

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

Draft AIIB Complaints Handling Mechanism for Phase II Public Consultation

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## Abbreviations

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

## Glossary

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

Inclusion	To empower people to participate in, and benefit from, the development process in a manner consistent with local conditions, including promoting equity of opportunity and non-discrimination and embracing action to remove barriers against vulnerable groups (AIIB Environmental and Social Policy. 2016. p. 3).
Integrity	To operate transparently, with impartiality, independence, fairness, honesty and professionalism.
Meaningful consultation	Meaningful consultation is a process that (i) begins early in the preparation stage of the Project and is carried out on an ongoing basis throughout the implementation and life cycle of the Project; (ii) ensures that all parties have a voice in consultation, including national and subnational government, the private sector, nongovernmental organizations and people affected by the Project, including, as applicable, Indigenous Peoples; (iii) provides additional support as needed to ensure participation of women, elderly, young, the disabled, minorities, and other vulnerable groups; (iv) provides timely disclosure of relevant and adequate information that is understandable and readily accessible to the people affected by the Project and other stakeholders; (v) is undertaken in an atmosphere free of intimidation or coercion; (vi) is gender inclusive, accessible, responsive and tailored to the needs of vulnerable groups; and (vii) enables the consideration of relevant views of people affected by the Project and other stakeholders in decision-making. It involves continued consultation with stakeholders throughout Project implementation as necessary on issues related to environmental and social performance and implementation of the Project-level grievance mechanism (AIIB Environmental and Social Policy. 2016 p. 30).
Member	The member of the Bank (or other agency of the member which is authorized effectively to pledge the member's full faith and credit) in whose territory the Project is located or for whose benefit the Financing is provided (AIIB Operational Policy on Financing. 2017. p. 2).
Non-sovereign-backed Financing	Any financing extended by the Bank that is not a Sovereign-backed Financing; it includes any financing to or for the benefit of a private enterprise or a sub-sovereign entity (such as a political or administrative sub-division of a Member or a public sector entity) that is not backed by a guarantee or counter-guarantee and indemnity provided by the Member to the Bank (AIIB Operational Policy on Financing. 2017. p. 2).
Pre-emption	Operate in a collaborative, proactive and prevention-oriented manner.
Project	A specific set of activities for which AIIB is (i) considering to provide Financing (ii) or has committed to provide Financing or (iii) has provided Financing. For purposes of this definition, AIIB will be deemed to be "considering to provide Financing" if the Project Summary Information Sheet (PSI) for the relevant Project has been disclosed.
Project-affected people	People within the Project area of influence who may be beneficially or adversely affected by an AIIB funded Project or program.
Project area of influence	Project area of influence includes the area likely to be affected by the Project, including all its ancillary aspects, such as power transmission corridors, pipelines, canals, tunnels, relocation and access roads, borrow and disposal areas, and construction camps, as well as unplanned developments induced by the Project (Adapted from AIIB Environmental and Social Policy. 2016. p. 53).

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

## 1 INTRODUCTION

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

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

3. The ESP provides that AIIB will establish an oversight mechanism to receive submissions from Project-affected people who believe they are already or likely to be adversely affected by AIIB failure to implement the ESP.<sup>5</sup> In all instances, Project-affected people will have already raised their concerns, requests or complaints with AIIB Management<sup>6</sup> and Management will have responded by making its best efforts to address them. The proposed Project-affected People's Mechanism (PPM) would facilitate and handle ESP-related concerns, dispute resolution and complaints submitted by Project-affected people which are considered not to have been satisfactorily addressed through AIIB Management processes.

## 2 OVERVIEW

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

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

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

<sup>2</sup> AIIB. 2016. [Environmental and Social Framework](#).

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

<sup>4</sup> ESP, paragraphs 59 and 60.

<sup>5</sup> ESP, para 64.

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

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

<sup>8</sup> AIIB. 2017. [Organizational Structure](#).

