

26 March 2018

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

Re: Comments on Second Phase of Draft Complaints Handling Mechanism

Dear Mr. Sharif:

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

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

This submission is composed of three parts.

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

## ***Accessibility***

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

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

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

---

<sup>1</sup> Paras. 96-98

<sup>2</sup> FN17

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

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

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

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

---

<sup>3</sup> Para. 15

<sup>4</sup> Page iii

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

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

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

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

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

---

<sup>5</sup> Para. 24

<sup>6</sup> Para. 17, FN17

<sup>7</sup> Para. 9

<sup>8</sup> Para. 31

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

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

### ***Transparency***

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

### ***Legitimacy***

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

---

<sup>9</sup> Para. 58

<sup>10</sup> Para. 23 (emphasis added).

<sup>11</sup> Para. 72, 85 [but see para. 40]

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

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

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

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

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

## ***Conclusion***

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

---

<sup>12</sup> Para. 4

Sincerely,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## LIST OF ACRONYMS

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

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