of AIIB's needs and experience of its peers, and after a lengthy deliberative process during the formulation of the PPM policy in 2017-2018.¹²

2.2 Positioning of PPM within AIIB Accountability Structure

17. Succeeding its establishment in 2016, the AIIB began to develop its own accountability structure in accordance with the Bank's Articles of Agreement, which envisaged an oversight mechanism (OM). Compliance with AIIB's operational policies including its Operational Procurement and Environmental and Social Policy (ESP) for projects is ensured by the Investment Operations Department as the first Line of Defense (LOD) and the Vice President for Policy and Strategy (VP PS) and the Chief Risk Officer as a second LOD.¹³

18. The Oversight Mechanism of the Board of Directors also spells out the role of the CEIU stating that: "A key consideration in designing CEIU was to ensure it could exercise

⁹ AIIB Website

¹⁰ AIIB, Corporate Strategy: Financing Infrastructure for Tomorrow, 2020, p.6

¹¹ Ibid, p.7

¹² Approach Paper, p.9

¹³ Oversight Mechanism, p.4

relevant functions independent of Management while ensuring that CEIU remains engaged with and contributes to the rest of AIIB.”¹⁴

19. The same document also provides a framework of Board’s monitoring and supervision of CEIU: “As AIIB grows, the importance of CEIU’s functions will increase. The Board should be fully informed of the work of CEIU on a regular basis. Therefore, it is appropriate to consider a framework for CEIU to hold itself accountable to the Board. The CEIU reports to the Board in the following three ways: First, CEIU provides regular updates to the full Board in a format consistent with regular Management updates. Second, CEIU provides detailed reporting on specific areas of work to Board committees. In particular, requests received by the PPM and project independent evaluation-related issues will be reported to the PSC while investigation of Prohibited Practices and related issues will be reported to the Audit and Risk Committee (ARC). Third, the MD-CEIU will have a forum to meet with members of the Board without Management present in an informal setting.”¹⁵

20. The CEIU was established in 2016 as an independent unit within AIIB and is part of AIIB’s Oversight Mechanism created by its Board of Directors under Article 26(iv) of the AIIB Articles of Agreement. This provision empowers the Board to 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. CEIU is led by a Managing Director (MD-CEIU) who reports directly to the Board.¹⁶ The current structure of combining all independent functions under the same umbrella is not the general norm in peer MDBs, although similar arrangements can be found in the European Investment Bank (EIB), Caribbean Development Bank (CDB) and Black Sea Trade and Development Bank (BSTDB) and several UN Agencies. The President appoints and dismisses the MD in consultation with the Board. The President also assesses the performance of the MD.

21. CEIU primary responsibilities are to selectively assess the quality and results (for completed projects) of the Bank’s ongoing and completed investment portfolio, as well of policies, strategies and processes, to serve as the focal point for external requests or complaints regarding compliance with the AIIB Environmental and Social Policy (ESP) under the Project-affected People’s Mechanism (PPM) Policy, and to investigate project-related fraud and corruption cases under the Policy on Prohibited Practices.¹⁷

22. Under Complaints-handling, CEIU is responsible for the following:

- “Preparing and updating, as needed, the PPM Policy, Directive and Rules of Procedure regarding the PPM.
- Receiving, reviewing, recording and registering (or redirecting to a co-financier, as applicable) submissions made to AIIB alleging noncompliance with the ESP and determining their eligibility and suitable review processes.
- Preparing and updating all relevant documentation concerning any submitted processing queries, request for dispute resolution or request for compliance review, including for eligibility and related considerations.
- Organizing, engaging and supervising external specialist(s) for desk and/or onsite PPM functions for specific assignments.
- Working with Management on the findings of investigations to facilitate Management to take actions to address complaints.

¹⁴ Ibid, p.6

¹⁵ Ibid

¹⁶ CEIU web page

¹⁷ AIIB Terms of Reference of the Complaints Resolution, Evaluation and Integrity Unit, July 2019

- Reporting periodically to the Board/PSC on the findings and actions taken by Management in response to processing queries, requests for dispute resolution or requests for compliance review.
- Assisting and advising AIIB staff on the application of PPM procedures and guidelines.
- Compiling lessons learned from investigations and sharing with relevant departments.
- Conducting staff training on PPM.
- Handling regular communications that involve the PPM, including all related online publication of PPM-related information.
- Explaining applicable PPM procedures and processes to parties seeking guidance, including the process for submitting project processing queries, requests for resolutions or complaints to the PPM, if requested.
- Cooperating/coordinating with the independent accountability mechanisms of other MDBs.¹⁸

23. The Environmental and Social Policy (ESP) of AIIB also refers to the PPM, specifically stating that People who believe they have been or are likely to be adversely affected by a failure of the Bank to implement the ESP may submit complaints to the Bank's PPM in accordance with the Policy on the PPM, when their Project-related concerns cannot be addressed satisfactorily through Project-level Grievance Redress Mechanisms (GRMs) or the Bank's management processes. The Bank requires all Clients to inform Project-affected people about the availability of the PPM. Information on the availability of the PPM is to be provided in an accessible and understandable manner in locally appropriate language(s), including on the Client's (or beneficiary's) Project-related website.¹⁹

24. If the Project is co-financed with another MDB, bilateral development organization or other development finance institution, and the Bank agrees to the application of the environmental and social policies and procedures of the co-financier (in lieu of the ESP) to the Project, the Bank may also agree to rely on the IAM of such co-financier (in lieu of the PPM) to handle submissions from Project-affected people.²⁰ This is elaborated upon later.

¹⁸ CEIU Terms of Reference

¹⁹ AIIB Environmental and Social Framework, 2022, p.37

²⁰ Ibid

3. Internal Handling of Complaints at AIIB

25. This section examines current mandatory tiers of grievance management prior to a complaint reaching the PPM. This includes handling of complaints by both project GRMs and Management. This examination is based both on interviews with AIIB staff, AIIB clients, and internal analysis of the functioning of GRMs at AIIB, in addition to similar assessments from sister institutions.

26. The AIIB requires the Client to establish, in accordance with its Environmental and Social Policy (ESP) and applicable Environmental and Social Standards (ESS), a suitable Project-level GRM to receive and facilitate resolution of the concerns and complaints of people who believe they have been negatively affected by the Project's environmental or social impacts, and to inform Project- affected people of its availability.²¹

27. The GRM: (a) may utilize existing formal or informal complaint-handling mechanisms, provided that they are properly designed and implemented, and deemed by the Bank to be suitable for the Project (these may be supplemented, as needed, with Project- specific arrangements); (b) is developed in such a manner that it does not impede access to other judicial or administrative remedies that might be available under law or through existing arbitration or mediation procedures; (c) is designed to address affected people's concerns and complaints promptly, including gender- related concerns and complaints relating to Gender-based violence (GBV), using an understandable and transparent process that is gender sensitive, culturally appropriate and readily accessible to all affected people; (d) includes provisions: (i) to protect complainants from retaliation, grant them confidentiality and enable them to remain anonymous, if requested; and (ii) to protect those who defend the rights of complainants to make such complaints; (e) provides for maintenance of a publicly accessible case register and reports on grievance redress and outcomes, which are disclosed in accordance with the applicable ESS; and (f) is required to be operational by the time implementation of the relevant Project activities commences and for the duration of the Project.²²

28. The Bank also requires the client, including a Financial Intermediary (FI) client to establish or maintain a GRM for contracted Project workers under the Project to address workplace concerns, and reflect this in the tender documents for contracted Project workers.²³

29. It should be noted that the establishment of GRMs is not unique to AIIB, thus at the World Bank their establishment is a requirement under the Bank's Environmental and Social Framework (ESF)²⁴. According to the ESF a Project Grievance Mechanism scope, scale and type will be proportionate to the potential risks and impacts of the project and will be accessible and inclusive. Features of GRMs may include the following:

- Different ways in which users can submit their grievances which may include submissions in person, by phone, text message mail, email or via a website;
- A log where grievances may be registered;
- Publicly advertised procedures;
- Transparency about the grievance procedure; and
- An appeals process to which unsatisfied grievances may be referred.²⁵

²¹ Ibid, p.36-37

²² Ibid

²³ Ibid.

²⁴ World Bank "Environmental and Social Framework", 2015

²⁵ Ibid

30. A World Bank study of GRM recommended that:

- PIUs should be encouraged to use a wide range of tools to communicate about the GRM and to sustain communication efforts about the GRM throughout the project lifecycle.
- Furthermore, Grievance data should be shared with project-affected parties and public officials more transparently.
- It was also felt that several areas of the GRM value chain could be further strengthened to enhance the predictability of the system, especially through complaint acknowledgement and complainant satisfaction surveys.
- The findings also included that the disaggregation and analysis of GRM data is often insufficient to improve project performance.
- Finally, it was found that PIU staff think that capacity building through training and technical assistance would help ensure more effective GRMs.