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

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

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

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

### 3 BACKGROUND

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

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

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

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

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



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

## 4 THE MECHANISM

### 4.1 PURPOSE

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

### 4.2 GUIDING PRINCIPLES

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

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

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

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

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<sup>11</sup> AIB. 2016. [Code of Conduct for Bank Personnel](#), para 3.

<sup>12</sup> [CDA Paper](#), pp. 9-10.

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

## 4.3 SCOPE AND ACCESSIBILITY<sup>14</sup>

### 4.3.1 All Projects

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

### 4.3.2 Eligibility to File

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

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

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

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<sup>14</sup> See related discussion under Part 5.2 on Eligibility.

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

<sup>16</sup> See Part 5.9 below.

### 4.3.3 Attribution to AIIB

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

### 4.3.4 Language

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

### 4.3.5 Subject Matter Exclusions

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

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

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

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

<sup>19</sup> The Loan closing date is set out in the relevant Financing agreement for a Loan. It identifies the anticipated Project completion date by which time all planned AIIB Loan disbursements are expected to have been made. In the event the Loan is cancelled prior to this date, the relevant date will be the date of Loan cancellation.

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

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

#### **4.4 FUNCTIONS**

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

##### **4.4.1 Pre-emptory Review**

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

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

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

##### **4.4.2 Dispute Resolution**

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

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<sup>20</sup> If the PPM permits filing of a complaint in such exceptional circumstances, the PPM may only make a finding of whether there has been noncompliance. In such situations, the PPM has no discretion to make any recommendation to the Board to request Management to develop a remedial action plan, though the Board may recommend that Management take up remedial measures with the Client (see Part 5.3, paragraph 62).

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

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

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

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

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

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

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

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

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

#### **4.4.3 Compliance Review**

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

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<sup>22</sup> See Part 4.5.4.

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

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

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

35. The process followed by the PPM to determine eligibility for concerns, requests for resolution and complaints is elaborated in Part 5.2. Importantly, processing of a Financing and/or Project implementation, as the case may be, will continue notwithstanding any submission of a concern, request for resolution or complaint in the absence of any suspension mandated by the relevant authority.<sup>23</sup> Implementation guidelines issued by PPM will document the specific steps involved, including process flow, indicative timelines and applicable templates, eligibility determination, registration, fact-finding, assessment, conclusion, reporting and closure of submissions by Project-affected people.

#### **4.4.4 Continuous Learning for Effectiveness and Training**

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

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

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

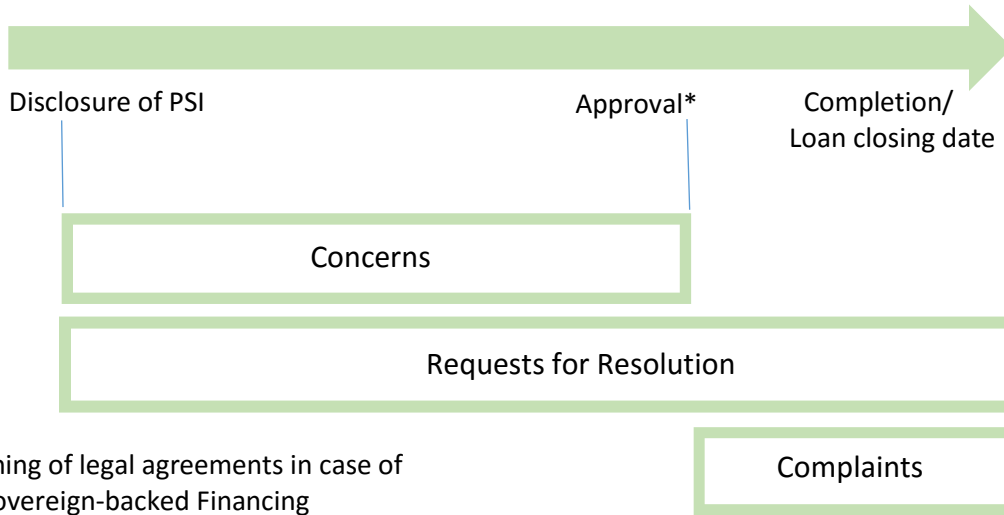
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<sup>23</sup> See Part 5.5 below.

