

## Annexure 2

### Table of Contents

Marked Up _AIIB Policy on the Project-affected People’s Mechanism.....	1
Non-Exhaustive List of Amendment Required in the 2024 Terms of Reference Complaints-resolution, evaluation, and integrity unity and 2019 PPM Rules of Procedure and Attachments.....	14

### **Marked Up \_AIIB Policy on the Project-affected People’s Mechanism**

Dec. 7, 2018

#### 1. Introduction

1.1. The Environmental and Social Policy (ESP) of the Asian Infrastructure Investment Bank (AIIB) guides sound environmental and social management of AIIB-financed projects (Projects). The ESP provides a mechanism for public consultation and disclosure of information on the environmental and social risks and impacts of Projects and for use of Project-level Grievance Redress Mechanisms (Project-level GRMs). The ESP also provides that AIIB will establish a mechanism to receive submissions from Project-affected people who believe they have been or are likely to be adversely affected by AIIB’s failure to implement ~~the ESP~~ **its environmental and social obligations and includes the following policies among others: (a) Environmental and Social Policy (b) Policy on Public Information (c) any other relevant policy and procedure. The PPM shall work with AIIB to establish, maintain, and update an indicative list of relevant policies and procedures of the AIIB post this on its website.**

1.2. This Policy, adopted by the Board of Directors, establishes such a mechanism, known as the Project-affected People’s Mechanism (PPM). The Complaints resolution, Evaluation and Integrity Unit (CEIU)<sup>4</sup> shall be responsible for the proper functioning of the PPM.

1.3. While the President manages AIIB under the supervision of the Board of Directors pursuant to Article 29(4) of AIIB’s Articles of Agreement, this Policy recognizes that the President has delegated significant aspects of this management authority in relation to investment operations to the Vice President and Chief Investment Officer; and Vice President, Policy and Strategy. Accordingly, where in this Policy any action is required of Management, the term “Management” shall mean Vice President and Chief Investment Officer; and Vice-President, Policy and Strategy.

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<sup>1</sup> This is the new name for the Compliance, Effectiveness and Integrity Unit proposed in the Oversight Mechanism paper for consideration in the September 2018 Board Meeting. This footnote will be deleted once the PPM is approved.

1.4. This Policy is deemed a “major policy” of the Board of Directors, in accordance with Article 26 of AIIB’s Articles of Agreement.

1.5. This Policy shall enter into effect on 31 March 2019 and applies to all Projects<sup>2</sup> whose Financings are under consideration or approved on or subsequent to that date. Projects whose Financings are under consideration or approved prior to that date are subject to this Policy provided the relevant submission in relation to any such Project is filed within the applicable time period set down in Section 4 (Time Limits for Filing).

## 2. PPM and its Functions

2.1. Functions: The PPM shall provide an opportunity for an independent and impartial review of submissions from Project-affected people who believe they have been or are likely to be adversely affected by AIIB’s failure to implement **its relevant policies and procedures**. ~~the ESP in situations when their concerns cannot be addressed satisfactorily through Project-level GRMs or AIIB Management processes.~~ In executing its mandate, PPM facilitates access to remedy for Project-affected people in a manner that is consistent with the international principles related to **business and human rights**. PPM operates independently, with a direct reporting line to the **Board**. AIIB’s accountability is to be enhanced through the following three functions of the PPM:

2.1.1. Handling of Project Processing Queries (Project Processing Queries), the objective of which is to enable Project-affected people to obtain rapid resolution of their concerns over simple matters which arise during AIIB’s environmental and social due diligence of a Project and which do not require dispute resolution; they may include inquiries about the consultation process related to a Project or requests to address any environmental nuisance such as dust, noise or mobility restrictions experienced during Project preparation.

2.1.2. Dispute Resolution Function (Dispute Resolution), which shall seek to facilitate a dialogue between ~~AIIB~~, the Project-affected people, ~~and/or~~ Client<sup>3</sup> ~~and/or AIIB~~ with a view to agreeing on actions to **remediate or otherwise** mitigate ~~known and quantifiable~~, potential or actual **material** adverse environmental or social impacts that arise during AIIB’s environmental and social due diligence of a Project or during Project implementation.

2.1.3. Compliance Review Function (Compliance Review), which is designed to investigate allegations by Project-affected people that AIIB has failed to comply with its obligations under the ~~ESP~~ **the relevant policies and procedures** in its environmental and social due diligence of a Project or its oversight of the Project during implementation, ~~assess thereby causing or being likely to cause material~~ adverse environmental or social impacts on the Project-affected people

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<sup>2</sup> A Project refers to a specific set of activities for which AIIB is (i) considering to provide Financing (ii) or has approved 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 Project has been disclosed.

<sup>3</sup> Client means the recipient of the Bank financing for a Project and any other entity responsible for implementation of the Project (see the ESP).

and, if the allegations are substantiated, to review any action plan proposed by Management to address these impacts.

**2.1.4.** PPM's advisory function provides advice to the AIIB and the Board with the purpose of improving AIIB systemic performance on environmental and social sustainability and reducing the risk of harm to people and the environment. PPM's advisory work provides insights and recommendations on broader environmental and social issues relevant to AIIB's work by drawing on PPM experience addressing complaints and good international practice.

2.2. In carrying out the PPM functions, the PPM shall have the following competencies:

**2.2.1.** The PPM Head is responsible for running PPM [including CR and DR functions], implementing this Policy, and making the decisions that are the responsibility of PPM under this Policy.

**2.2.2** The PPM Head manages PPM staff, to which the AIIB's Human Resources policies and procedures apply. The PPM Head is free to make recruitment decisions within the limits of the approved budget, without Bank management or Board involvement.