31. GRMs at the World Bank clearly face issues such as lack of systematically documenting or measuring GRM implementation, the lack of capability of Bank systems to quickly access data on GRM usage or implementation etc.²⁶ Experience from other MDBs indicates that in order to be effective, GRMs need to be well designed, have the appropriate level of resources and support to allow them to function effectively. Such strengthening would also entail a vigorous communication drive to ensure that they are well known. GRMs must adopt a Human Rights Based approach to grievance resolution, which would entail paying attention to the principles of equal access, nondiscrimination, participation, inclusion, transparency, and accountability in the design and operation of a GRM.²⁷

32. Several AIIB Clients were consulted regarding their GRMs. It was found that the functioning of GRMs varied, and in most cases, they were not established from the start of project implementation, although there were clear attempts to improve their functioning. Not all clients consulted had been involved in disseminating information on the PPM. An internal AIIB analysis of GRMs found that there was limited information available on actions undertaken to raise awareness of project level GRMs and the PPM. The analysis also found that information about PPM availability on Client websites was limited and that there was little information on actual GRM functioning. This internal analysis also found that the number of visits by AIIB project and E&S specialists to project level GRMs was insufficient to allow an understanding of GRM dissemination activities. This viewpoint on the weakness of GRMs was also corroborated during consultations with various stakeholders, as will be mentioned later.

33. Regarding the handling of complaints by Management, the AIIB has issued a Note entitled "Supplemental Note on Handling of Project Complaints Received by AIIB Management"²⁸ dating from July 2021. To date AIIB Management has not established a formal Grievance Redress Service as is the case for the World Bank (WB), International Finance Corporation (IFC) and the Inter-American Development Bank (IDB). The purpose of the Note is to: i) clarify AIIB Management's processes for handling Project-level Environmental and Social complaints received by Management or Project teams;(ii) enhance the coordination and communication within Management in handling these

²⁶ World Bank "Insights into Grievance Mechanism Findings from a Survey of Grievance Focal Points in Project Implementation Units", 2020

²⁷ World Bank "Assessing Project Level Grievance Redress Mechanisms using a Human Rights-Based Approach."

²⁸ AIIB "Supplemental Note on Handling of Project Complaints Received by Management", 2021

complaints and (iii) coordinate with PPM in connection with submissions to the PPM under the PPM policy.²⁹

34. The Note states that the E&S function within the Operational Services Department (OSD) will be designated as the focal point to support and facilitate the handling of Complaints addressed to Management or Project teams. This is in addition to coordinating and facilitating the handling of Complaints and coordinating with PPM with respect to Complaints whose intended recipient is unclear. This Focal Point is responsible for developing and maintaining a Complaint Tracking System, to prepare and share a monthly summary of Complaints filed with Management of the concerned department registering the Complaint, recording progress on resolution and closure of the Complaint in both the Complaint Tracking System and the summary of Complaints filed. Furthermore, the Note continues that if any non-PPM staff member receives a Submission addressed to the PPM the staff member shall immediately refer the matter to the PPM and refrain from any communication with the Client or any third party on the matter.³⁰

35. In some cases, PPM has been copied on complaints or letters from CSOs sent to Management and PPM has followed up with Management for expedited resolution of such matters.³¹ However, no evaluation to gauge the efficiency of this system has been undertaken, neither have the numbers of complaints registered to date by Management or the types of issues they raise been made public. The lack of information on and evaluation of the efficiency of this tier of complaints management has been brought up by stakeholders, as is mentioned later.

²⁹ Ibid

³⁰ Ibid

³¹ CEIU, "Approach Paper for the AIIB Project-Affected People's Mechanism (PPM) Policy Review, 2024

4. Institutional Issues of Relevance to PPM

4.1 Reliance on Peer IAMs in Co-financed Projects

36. According to the PPM Policy, in cases where an AIIB "project is co-financed with another MDB or bilateral development organization and AIIB has agreed to apply the Environmental and Social policies and procedures of such institution and to rely on the co-financier's IAM to handle submissions from Project-affected people under the Project, the PPM shall coordinate closely with the co-financier's IAM on the handling of the submissions and report to the Board of Directors on the outcome of the review by the co-financiers IAM of these submissions"³²

37. At present co-financing agreements exist with the following institutions: World Bank (WB), Asian Development Bank (ADB), European Bank for Reconstruction and Development (EBRD). AIIB is in the process of negotiating a Memorandum of Understanding (MOU) with the Agence Française de Développement (AFD). No such MOUs exist with International Finance Corporation (IFC), European Investment Bank (EIB), Islamic Development Bank (IsDB), African Development Bank (AfDB) etc. In projects co-financed with such institutions, AIIB may agree to rely on their E&S policies, but AIIB's PPM would remain responsible for handling complaints submitted to it by project affected people.

38. To date, PPM has received only one complaint on a co-financed project. However, there are at least 33 complaints relating to 9 AIIB co-financed projects received by the IAMs of co-financier IFIs. In this regard, the list of complaints in co-financed projects being handled by other institutions' IAMs is already internally disclosed and will be made public soon. PPM has been following up with the IAMs to get updates on these cases.

39. As will be explained later, the issue of co-financing has been raised by many of the stakeholders interviewed, and it is seen by many as a hindrance to reaching the PPM. Other stakeholders see the merit of keeping this policy as it reduces transaction costs for clients and borrowers, while still allowing an avenue of recourse for potential complainants.

4.2 Responsible Exit

40. Exiting investments responsibly is key to good E&S performance, and the topic has generated growing interest among IFIs, Clients, and other investors. Exits are a normal stage in the investment life cycle and can take place at various points during a project. In a responsible exit, when an investment ends, an IFI will have achieved its commitments to do no harm, mitigate E&S risks, and to have harm remediated, in addition to achieving the aims identified for that specific investment. Increasingly this is an issue being considered by IAMs as well.³³ A recent study by the Compliance Adviser Ombudsman Office (CAO) of the IFC has found that exits can compromise the IFC's ability to deliver on the E&S commitments in its mandate. Development outcomes and client compliance with the Performance Standards typically do not occur early in a project.³⁴ Therefore, early exits are likely to undermine IFC's ability to achieve development and other E&S aims. Early exits can also undermine IFC's efforts by compromising efforts to strengthen client capacity for E&S risk management.

³² PPM Policy 10.1.

³³ International Finance Corporation, CAO "Responsible Exit Insights from CAO Cases", 2023, p. iii-iv

³⁴ Ibid

41. The relevance for IAMs such as PPM, include the fact that exits during active IAM cases are common, limiting an IFI's ability to ensure that clients meet their E&S obligations, and that adverse E&S impacts occur across both lower and higher risk projects. Also, multiple factors drive the high prevalence of exits during IAM cases. These include case- handling timelines compared with investment timelines, particularly given that an IFI typically receives complaints many years after the investment has been initiated. Key factors that contribute to delayed complaints include communities' lack of information about how they can seek redress and the fact that risks and adverse impacts manifest at different times during a client project and IFI investment.³⁵ Unremedied harms, including those arising from an exit, can become a source of complaints.

42. As AIIB's portfolio matures, and the proportion of non-sovereign financing increases, this issue of responsible exit will become increasingly important. AIIB also dealt with a case on Bholra IPP Project on which the Bank was repaid early by the client while the case was being handled by the PPM. No protocols currently exist in AIIB with regard to its environmental and social responsibilities in case of early exits.

³⁵ Ibid

5. Reviews of PPM by CSOs

43. The PPM has been the subject of two reports produced by CSOs in recent years. The first report is entitled “The Accountability Deficit: How the Asian Infrastructure Investment Bank’s Complaints Mechanism Falls Short”,³⁶ prepared by Recourse and Urgewald and published in 2021. The second report is entitled “Roadblocks to Accountability: Addressing the Accessibility Crisis in the Asian Infrastructure Investment Bank’s review of its Project-Affected People’s Mechanism”³⁷ and published in 2023 by a group of CSOs including Recourse, Accountability Counsel and Inclusive Development International.

44. Both Reports address the issue of accessibility to PPM, especially in view of the absence of eligible cases going through the PPM process to date, they also highlight some of the issues with the PPM policy and rules and procedures, undertake some benchmarking, and finally, make recommendations for the conduct of the policy review emphasizing the importance of consultations with different groups of stakeholders. The 2021 Report states “the PPM Policy Review must be open and transparent involving not just other IAMS and MDBs, but NGOs who have experience with other IAMS and project-affected people themselves”.³⁸ The 2023 Report, meanwhile, is more specific about the types of projects from which Complaints to the PPM can or cannot be addressed. These specifically relate to financial intermediary and capital markets lending. It makes specific recommendations in key policy areas to bring AIIB into alignment with peer MDBs. These include not making prior contacts with GRMs and Management a requirement and allowing eligibility of complaints where there are ongoing judicial and arbitral proceedings.³⁹

45. Another Report referring to AIIB is entitled “A new Frontier in Infrastructure Financing, Analysis of Infrastructure Investment Trusts: A Case Study of Oriental Infratrust” by Recourse and the Center for Financial Accountability (2022).⁴⁰ This study examines the rise of “Infrastructure Investment Trusts” (INVIT). Such Trusts allow for the monetization of existing infrastructure, constructing a bundle of infrastructure Public Private Partnerships (PPPs) as an asset class with the objective of earning further revenue. The paper examines a recent example of an INVIT in India and explores the role of three IFIs, the IFC, AIIB and the German DEG in financing this new model. In 2018, these IFIs together funded the creation of an INVIT called the Oriental Infrastructure Trust (OIT) which bundled together five existing road PPP projects in several Indian states. The Report continues that under the INVIT model IFIs (including AIIB) only become involved when existing assets are bundled, so after projects have already been completed.