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

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

**Figure 1: AIIB Project cycle**



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

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

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

#### 4.4.5 Outreach

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

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

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

## **4.5 ORGANIZATION AND STAFFING**

### **4.5.1 Multitasking and Functional Firewalls**

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

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

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

### **4.5.2 Managing Director (MD)-CEIU**

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

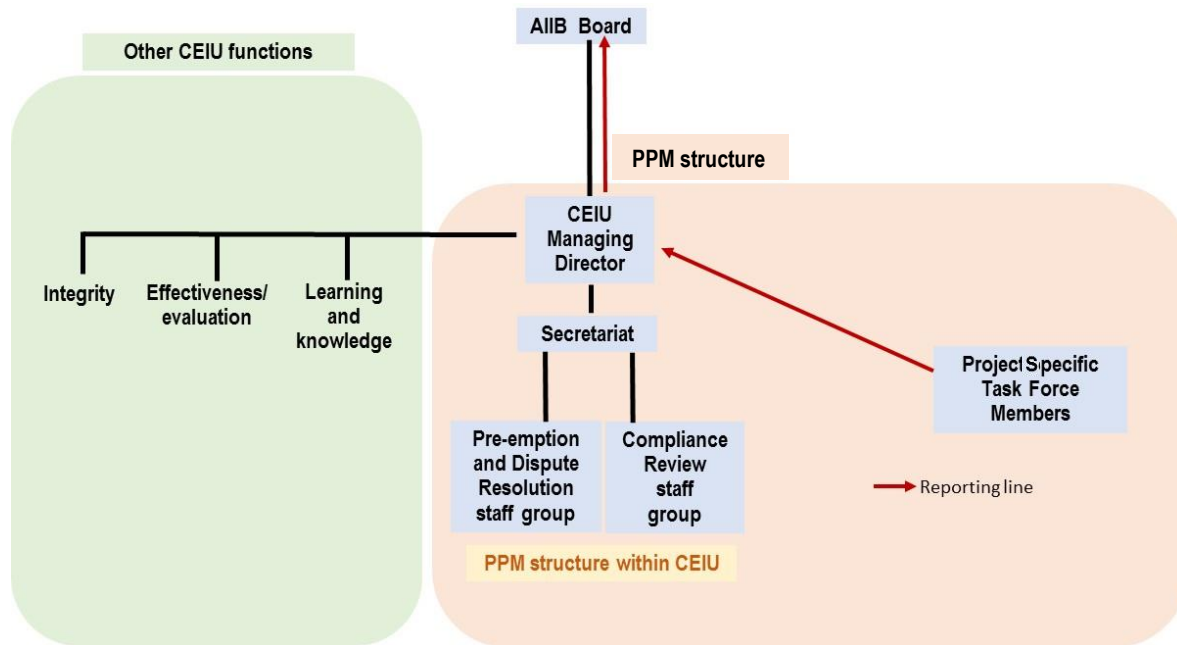
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<sup>24</sup> See Part 4.5.4 below.



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

Figure 2: Proposed PPM structure



#### 4.5.3 CEIU-Assigned Staff; Head-PPM Secretariat

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

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

<sup>25</sup> See paragraphs 37 and 86.

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

#### 4.5.4 Project-Specific Task Force

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

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

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

## 5 IMPLEMENTATION UNDER THE MECHANISM

### 5.1 REGISTRATION

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

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

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

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

<sup>27</sup> Applicable time limits for undertaking registration and taking other required steps in processing Project-affected people's submissions will be separately set out in PPM's implementation guidelines.