46. Therefore, whatever problems and harms were caused occurred before standards were in place since the project developers were not at the time required to uphold IFI protections. In such a case the IFIs commission a gap analysis through environmental and social due diligence reports (ESDD) which identify which standards have not been met and how to mitigate that. The issue raised in the Report is that some of these ESDD reports may be inadequate and second that some standards cannot be applied after the fact, these include Free, Prior and Informed Consent for Indigenous People.⁴¹

³⁶ Recourse, Urgewald, “The Accountability Deficit: How the Asian Infrastructure Investment Bank’s Complaints Mechanism Falls Short”, 2021

³⁷ Recourse et al “Roadblocks to Accountability: Addressing the Accessibility Crisis in the Asian Infrastructure Investment Bank’s review of its Project-Affected People’s Mechanism”2023

³⁸ Recourse and Urgewald, p. 25

³⁹ Accountability Counsel, p.10

⁴⁰ Anuradha Munshi, Gaurav Dwivedi and Kate Geary, “A New Frontier in Infrastructure Financing: Analysis of Infrastructure Investment Trusts: A case study of Oriental InfraTrust, 2022

⁴¹ Ibid

6. Issues Raised in Consultations

47. This section of the Report examines the most salient issues raised by the various stakeholders consulted on PPM. A full list of persons/organizations met are included in Annex 2. Generally, the consultations have indicated that there is strong support for a comprehensive PPM Policy Review process, accompanied by wide ranging consultations covering all relevant stakeholders, with the objective of reinforcing the premise that IAMs like PPM are a key part of enhancing AIIB's institutional accountability and the process of developing ambitious social and environmental standards in MDBs including AIIB. In addition, there is a common sentiment that the AIIB must be perceived as part of the MDB family, and that therefore adhering to the best practices of MDBs, and being benchmarked against them, including as regards its IAM, is a positive step.

48. A recent article entitled "Comparing the Independent Accountability Policy Review Process Across MDBs"⁴² makes a comparison between the review processes at AIIB and the Asian Development Bank in particular. It recognizes several positive aspects of the process at AIIB, including that the External Review is independent of Bank Management, that the PPM is leading the policy review and among others that there is a commitment to conduct inclusive, broad-based stakeholder consultations.⁴³ The most important issues raised by stakeholders at this stage of the External Review are summarized below:

6.1 Timing of the PPM Policy Review

49. There were differing views concerning the timing of the Policy review. Most Management and Staff and some Board members consulted felt that it would have been preferable to wait until cases have come to PPM prior to undertaking the Review, and expressed the opinion that no changes to the Policy should be attempted prior to receiving and processing actual cases. Therefore, many in Management felt that the current Review should be kept "light", and that it was necessary to keep an open mind concerning the limits of change to the PPM Policy in the absence of PPM experience with handling of actual complaints.

50. The argument was also frequently made by Management and some Board members that AIIB remains a young bank, with a nascent portfolio, and that, therefore, the absence of cases should be no surprise, and that cases were bound to come with time. It was also expressed that the PPM as a young mechanism afforded a reasonable degree of access to potential complainants, and that therefore at this point in time, it was necessary to weigh out the costs and benefits of any radical change to the Policy. The example of the time it took for the World Bank Inspection Panel to receive cases after the Inspection Panel was established, was cited. In addition, it was felt that it was important to integrate the viewpoints of Clients/Borrowers and that in the absence of the latter's viewpoints it cannot be maintained that there was solid evidence as to the effectiveness, or lack thereof, of the PPM Policy. It was felt that such early interaction with clients and borrowers was necessary and should not wait until complaints were received by the PPM. The view was also expressed that any relaxation of the current PPM policy risks PPM being flooded with a deluge of frivolous complaints.

51. However, the opposite view was also expressed, emphasizing that the timing of the Review is appropriate, since the absence of complaints to PPM to date signals important

⁴² Radhika Goyal, "Comparing the Independent Accountability Mechanism Policy Review Process Across MDBs", Accountability Counsel, March 2024

⁴³ Ibid

issues relating to its accessibility and visibility, and that the Review at this point in time could help AIIB in handling these issues, thus improving accessibility to PPM.

6.2 Proposed Change/Reforms identified by the Policy Review should not be restricted to PPM Policy

52. Many stakeholders (including some Board members) expressed the view that effectiveness of the PPM is intimately related to accountability being a shared responsibility across the AIIB as a whole. Therefore, it follows that areas of reform should extend to include changes to the ESP, and other relevant AIIB policies including the Policy on Public Information and that there should be a coordinated approach to policy changes and policy streamlining within the institution. This is in addition to examining how complaints are handled internally and calling for greater transparency and disclosure about such complaints and their nature. Such an effort would require building greater capacity and strengthening for units such as CEIU, but also the operational departments. The latter is especially important in ensuring that projects are well implemented. Indeed, the issue of ensuring effective project implementation, notably ensuring that stakeholders are adequately consulted, was frequently brought up as an area requiring close attention, in addition to effecting changes in the PPM policy.

6.3 Reliance on Peer IAMs in Co-financed Projects

53. On the issue of co-financing, CSOs⁴⁴ view is that the exclusion of co-financed complaints from the PPM's mandate should be removed, stating that AIIB has a duty to ensure a project is in material compliance with its environmental and social standards, even in the event of co-financing. It is also maintained that not including co-financed projects as being eligible for PPM proliferates accountability gaps that deprive the AIIB of valuable institutional learning for improving project compliance and safeguarding the sustainability of co-financed projects. Further, it was stated that AIIB can close these gaps by allowing PPM to receive complaints from co-financed projects and empowering it to coordinate with the accountability mechanisms of concerned partner institutions to investigate non-compliance and approve remediation holistically, and that potential Complainants should have the choice of which IAM to approach even in co-financed projects. They specifically recommended that CEIU publicly disclose the complaints that have been filed in AIIB co-financed projects to date.

54. Meanwhile, AIIB Board members, Staff and Management emphasize that the underlying principle of allowing the use of IAMs of co-financing partners in the case of complaints was led by AIIB's desire to reduce transaction costs for clients and to be in alignment with other institutions according to the harmonization principle of the Paris agenda. Management emphasized that the important element is the existence of access to recourse for community members in cases of harm in co-financed projects.

55. While recognizing the significance of the co-financing principle, Board members consulted equally emphasize the importance of improved visibility and transparency, especially for the Board, on ongoing and future complaints in co-financed projects where the lead financier's IAM applies. They further argued that while AIIB's principle of mutual recognition of standards, allowing delegation of complaints under AIIB co-financed projects to the IAM of the lead financier means lower transaction costs for borrowers/clients, in line with AIIBs core values, however, consequences of excluding co-financed projects from the PPM should also be assessed, and potential alternatives be discussed, including joint missions in select cases. Some Board members also expressed

⁴⁴ In addition to interviews with various CSOs, the consultant received a written submission including comments.

the view that the current co-financing framework agreements should be expanded to include more MDBs than is currently the case.

6.4 Eligibility of Projects Involving Financial Intermediaries

56. Some Board members questioned the applicability of E&S standards, and consequently the eligibility of financial intermediary (FI) investments to the PPM. They stated that clarification on this matter is needed. In the current ESP, it does not seem to be clear if it de facto applies to projects involving financial intermediaries. Board members maintained that financial intermediary lending presents specific challenges for PPM accessibility. This is important to consider given that FI lending represents a large part of the AIIB's standalone portfolio. Issues with information and document disclosure in FI projects were raised (e.g., clear links between AIIB, the client and sub-projects as well as access to clear policies (e.g., FI clients' E&S policies). Disclosure gaps can therefore signify that project-affected people are unaware of the link between the AIIB and sub-projects meaning they may not be informed about how to have access to the PPM.

6.5 Communication, Accessibility and Visibility

57. Accessibility to and visibility of IAMs is not an issue unique to AIIB, but is a challenge shared to varying degrees with other MDBs. All stakeholders consulted emphasized the importance of regular outreach to project-affected people and CSOs to ensure that there is awareness of the existence of PPM. It is important that this information is provided in a targeted, accessible and easily understandable manner in local languages together with encouraging an increased use of social media, especially given low levels of literacy in some places where AIIB operates. This could also involve capacity building activities for project affected communities on how to access PPM. Some Operations staff indicated that at present the proper disclosure of PPM was not adequate, and questioned whether disclosure on a project's/client's website was enough, especially since websites are not always functional from the beginning of a project's implementation.

58. It was expressed that both Management and clients/potential clients need to proactively participate in this process of making the existence of PPM widely known. In the absence of AIIB country offices, this effort of making the existence of PPM known becomes even more important for enhancing accessibility. AIIB should continue to require clients to appropriately inform Project-Affected People about the existence of the PPM in an understandable manner in locally appropriate languages including in but not limited to the client's or beneficiary's project-related website. The potential role of project implementation units was particularly emphasized. Another idea expressed was that Key Performance Indicators (KPIs) be developed in order to measure outreach activities and their outcome.

59. Operations Staff emphasized that outreach activities should start during project preparation and consultation phases. Furthermore, it was stressed that Clients/Borrowers should be informed upfront about the types of complaints data that needs to be collected, and that there should be a central repository of complaints for each project.

60. Internal communication with AIIB staff and Management is an integral part of the process of enhancing PPM visibility within the institution and includes ensuring that AIIB staff themselves are aware of the PPM and its procedures. Conversations with some staff members indicated a lack of extensive knowledge of PPM protocols, and their importance for ensuring quality projects at AIIB, even though PPM conducts mandatory training on its policy for staff.

61. While there was acceptance of the core value of AIIB being a lean Bank, some Board members stated that for Members with large portfolios the possibility of establishing AIIB country offices or some kind of local presence should be considered. Such an office could be a first port of call for receiving project complaints.

6.6 Project-level GRMs and Handling of Complaints by Management

62. PPM remains the only major development finance IAM that continues to require two levels of engagement with internal processes, before finding a complaint eligible. Several Board members characterized the good faith engagement principle as being overly restrictive. Furthermore, some Board members also indicated while early engagement with complainants has been identified as a success factor in peer MDBs, at the AIIB the two phases (GRM and Management) do not have attached reasonable maximum timelines and do not overlap and may, therefore, not necessarily result in early resolution of problems.

63. Some Board members also indicated that AIIB does not systematically and publicly share information on projects in the second level tier of good faith engagement with management. However, they also stressed that increasing the accessibility of PPM requires more effective local GRMs. In this regard, it was maintained that AIIB must be clear and ambitious in its contractual requirements regarding the establishment of functioning GRMs and their implementation, and that CIEU must be adequately equipped for training Clients in this regard.

64. Both CSO and accountability experts proposed the removal of this requirement or at least making it voluntary. This requirement, it was stated, creates a major obstacle for affected communities who want to directly access the PPM. CSO stakeholders maintained that communities often have good reason to fear sharing their concerns with project implementers and to doubt the ability of managers and project-level complaint mechanisms to give their concerns fair hearing. CSO stakeholders also raised the issue of the difficulty sometimes experienced in contacting management and staff responsible for particular projects, notably in the absence of AIIB country offices.

65. As stated earlier, Management does receive Complaints directly, and there is a record of such complaints with the Operational Services Department. However, members of Management have shared that there is a lack of knowledge about complaints handling protocols and skills among staff, which is indicative of a gap that needs to be filled by resorting to appropriate skills training.

6.7 Structure, Positioning, Independence and Resourcing of PPM

66. CSOs expressed the opinion that the MD-CEIU should be appointed by the Board and that the hiring process should include external stakeholders. It was expressed that currently the MD-CEIU is appointed by the President following consultation with the Board. Allowing independent and external stakeholders to participate in the hiring process will increase the trust CSOs place in the PPM, which is crucial for the PPM's effectiveness.

67. CSOs continue that the PPM should be responsible for its staffing, hiring and budgeting process with approval from the Board, not the President. In addition to reporting to the Board, independence from Management with respect to personnel and budget are important aspects of safeguarding the PPMs' independence as it allows the PPM to operate independently of Management.

68. The issue of the PPMs positioning within CEIU was raised by accountability experts in particular, who stated that combining complaints resolution with evaluation and integrity functions risks diluting PPM focus.

6.8 Retaliation

69. The above issue was raised during consultations, emphasizing the fact that many of the Members where AIIB operates are characterized by increasingly closing civic space and, therefore, there is a greater potential for complainants from many AIIB Members to experience retaliation and reprisals. Some Board members raised the issue that AIIB must demonstrate that it is able to guarantee the confidentiality of those approaching the PPM, and that it is able to protect them against potential risks of retaliation. In this regard, some CSOs proposed that the PPM policy should empower the MD-CEIU to trigger a Compliance Investigation in certain circumstances, especially where it is reasonable to believe that fear of reprisals may prevent people from approaching the PPM.

6.9 Learning

70. Several Board members have stated that the Board has urged the Bank to set up appropriate mechanisms for the implementation of recommendations from evaluations. The Learning and Evaluation Policy has mandated the creation of a “Learning Culture Leading Group” to be chaired by the VP Strategy and Policy. Lessons learnt and best practice should be recorded systematically to ensure a constant feedback loop. Even cases which were deemed ineligible by PPM should be assessed carefully since they have the potential to disclose strengths and weaknesses of the current PPM. In absence of PPM cases AIIB must demonstrate that it is learning from IAMs of peers notably their knowledge products and evaluations. It is worth mentioning that in this regard PPM organizes Practitioner Dialogues with other IAMs on a regular basis to learn about best practices.

6.10 PPM Capacity

71. Another issue raised during consultation by various stakeholders included the issue of staffing and capacity of the PPM. Currently PPM only has one staff member who despite the absence of active cases still has the responsibility to initiate and/or follow-up on outreach activities both within and outside the institution, in addition to following up with Management and potential complainants etc. It should be mentioned however that PPM has just recruited a second staff member who will be joining soon as well as two analysts and an administrative staff member to support the function.

7. Review of the PPM Policy and Benchmarking with Peer IAMs

72. This section of the Report examines specific features of the PPM Policy raising the following questions: are they fit for purpose, do they impact accessibility to the PPM, do they match and conform to current best practices among IAMs? The issues raised and proposed changes are benchmarked against the policies and practices of the main peer IAMs, with an emphasis on practices that have worked elsewhere, and that have contributed to more effective and accessible IAMs.

73. Several principles have guided this more detailed examination of the PPM Policy as follows: the importance of using clearer and simpler language that makes the document more accessible to potential complainants, experience of PPM to date, stakeholder interviews, and best practices as derived from policies, rules and procedures of peer IAMs, all while recognizing some of the unique features of AIIB, notably its young age, focus on a specific sector, and its underlying values of being a Bank that wants to remain light and lean.

7.1 Remedy

74. There is an ongoing debate about the issue of remedy in peer MDBs, specifically referring to the fact that in most cases remedial action in response to harms suffered by communities as a result of projects is mostly unsatisfactory. In the case of IFC/MIGA, for example, in only 13 % of cases were remedial actions found to be satisfactory. This is not solely the responsibility of the MDB but of course must involve clients as well since it raises questions of the effectiveness of MDBs in holding their clients accountable for E&S obligations.⁴⁵ In this regard, the 2024 Good Policy Paper⁴⁶ states: “an IAM’s mandate should be two-fold. First and foremost, to prevent harms and provide effective remedy to project-affected people and the environment; and second, to ensure institutional accountability and continuous improvement, especially regarding financial institution compliance with relevant policies and avoidance of social and environmental risks and impacts of financed projects. It is important that the IAM’s mandate encompass these two goals...”⁴⁷

75. It is increasingly common for IAMs procedures to state the mechanism’s role in facilitating remedy. Providing clarity about the role of accountability mechanisms in facilitating remedy helps ensure predictability and avoids confusion among the IFI, clients/borrowers and requester.⁴⁸ The PPM Policy should, therefore, allow the PPM to provide recommendations in response to findings of non-compliance (examined specifically later) and verify adequate and meaningful consultation efforts for Management Action Plans and ensuring remedy.

⁴⁵ IFC/MIGA “External review of IFC/MIGA E&S Accountability, including CAO’s Role and Effectiveness: Report and Recommendations” June 2020,p.xvii

⁴⁶ “Good Policy Paper: Guiding Practice from the Policies of IAMs” January 2024. This Paper resulted from a Project which began in 2017 when a number of Civil Society Organizations experienced both in advising and accompanying communities in filing complaints to IAMs and also advising them, set out to capture the best existing practices from established IAMs.