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

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

## 5.2 ELIGIBILITY

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

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

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

### **5.3 PROCESSING**

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

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

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

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

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

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

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

#### **5.4 RESOLUTION**

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

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

#### **5.5 INTERIM REMEDIES**

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

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

#### **5.6 CONFIDENTIALITY AND PROTECTION AGAINST RETALIATION**

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

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

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

70. The PPM Secretariat will take measures to assess the potential or actual risk of retaliation<sup>28</sup> against any party submitting a request for confidentiality. A three-step approach to address issues of retaliation will be applied: (i) carrying out of an assessment of retaliatory risk in justifiable circumstances; (ii) use of preventive measures informed by the risk assessment as reasonably possible and (iii) development of a protection timeline with concrete contact processes and escalatory steps for senior AIIB Management to prioritize the safety and well-being of those under threat.<sup>29</sup> The PPM Secretariat will inform senior Management members concerned of all measures within the control of AIIB for combatting any threat of retaliation against Project-affected people who have filed or are seeking to file a submission under PPM. The implementation guidelines will provide further guidance on handling retaliation but will also clarify that the PPM is not an enforcement mechanism and thus has no direct ability to physically protect complainants or otherwise safeguard people from possible consequences of engaging in a PPM process or cooperating with PPM staff.<sup>30</sup>

71. AIIB recognizes that retaliation is a genuine issue, as identified in other MDBs by their management and staff, as well as by NGOs/CSOs. AIIB will work with the IAM Network<sup>31</sup> and other informed parties to find approaches to effectively deal with this serious issue. Such approaches may include developing an effective zero-tolerance policy and related measures including naming of agencies or clients involved in retaliation. The PPM will make ongoing efforts to incorporate emerging good practices into its approach to protect Project-affected people using, or intending to use, the PPM against possible retaliation.

## **5.7 TRANSPARENCY AND ACCESS TO STAFF**

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

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

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

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

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

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

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

## **5.8 SITE VISITS**

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

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

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

77. The ESP allows use of a co-financier<sup>35</sup> or a Client's (whether a country borrower or a corporate client)<sup>36</sup> environmental and social policies and procedures where these are "materially consistent" with the ESP. This is distinct from the typical situation involving self-standing AIIB financing, or when AIIB is a lead co-financier. In both these latter situations, AIIB's own ESP provisions and use of the PPM apply for all Project-financed activities.

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

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<sup>32</sup> Prior written consent from the party which provided the document may also be required in some cases if mandated by the [PIIP](#) and/or any successor policy.

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

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

<sup>35</sup> ESP para 10 p. 3.

<sup>36</sup> ESP para 52 p. 19.

<sup>37</sup> See para 19 above.

79. Use of country and corporate systems is permissible under AIIB's ESP under defined conditions.<sup>38</sup> Where AIIB allows the use of a country or corporate system, Project-affected people who wish to raise issues regarding Project-level noncompliance with any local ESP-equivalent provisions would be expected to use local dispute or complaint redress mechanisms. AIIB's ESP provides that "Use of a Client's systems does not preclude access of affected stakeholders to the Bank's oversight mechanism or Project-level grievance mechanisms."<sup>39</sup> In considering any submission, PPM will take into account any proceedings filed in local fora and the effect of any of its decision on local fora to avoid a situation where two contradictory findings may be made. PPM will avoid making any pronouncement on functioning of local courts or tribunals.

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

## **5.10 IMPLEMENTATION GUIDELINES**

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

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

## **6 GENERAL PROVISIONS**

### **6.1 ANNUAL AND OTHER REPORTS**

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

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<sup>38</sup> ESP, paras 52-56.

<sup>39</sup> ESP, para 54.

<sup>40</sup> "Gross negligence" in this context refers to any action or omission by AIIB staff that evidences a major derogation of application of good international practice which any international MDB professional staff would conclude is patently unreasonable in the circumstances. For example, this would include a failure by the AIIB staff concerned to consider a major policy or procedure of the Client in making any assessment of a country or corporate system in terms of material consistency with the ESP.

<sup>41</sup> See Part 6.5.

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



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

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

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

## **6.2 ANNUAL BUDGET**

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

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

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

## **6.3 INDEPENDENT REVIEW**

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

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

## 6.4 LEGAL ADVICE

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

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

## 6.5 EFFECTIVE DATE

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

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

## 7 RESOURCE IMPLICATIONS

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

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

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

## 8 CONSULTATIONS

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

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<sup>43</sup> See Part 4.5.1.

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

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

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

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

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