⁴⁷ “Good Policy Paper: Guiding Practice from the Policies of Independent Accountability Mechanisms”, 2024, p.13

⁴⁸ Comments on 2022 Draft Operating Procedures for the Accountability Mechanism and the Inspection Panel” Group of CSOs, September 9, 2022

76. Benchmarking with Peer IAMs:

International Finance Corporation/Compliance Adviser Ombudsman (IFC CAO):

- The CAO Policy states: ‘In executing its mandate, CAO facilitates access to remedy for Project-affected people in a manner that is consistent with the international principles related to business and human rights included within the Sustainability Framework.’⁴⁹

African Development Bank/Independent Recourse Mechanism (AfDB IRM):

- The 2021 Operational Rules and Procedures of IRM/AfDB state: “The IRM provides people adversely affected by an Operation financed by the Bank with an independent mechanism through which they can seek **redress** and hold the Bank to account to ensure that it complies with its own policies and procedures related to sustainability”⁵⁰. Furthermore, it states that Compliance Reviews may recommend “... redress be provided to those harmed, which may include financial and/or non-financial considerations, as the case may be.”⁵¹

7.2 Policies Against which Compliance will be Assessed

77. According to the PPM Policy: “it shall provide an opportunity and impartial review of submissions from Project-affected people who believe they have been or are likely to be adversely affected by AIIB’s failure to implement the ESP.....”⁵² This is repeated under Section 5 on Eligibility of Submissions where it is stated that a submission will be considered ineligible if among others “It relates to any AIIB policy other than the ESP”. Also under Para 5.2, a request for Compliance Review shall be considered ineligible if “It relates to actions or inactions that do not involve AIIB’s failure to comply with the ESP or otherwise raises issues unrelated to AIIB’s failure to comply with the ESP.”⁵³

78. It is proposed that additional policies (except for those on procurement and/or anti-corruption) be identified and added for consideration besides the ESP. The main other Policy proposed for addition is the Policy on Public Information. It is understood that an AIIB Gender Policy is under development, this might be considered as well. This is currently the practice in many IAMs as will be demonstrated below. The Procedures of the AfDB IRM are of particular interest here since they allow updating of policies against which compliance will be reviewed and makes this list public on its website:

79. Benchmarking with Peer IAMs:

AfDB IRM:

- “The AfDB IRM’s scope of work covers all operations financed by the Bank Group and may consider all relevant policies, guidelines and procedures that are approved by the Boards of Directors, Management or Bank Committees as of the date they are effective. The policies relevant to the IRM tend to cover social and environmental aspects of Bank Group-Financed Operations and include the following policies among others:
 - (a) AfDB Policy on Access to Information;
 - (b) AfDB Integrated Safeguards System Policy Statement; and
 - (c) Any other relevant policy guideline or procedure.

⁴⁹ IFC/MIGA Independent Accountability Mechanism (CAO) Policy, 2021, p.1

⁵⁰ African Development Bank, Independent Recourse Mechanism, Operational Rules and Procedures, 2021, p. 1

⁵¹ Ibid, p. 12

⁵² PPM Policy, para 2.1.

⁵³ Ibid para 5.2.1.

- The IRM shall work with Bank Group Management to establish, maintain, and update an indicative list of relevant policies and procedures of the Bank Group pertaining to its work and post this on its website.”⁵⁴

World Bank Inspection Panel:

- “For purposes of this Resolution, "operational policies and procedures" consist of the Bank's Operational Policies, Procedures and Directives, and similar documents issued before these series were started, and does not include guidance in the form of guidance notes, good practice notes and similar documents or statements.”⁵⁵

Asian Development Bank/ Accountability Mechanism (ADB AM):

- “The scope of compliance review will be ADB’s operational policies and procedures as they relate to formulating, processing, or implementing an ADB-assisted project.” “The ADB’s operational policies and procedures subject to compliance review will not include guidelines and/or similar documents or statements.”⁵⁶

European Bank for Reconstruction and Development/ Independent Project Accountability Mechanism (EBRD/IPAM):

- “The Bank requires that Projects comply with its Environmental and Social Policy. In addition, the Bank is required to disclose certain Project information to the public in accordance with its Access to Information Policy to enhance transparency and accountability, improve discourse with affected stakeholders, and foster good governance.”⁵⁷

Green Climate Fund/Independent Redress Mechanism (GCF/IRM):

- “Compliance is reviewed against GCF operational policies and procedures. “These are Policies and Procedures adopted by the Board or issued by the Secretariat pursuant to a mandate by the Board, including environmental and social safeguards environmental and social management system, Indigenous peoples’ policy, and gender policy.”⁵⁸

7.3 Persons Who May File a Submission/Representation

80. Paragraph 3.1 of the PPM Policy states: “Two or more Project-affected people (Requestors) may file a submission. They may authorize an in-country representative (Authorized Representative) to file a submission on their behalf. In exceptional situations, when in-country representation is unavailable, the Requestors may designate an individual or organization outside of the country as their Authorized Representative to file a submission.” Currently, it is only the Accountability Mechanisms of the World Bank, Asian Development Bank and Independent Consultation and Investigation Mechanism (MICI) of the Inter-American Development Bank, who continue to adhere to the rule of at least two project-affected persons filing a complaint. Other IAMs have removed this restriction in addition to removing the restriction of who may be chosen as an authorized representative of Requesters. It is thought that such a removal of the requirement of having two

⁵⁴ African Development Bank, Independent Recourse Mechanism “Operating Rules and Procedures”, 2021, p.2

⁵⁵ World Bank Inspection Panel Resolution, para 13.

⁵⁶ Asian Development Bank “Accountability Mechanism Policy”, para145-46

⁵⁷ European Bank for Reconstruction and Development, “Project Accountability Policy”, 2019, p.2

⁵⁸ Green Climate Fund, “Procedures and Guidelines of the Independent Redress Mechanism” p.5.

requesters, in addition to allowing Requesters to select representatives of their choosing would work towards facilitating accessibility to PPM.

81. Benchmarking with Peer IAMs:

IFC CAO:

- *Who may lodge a complaint?*
Any individual or group, or representative they authorize to act on their behalf, who believes they are or may be harmed by a Project or Sub-Project may lodge a complaint with CAO.⁵⁹

AfDB IRM:

- *Who can file a Complaint?*
The following persons or entities can file a Complaint:
 - (a) Any individual or group with a common interest ('Complainants') in the country or countries where the Bank Group-Financed Operation is located or has impact, who allege that actual or threatened harm has arisen or may arise from the failure of the Bank Group to follow its own policies, procedures and requirements during the design, appraisal and/or implementation of a Bank Group-Financed Operation;
 - (b) A duly appointed representative(s) acting on instructions as the agent of adversely affected people;
 - (c) An Executive Director of the Boards of Directors of the Bank Group; or
 - (d) The IRM Director⁶⁰

7.4 Requirement of Good Faith Efforts

82. Paragraph 5.1.8. of the PPM Policy states that a submission will be considered ineligible to be considered by PPM if "the Requestors have not made good faith efforts to resolve the issues with the Project-Level GRM and with Management or have not indicated to the satisfaction of the PPM why they have been unable to do so." Most stakeholders interviewed have indicated that such good faith efforts are too restrictive and create an obstacle to complaints reaching PPM. The PPM is the only IAM that requires two levels of engagement with internal processes before it can find a complaint eligible creating a major obstacle for affected communities who want to directly access the PPM. In addition, there are no timelines for such engagement which elongates the process further. Furthermore, as indicated earlier there are issues with the functioning of GRMs at the local level.

83. According to the Good Policy Paper, "once communities feel ready to file a complaint, it is important they be allowed to do so without being required to first raise the issue elsewhere, such as by talking to the client or financial institution management or pursuing remedy via a project-level or local grievance mechanism. Communities often have good reason to fear sharing their concerns with project implementers and to doubt the ability of managers, project-level complaint mechanisms, and local courts to give their concerns fair hearing. Complainants should not need to justify their choice to the IAM; the IAM should respect that complainants will choose the complaint forum that maximizes their security and the utility of their efforts."⁶¹

⁵⁹ IFC CAO, p.7

⁶⁰ AfDB IRM, p.3

⁶¹ Good Policy Paper, p.45

84. The World Bank Inspection Panel, the ADB AM and IDB MICI require prior contact only with Management before proceeding with a Complaint to the IAM, but not with a project-level GRM.

7.5 Implications of Arbitral or Judicial Proceedings

85. Referring to eligibility of submissions in Section 5, the PPM Policy states: “matters concurrently under arbitral or judicial review; save when the Board of Directors authorizes the PPM to process such request”⁶² are considered ineligible. It is furthermore stated in para 6.8.5 that “if at any point during the Compliance Review the PPM learns of arbitral or judicial proceedings involving substantive issues raised in the submission and submit a recommendation to the Board of Directors on whether to continue with the Compliance Review. As an interim measure, the PPM may suspend the Compliance Review until the Board of Directors decide on the matter.”⁶³ It should be noted that the objectives of a Compliance Review and a judicial process are different. The former examines whether the financial institution has complied with its own policies, the latter meanwhile, looks at different aspects that would not necessarily relate to an institution’s policies or compliance with them.

86. The PPM (like peer IAMs) has a discrete purpose and function which is the unique ability to assess AIBs compliance with its environmental and social obligations and provide important institutional findings that are not always available in judicial or arbitral proceedings. Therefore, a judicial review would not impact the process of deciding on such institutional compliance. Currently only the European Investment Bank’s Complaints Mechanism and that of the Asian Development Bank continue to maintain such a restriction. It was removed in the 2021 review of the MICI of the Inter-American Development Bank and that of the IRM of the African Development Bank in the same year.

87. Benchmarking with Peer IAMs:

IDB MICI:

- “As of July 1, 2021, clause 19 (d) of the MICI Policy, which excluded 'particular issues or matters (...) under arbitral or judicial review in an IDB member country', will be rendered ineffective. Last April, the executive boards of the IDB and the IIC approved repealing this clause after considering the five recommendations made by the Office of Evaluation and Oversight (OVE) in its recent evaluation of the mechanism. In this way, the existence of open judicial processes will no longer be one of the criteria used to examine whether a claim filed with the MICI is eligible or not.”⁶⁴

7.6 Initiation of Compliance Review

88. The decision to undertake a Compliance Review is subject to Board approval according to the PPM Policy. Thus para 6.8.3. states “if the PPM recommends approval of the commencement of the Compliance Review or other appropriate course of action, the decision of the Board of Directors shall be communicated by the PPM to the Requesters and by management to the Client”⁶⁵. This provision is no longer in the policies of the majority of IAMs except for the World Bank’s Accountability Mechanism, the ADB AM and IDB MICI. Other IAMs do not require Board approval to undertake Compliance Reviews. It is thought that the decision to undertake a Compliance Review is largely a

⁶² PPM Policy para.5.2.4.

⁶³ Ibid, Para.6.8.5

⁶⁴ <https://www.iadb.org/en/node/30986>

⁶⁵ PPM Policy, para 6.8.3.

technical one taken based on specific technical criteria and should not therefore require a Board decision once these criteria are deemed fulfilled

89. Furthermore, several IAMs now allow self-initiated Compliance Reviews to be undertaken in the absence of a formal Request and subject to strict conditions/ criteria. These criteria/conditions may include fear of reprisals and/or information received by the IAM regarding the risk to the IFI's reputation resulting from a particular operation it is financing, etc. AfDB IRM, GCF IRM, IFC CAO and the UNDP SECU, all allow such self-initiated compliance reviews under certain conditions. Furthermore, in several IAMs, any one or more Board members or the Board as a whole can also request a compliance review.

90. Benchmarking with Peer IAMs:

GCF IRM:

- According to its Procedures and Guidelines the IRM may initiate a Compliance Review if it:
 - (a) Receives information from a credible source that a GCF funded project or programme funded has adversely impacted or may impact a person, group of persons or community; and
 - (b) such information, if true, would pose a significant reputational risk to the GCF; and
 - (c) if the person(s) adversely impacted is/are unable to access the IRM;⁶⁶
- Furthermore, it is maintained that IRM may decide on the basis of *prima facie* evidence, to initiate proceedings which shall contain the details required under (a) to (c) above and shall set out the *prima facie* evidence on which the decision is based. This decision shall be published on the IRM website within five (5) calendar days.⁶⁷

AfDB IRM:

- Under specific circumstances, the Director of IRM may initiate Compliance Reviews. These circumstances include:
 - (a) "Complaints raised to the IAMs of co-financiers in a Bank Group co-financed Operation for which no complaint has been submitted to IRM;
 - (b) Operations in the public domain where there is a reputational risk for the Bank Group;
 - (c) Cases where IRM receives information from a credible source that a Bank Group Financed Operation has adversely impacted or may impact persons, a community or the environment; or
 - (d) Cases where IRM is informed of a risk of retaliation if a Complainant came forward.
 - (e) If a Compliance Review could provide an important learning opportunity."⁶⁸
- In addition, it is maintained that Compliance Reviews initiated by IRM shall not prevent project-affected communities from filing a subsequent Complaint.⁶⁹

⁶⁶ Green Climate Fund, "Procedures and Guidelines of the Independent Review Mechanism", 2021, p.30

⁶⁷ Ibid

⁶⁸ AfDB IRM, p.14

⁶⁹ Ibid

IFC CAO:

- In response to an internal Request, CAO may start a compliance review process as explained below:
 - (a) “CAO may initiate a compliance appraisal of one or more Projects or Sub-Projects in response to an internal request from the CAO Director General (DG), the President, the Board, or Management.
 - (b) Such internal request may be made in circumstances where: (i) an appraisal is deemed necessary to review environmental and social compliance issues of systemic importance to IFC/MIGA; (ii) concerns exist regarding particularly severe Harm; or (iii) Project-affected people may be subject to, or fear, reprisals, preventing them from lodging a complaint with CAO.
 - (c) Requests initiated by the CAO DG, the President, the Board, or Management should include a written rationale for the compliance appraisal request.
 - (d) For compliance appraisals of more than one Project or Sub-Project, CAO will consult with Management before commencing the appraisal.”⁷⁰

United Nations Development Programme/Social and Environmental Compliance Unit (UNDP/SECU):

- “Proactive investigations are defined as investigations intended to identify and respond to significant potential or actual harm to an individual or community resulting from an existing (but yet unidentified) failure of UNDP to meet its social and environmental commitments. The ability to investigate matters without first having to receive a request is intended to:
 - (a) Allow SECU to respond to high-risk projects before harm occurs to individuals or communities, as well as damage to project success and UNDP’s reputation;
 - (b) Address the situation in which, for a variety of reasons (e.g., cultural, lack of knowledge, etc.), impacts are not likely to be reported;
 - (c) Serve as an effective deterrent to avoiding compliance with these commitments;
 - (d) Build a more comprehensive and balanced portfolio of compliance cases at the corporate level across regions and development sectors.”⁷¹

World Bank Inspection Panel:

- “In view of the institutional responsibilities of Executive Directors in the observance by the Bank of its operational policies and procedures, an Executive Director may in special cases of serious alleged violations of such policies and procedures ask the Panel for an investigation, subject to the requirements of paragraphs 14 and 15 below. The Executive Directors, acting as a Board, may at any time instruct the Panel to conduct an investigation. (Inspection Panel Resolution para. 13)”⁷²

ADB AM:

- “For the compliance review, complaints may also be filed by any one or more ADB Board members, after first raising their concerns with Management, in

⁷⁰ CAO Policy, p.17-18

⁷¹ UNDP, Social and Environmental Compliance Unit, “Investigation Guidelines Social and Environmental Compliance Unit”, p.15

⁷² Inspection Panel Resolution, para.13

special cases involving allegations of serious violations of ADB's operational policies and procedures relating to an ongoing ADB-assisted project.”⁷³ (Accountability Mechanism Policy para. 139).

7.7 Recommendations for Remedial Actions after a Compliance Review

91. In many IAMs where non-compliance has contributed to harms or the risk of harms resulting from gaps in or weaknesses in an IFIs policies, the Compliance Review Report includes a set of recommendations for remedial measures. Such remedial measures may address both the harms, in addition to recommending changes to the IFIs policies/procedures with the aim of avoiding future non-compliance, and of promoting institutional learning and provision of advice. The PPM Policy, meanwhile, only allows making findings of compliance or noncompliance. Examples are presented below:

92. *Benchmarking with Peer IAMs:*

EBRD IPAM:

- Under Compliance Review if EBRD is found to be non-compliant further objectives of this stage are to:
 - (a) recommend Project-specific actions to bring the Bank into compliance in respect of the Project, and address the harm or potential harm associated with the findings of non-compliance;
 - (b) recommend changes to EBRD practices, procedures, guidance or systems, to be implemented in an effort to avoid ongoing and future situations of non-compliance, both on the project at issue and on other projects; and
 - (c) promote institutional learning and capacity building.”⁷⁴

IFC CAO:

- A Compliance Review Report will among others include:

“Recommendations for IFC/MIGA to consider in the development of a MAP relating to the remediation of Project- or Sub-Project-level non-compliance and related Harm, and/or steps needed to prevent future non-compliance, as relevant in the circumstances.”⁷⁵

AfDB IRM:

- Should the Compliance Review find non-compliance the Compliance Review Report may recommend:
 - (a) “Any remedial changes to policies, systems or procedures of the Bank Group to avoid current and future situations of non-compliance;
 - (b) Any operation specific actions to bring the Bank back into compliance with respect to the operation subject of the Complaint, and address harm and potential harm associated with the findings of non-compliance;
 - (c) That redress be provided to those harmed, which may include financial and/or non-financial considerations, as the case may be;
 - (d) Promoting institutional learning and relevant capacity building;”⁷⁶

7.8 Monitoring of Remedial Actions

⁷³ ADB Accountability Mechanism Policy, para 139

⁷⁴ EBRD/IPAM “Project Accountability Policy”, p.16

⁷⁵ IFC/CAO Policy, p.16

⁷⁶ AfDB/IRM Operating Procedures, p.12

93. Para 6.8.11. of the PPM Policy states that “Management shall monitor and submit monitoring reports to the Board of Directors on the implementation of the MAP in accordance with timelines specified in the MAP. The PPM shall review Management’s monitoring reports.” Currently, the Policy allows PPM to review monitoring reports carried out by the Management but does not allow monitoring by the PPM itself. Monitoring by PPM will ensure an independent viewpoint in addition to that of Management especially since experience indicates Management Action Plans are often not implemented fully or that the pace of implementation is not commensurate with the urgency of the harm experienced by Project affected people.

94. Benchmarking with Peer IAMs:

ADB AM:

- “The CRP will monitor implementation of any remedial actions approved by the Board. It will report to the Board concerning implementation of Board decisions related to remedial measures, including its determination on the progress in bringing the project into compliance.”⁷⁷
- “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.”⁷⁸

IFC CAO:

- “Approach to monitoring:
 - (a) After the Board has approved a MAP, CAO will monitor its implementation.
 - (b) The scope of CAO’s compliance monitoring will be the corrective actions approved as part of the MAP. Monitoring will verify the effective implementation of the actions set out in the MAP.”⁷⁹

IDB MICI:

- “When applicable, the MICI will monitor implementation of any action plans, or remedial or corrective actions agreed upon as a result of a Compliance Review. To do so, it will prepare a monitoring plan and timeline in accordance with the needs of the case and in consultation with the Requesters, Management, and other interested Parties, as applicable. Management will collaborate with the MICI throughout the duration of the monitoring, which will be determined by the Board (or the Donors Committee), on a case-by-case basis, not to exceed five years as of the date on which the Board (or the Donors Committee) approves Management’s action plan. The MICI will issue a monitoring report for distribution to the Board (or the Donors Committee) for information at least annually. This report will be published on the Public Registry.”⁸⁰

⁷⁷ Asian Development Bank” Accountability Mechanism Policy”, p.43

⁷⁸ Ibid

⁷⁹ IFC/CAO Policy p.26

⁸⁰ Inter-American Development Bank, “Policy of the Independent Consultation and Investigation Mechanism”, para 49.

8. Conclusions and Recommendations

8.1 Conclusions

95. Several stakeholders interviewed questioned the timing of the PPM Policy Review, noting that the PPM and its Policy had not really been “tested,” emphasizing that AIIB remains a young Bank and that, consequently, it was too early for it to receive eligible Complaints. However, it is important to reiterate and emphasize the underlying justifications for this Review. These include the following: the infrastructure sector in which AIIB operates is generally one with a greater potential for generating complaints in peer MDBs, this is accompanied by a rising awareness of potential harms resulting from infrastructure projects, in addition to innovations in the accountability space, all of which point out to the necessity of such a Review at this point in time. The main objective is to render PPM more effective, more fit for purpose, allowing it to be an important contributor to AIIB’s overall accountability, which should result not only in providing remedy for complainants, but also generating lessons learnt for the institution itself, thus contributing to its greater development effectiveness.

96. In line with the TORs for this assignment, an analysis was undertaken of the PPM within the structure of AIIB. The Report then examined the issue of internal handling of complaints, selected two issues of particular relevance for PPM functioning going forward, namely the issues of co-financing and responsible exit. This was followed by an examination of recent CSO Reports pertaining to PPM. A presentation of the main issues raised by a variety of stakeholders was then undertaken. A detailed examination of several features of the PPM Policy, its effectiveness, predictability and fairness were followed by a benchmarking exercise with peer IAMs policies/procedures where change in the PPM policy is being proposed.

97. The main conclusion of this External Review is that reduced accessibility to PPM has meant that it has not received any eligible complaints since its establishment, which in turn has lessened its potential contribution to AIIB’s overall accountability and learning processes. Furthermore, the Report concludes a more effective PPM can contribute to enhancing AIIB’s accountability, it is not alone in this endeavor and proposed changes to PPM policy, rules and procedure must be accompanied by changes in other parts of AIIB, including enhanced project implementation, the development of a stronger learning culture and institutional accountability. Within such a context it is maintained that there is need to revise the PPM Policy and accompanying procedures in the direction of making them simpler and more aligned with international best practice incorporating elements that have worked elsewhere, all while recognizing aspects of the uniqueness of AIIB, its history and relatively young age. This should be accompanied by strengthened management complaints handling processes and reinforcing of GRMs capacity.

8.2 Recommendations

98. Based on the above conclusions, this External Review makes the following recommendations that relate not only to the PPM and its policy but also to the institution as a whole. The recommendations although related are thus divided into two groups. The first group is focused on proposed recommendations for changes in the PPM Policy itself; these are also benchmarked against the policy and practices of peer IAMs. The second group of recommendations is institutional and relates to issues such as the issue of co-financing, capacity and visibility of PPM, and internal handling of complaints by AIIB Management.

8.3 Recommendations for Changes to the PPM Policy

99. Recommendations in this part of the Review result from a close examination of different features of the PPM Policy. The proposed amendments are derived from a benchmarking exercise comparing the PPM Policy with the Policies of peer IAMs, in addition to a focus on what aspects of the policy are restricting access to the PPM by potential complainants, all while taking into account some of the unique features of AIIB. The proposed changes and their rationale are presented in the matrix below, it is assumed that if accepted they will be reflected in the PPM Rules and Procedures document:

Table 1: Matrix of Proposed Changes to the PPM Policy

Proposed Change	Justification	Benchmarking
Include the notion of Remedy in a section outlining purpose/objective of PPM Policy.	Remedy is the main objective of Complainants when sending in Requests and the only way to mitigate harms suffered.	Policies of the following IAMs include the notion of remedy: <ul style="list-style-type: none"> • IFC CAO • AfDB IRM
Consider including other relevant policies against which AIIB's Compliance is assessed.	Non-compliance with other AIIB Policies may also cause harm including Policy on Public Information, Gender Policy etc.	The following IAMs can determine institutional non-compliance beyond E&S policies: <ul style="list-style-type: none"> • WB IPN • ADB AM • AfDB IRM • EBRD IPAM • GCF IRM
Remove the requirement of having two or more complainants to file a submission, with flexibility of choice for representation from local and international CSOs.	There is no justification on rule of having two complainants. This requirement can potentially exclude individuals who have been harmed. Furthermore, complainants should be allowed representation by whomever they feel comfortable with, whether local or international CSOs.	Requirement of two complainants only exists for WB AM and ADB AM. Most IAMs are flexible on representation by local or international CSOs.
Lower the bar of accessing PPM by amending the requirement of "good faith efforts to resolve the issues with the Project-level GRM and with Management" ..	Having two internal levels of grievance management prior to accessing the PPM is too restrictive, in addition to lacking specific time limits. Most IAMs require one level of prior contact (mostly with Management) and that too is not a strict edibility requirement.	No IAM makes it mandatory for complainants to go through both the project-level GRM and Management prior to accessing the IAM.
Remove the judicial clause ("matters concurrently under arbitral or judicial review") restriction for eligibility of submissions for Compliance Review.	The PPM has a discrete purpose and function which is the unique ability to assess AIIBs compliance with its environmental and social obligations and provide important institutional findings	Judicial clause only continues to exist for EIB CM.

	that are not always available in judicial or arbitral proceedings. Therefore, a judicial review would not impact the process of deciding on such institutional compliance.	
Remove the requirement of Board Approval for decision to undertake a Compliance Review. Allow self-initiated Compliance Reviews by MD-CEIU and Board subject to specific criteria/conditions.	The decision to undertake a Compliance Review is a technical decision subject to specific criteria and should not necessitate Board approval. In some situations, self-initiated Compliance Reviews are allowed subject to certain conditions, including fear of retaliation and/or fear of reputational risk for the institution.	Only ADB AM and WB AM require Board approval to undertake a Compliance Review. Self-initiated Compliance Reviews are allowed by the following IAMs: <ul style="list-style-type: none"> • GCF IRM • AfDB IRM • UNDP SECU Board members or Board can request compliance reviews at WB IPN and ADB AM.
Allow PPM to make recommendations on remedial measures and policy changes subsequent to a Compliance Review. PPM Policy only allows making findings of compliance / noncompliance following a Compliance Review.	Recommendations on remedial measures and on possible policy changes need to be made by a body independent of Management.	The following IAMs provide for making recommendations on remedial measures: <ul style="list-style-type: none"> • AfDB IRM • IFC CAO • EBRD IPAM • IDB MICI
Provide for PPM to monitor Management Action Plans (MAPs) to verify that remedial actions are implemented, including through consulting people to understand from their perspective whether the proposed actions are effectively responding to the harms they are experiencing and not be restricted to reviewing Management monitoring reports. This may be subject to specific criteria/conditions (for example, Board Approval).	Monitoring provides important safeguards for independently confirming that remedial measures approved by the Bank are implemented and within agreed timelines.	All IAMs have a monitoring mandate.

8.4 Institutional Recommendations

100. **Co-financing:** The issue of co-financing and its impact on the eligibility of complaints to the PPM has been raised by many stakeholders. The underlying rationale of encouraging harmonization between MDBs through mutual acceptance of standards should be accepted since it contributes to lowering transaction costs for clients and creates efficiencies. Also, the applicability of E&S standards, and consequently of the IAMs in

policy-based financing (PBFs) - a growing AIIB business - has to be discussed and clarified. Equally, process clarification and transparency for financial intermediary investments is needed. To date, it seems not clear if ESP defacto applies to complaints from projects involving financial intermediaries. Therefore, the impact on the eligibility of Complaints to the PPM of co-financed projects, of financial intermediary projects and policy-based financing needs to be examined carefully. Two options are recommended here:

- **Option 1:** Abolish the co-financing option that sets forth the non-applicability of the ESP and the non-reliance on PPM for certain co-financed projects, allowing potential complainants to choose the IAM to send their complaint, regardless of whether the project is co-financed or not.
- **Option 2:** Maintain the co-financing option, while ensuring first, that the list of complaints received by the IAMs of co-financing institutions is made public, consequences of excluding co-financed projects from the PPM be assessed, and alternative routes be developed including joint missions in select cases. Furthermore, PPM should engage in closely following up on complaints in co-financed cases, in cases involving financial intermediaries and in cases of PBFs, while emphasizing learning from and the drawing of lessons for the benefit of AIIB's policies and their implementation going forward.

101. Internal Handling of Complaints: The first step in handling of Complaints is clearly the GRMs, AIIB's own analysis has indicated some of the weaknesses and challenges GRMs confront despite the fact that their establishment and operation is a contractual requirement. AIIB must be adequately equipped for training clients, in addition to ensuring and following up on the proper establishment and functioning of GRMs. It is recommended that this is carried out in three steps:

- Strengthen understanding of the processes and organizational strategies needed to provide solutions and remedy at the GRM level;
- Evaluate whether the GRM infrastructure and systems are in place at the start of the project;
- Develop an approach for continually assessing the performance of GRMs and AIIB responses when GRMs are not functioning.

102. Related to the above, is ensuring that the internal handling of complaints by Management functions efficiently especially in situations of minor complaints. This should entail greater training of staff in handling of complaints, and systematically maintaining a register of such complaints that is made public.

103. Outreach and Visibility of PPM: There is no doubt that PPM and CEIU at large have engaged in numerous in reach and outreach events. These should continue, but the following is recommended to strengthen this important activity with the objective of enhancing PPM visibility and accessibility:

- Develop an Outreach Strategy to be evaluated after three years of implementation using specific key performance indicators;
- Information about PPM should be provided in an accessible and easily understandable manner in local languages together with an increased use of social media;
- Both Management and clients/potential clients need to proactively participate in this process of making the existence of PPM widely known. This needs to be followed up by PPM.

104. **Capacity of PPM:** Even in the absence of cases to date, current human resources at PPM are not sufficient to handle proposed outreach activities, whether internally or externally, in addition to reviewing potential cases. It is recognized that one additional staff has already been recruited. It is recommended that another additional staff be recruited for PPM to handle both the outreach activities and potential caseload, leaving the role of Head of PPM to oversee all of these activities and undertake more strategic functions.

Annex 1: Terms of Reference
Complaints-resolution, Evaluation and Integrity Unit (CEIU)
Project-affected People’s Mechanism (PPM)
Consultant for External Review of PPM

Background:

1. Project-affected People’s Mechanism (PPM) is the independent accountability mechanism of AIIB. The PPM was established by AIIB to provide an opportunity for an independent and impartial review of submissions from Project-affected people who believe they have been or are likely to be adversely affected by AIIB’s failure to implement its Environmental and Social Policy (ESP) when their concerns cannot be addressed satisfactorily through Project-level grievance redress mechanisms or AIIB Management’s processes. The PPM entered into effect on March 31, 2019. The PPM is guided by the Policy on the PPM (PPM Policy) and Rules of Procedure of the PPM (PPM Rules of Procedure).
2. As per the PPM Policy, “the Policy shall be reviewed no later than five years from its adoption. The MD-CEIU shall initiate and guide the review. The review shall take into account the views gathered through public consultations, including with Project-affected communities, AIIB’s Members, clients and other stakeholders” (PPM Policy, Clause 11.4).
3. Managing Director of Complaints-resolution, Evaluation and Integrity (MD-CEIU) will initiate the PPM Policy Review in Q1-2024. The objective of the review will be to assess the effectiveness of PPM and provide recommendations to the Board for enhancing PPM’s visibility, accessibility, responsiveness to project-affected people and AIIB’s accountability. One of the elements of the PPM Policy Review is “external review of PPM.”
4. CEIU requires the services of suitably qualified, individual consultant to conduct the external review of PPM.

Objective of the External Review

5. The objective of the external review is to assess overall experience of PPM as independent accountability mechanism of AIIB since its establishment. This would entail review of PPM’s role in AIIB’s accountability, structure, functions, policy, rules of procedure, effectiveness, visibility, accessibility and resources. Findings of the external review will inform the MD-CEIU in guiding the PPM Policy Review.
6. MD-CEIU will engage an international expert with excellent reputation and credibility in the field of independent accountability. The consultant will assess PPM’s ability to perform its mandate which is to “provide an opportunity for an independent and impartial review of submissions from Project-affected people who believe they have been or are likely to be adversely affected by AIIB’s failure to implement the ESP in situations when their concerns cannot be addressed satisfactorily through Project-level GRMs or AIIB Management processes.”
 - More specifically, the consultant will conduct an analysis of PPM operations (handling of submissions by PPM, outreach activities, in-reach activities, etc.) and draw lessons learned thus far.

- The consultant will analyze the endogenous and exogenous factors for the project-affected people's access to PPM.
 - The consultant will review PPM's outreach activities and provide recommendations on how to improve PPM's visibility to the project-affected communities.
 - The consultant will also assess how PPM compares with other independent accountability mechanisms (IAMs) and highlight areas for improvement based on best practices.
7. Given PPM's short existence and its limited experience of PPM in handling submissions, this is a relatively rapid external review. For this purpose, the consultant will conduct a comprehensive desk review. The consultant will interview former and current MD-CEIU and PPM staff, Board Members, Management, General Counsel and relevant operational staff in AIIB. The consultant will also solicit views from external stakeholders, including the project-affected communities, civil society organizations, AIIB members and clients and IAMs.

Output:

8. The Consultant will prepare a report comprising set of issues, topics and recommendations and/or potential options for consideration and submit to the MD-CEIU keeping in view the following timeline:
- Draft report by end-January 2024.
 - Final report by end-March 2024.

Work Location:

9. The Consultant will carry out the review primarily through remote working with travel to AIIB HQ when needed.

Contracting Period:

10. Initial contract period for this assignment is six months, covering a total of 45 days. Contract extension will be granted subject to the length of specific engagement when necessary.

Support from CEIU:

11. CEIU will provide all necessary support that is required to accomplish the objectives of this assignment.

Qualifications:

12. The international expert for this assignment will have the following qualifications:
- Excellent reputation and credibility in the field of independent accountability.
 - 15-20 years of solid track record of working with development institutions, with proven expertise in environmental & social issues and independent accountability.
 - Minimum 10 years of work experience with the independent accountability mechanisms of development institution with demonstrated involvement in their policy review process.
 - Proven track record of working with IAMs cases (compliance review or dispute resolution).

Annex 2: Persons Interviewed

Annex 3: References

1. Accountability Counsel et. Al., “Good Policy Paper: Guiding Practice from the Policies of IAMS” January 2024.
2. African Development Bank, Independent Recourse Mechanism “Operating Rules and Procedures”, 2021,
3. AIIB “Supplemental Note on Handling of Project Complaints Received by Management”, 2021.
4. AIIB, “Approach Paper for the AIIB Project-Affected People’s Mechanism”, February 2024
5. Anuradha Munshi, Gaurav Dwivedi and Kate Geary” A New Frontier in Infrastructure Financing: Analysis of Infrastructure Investment Trusts: A Case Study of Oriental Infratrust”, 2022
6. Asian Development Bank, “Accountability Mechanism Policy”, 2012
7. European Bank for Reconstruction and Development, Independent Project Accountability Mechanism, “Project Accountability Policy”, 2019
8. Green Climate Fund, “Procedures and Guidelines of the Independent Redress Mechanism”, 2021
9. International Finance Corporation “External review of IFC/MIGA E&S Accountability, including CAO’s Role and Effectiveness: Report and Recommendations” June 2020
10. International Finance Corporation, CAO “Responsible Exit Insights from CAO Cases”, 2023
11. International Finance Corporation, “Independent Accountability Mechanism (CAO)Policy”, 2021
12. Radhika Goyal “Comparing the Independent Accountability Mechanism Policy Review Process Across MDBs”, Accountability Counsel, 11 March 2024
13. Recourse and Urgewald “The Accountability Deficit: How the Asian Infrastructure Investment Bank’s Complaints Mechanism falls short”, 2021
14. Recourse, et.al., “Roadblocks to Accountability: Addressing the Accessibility Crisis in the Asian Infrastructure Investment bank’s review of its Project-Affected People’s Mechanism”, 2023
15. UNDP, Social and Environmental Compliance Unit, “Investigation Guidelines Social and Environmental Compliance Unit”,
16. United Nations Human Rights Office of the High Commissioner, “Remedy in Development Finance: Guidance and Practice”, 2022