**2.2.43.** To determine the eligibility of submissions.

**2.2.24.** To assess the submissions and make determinations regarding them.

**2.2.35.** To carry out such other tasks as are reasonably related to the discharge of the above competencies.

2.3. MD-CEIU: The Managing Director, CEIU (MD-CEIU) shall represent the PPM in all matters before the Board of Directors and the President. The MD-CEIU shall have unimpeded access to the Policy and Strategy Committee of the Board of Directors to report on the work of the PPM. The MD CEIU is appointed by the Board following the recommendation of a selection committee set up for the election of the MD CEIU following a process set out in the Terms of Reference for the Complaints-resolution, Evaluation and Integrity Unit. The MD CEIU may be removed from office only by a decision of the Board, for cause, as determined by the Board.

2.4. Resourcing: The **President Board** shall ensure that the PPM is adequately resourced and staffed in order to fulfill its functions. The PPM Head shall prepare an annual budget (including any contingency funds) identifying a sufficient level of resources to ensure that PPM can carry out all of the roles, responsibilities, and activities set out in this Policy in an effective way. The PPM budget will be submitted to the Board for approval on a no objection basis, in the same timeframe as the Bank's general budget, but as a separate decision. The President shall ~~also~~ ensure that the MDCEIU has full access to AIIB's staff and files, including electronic files, relevant to submissions received and processed by the PPM, and will ensure that AIIB personnel fully cooperate with the PPM. It shall be the duty of Management and the Board of Directors to timely engage with and respond to the PPM to improve compliance across projects and programs and correct adverse environmental and social impacts caused to communities.

### 3. Persons Who May File a Submission

3.1. ~~Two~~ One or more Project-affected people (Requestors) may file a submission. They Requestors may authorize an ~~in-country~~ representative (Authorized Representative) to file a submission on their behalf and assist them through the process.

The Requestors must indicate whether they wish their Authorized Representative to act as the point of contact for all formal communications between PPM and the Requestors, in which case, contact information for the Authorized Representative must also be provided. However, PPM may communicate directly with the Requestors as necessary. ~~In exceptional situations, when in-country representation is unavailable, the Requestors may designate an individual or organization outside of the country as their Authorized Representative to file a submission.~~

3.2. Where there are harms to the environment or biodiversity, any natural or legal person may file a submission.

3.3. The PPM may initiate a Compliance Review process of one or more Projects or sub-projects as explained below:

3.2.1. The PPM may initiate a Compliance Review of one or more Projects or Sub-Projects based on the circumstances described in 3.22 or in response to an internal Request from the President, the Board, or Management.

3.2.2. The PPM may self-initiate a Compliance Review or the President, the Board, or Management may put forth an internal request in circumstances where: (i) a Compliance Review is deemed necessary to review environmental and social compliance issues of systemic importance to the AIIB; (ii) concerns exist regarding particularly severe harm; or (iii) Project-affected people may be subject to, or fear, reprisals, preventing them from lodging a complaint with the PPM.

3.2.3. Such self-initiation or internal requests initiated by the President, the Board, or Management should include a written rationale for the Compliance Review request.

If the PPM initiates compliance review proceedings according to the criteria set out above, the information or internal request is deemed to be eligible under Section 5, and the PPM can proceed accordingly.

### 4. Time Limits for Filing a Submission

4.1. Project Processing Query may be submitted after the Project summary information (PSI) in relation to a Project has been disclosed by AIIB and before the approval of the Financing.<sup>4</sup>

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<sup>4</sup> “Financing” means a Sovereign-backed Financing and Non sovereign-backed Financing (for details, see AIIB’s Operational Policy on Financing.)

4.2. Request for Dispute Resolution or Compliance Review may be submitted (i) after the PSI in relation to a Project has been disclosed by AIIB, in case of Dispute Resolution and (ii) after the approval of the Financing, in case of Compliance Review, and before one of the following dates:

4.2.1. For Sovereign-backed Financings: The Closing Date.<sup>5</sup> In exceptional circumstances where the Client continues to be bound by environmental and social undertakings beyond the Closing Date, the PPM may consider the request as eligible if it is submitted during the 24 months following the Closing Date.

4.2.2. For Non sovereign-backed Financings: the date 24 months following the date of the last disbursement of AIIB's funds or, in the case of guarantees, the date 24 months following the date of the last disbursement under the underlying obligation or, in the case of equity funding, prior to AIIB's exit from its investment.

## 5. Eligibility of Submissions

5.1. A submission shall be ineligible to be considered by the PPM, if:

5.1.1. It does not relate to a Project that **is under consideration or has been** approved for financing by AIIB or **in relation to which** if a PSI has **not** been disclosed;

5.1.2. It is anonymous;

5.1.3. It raises allegations of Prohibited Practices<sup>6</sup> or relates to procurement;

5.1.4. It relates to any AIIB policy other than the ESP;

5.1.5. It relates to the adequacy of the ESP;

~~5.1.6. The Project is co-financed with another multilateral development bank (MDB) or bilateral development organization and AIIB has agreed to the application of the environmental and social policies and procedures and to rely on the Independent Accountability Mechanism (IAM) of such institution;~~

5.1.7. It is filed outside of the time limits set out in this Policy;

~~5.1.8. The Requestors have not made good faith efforts to resolve the issues with the Project level GRM and with Management or have not indicated to the satisfaction of the PPM why they have been unable to do so;~~

5.1.9. It raises issues that have already been considered by the PPM, unless there is new evidence or circumstances not known at the time of the previous submission; or

5.1.10. It has been filed fraudulently, with frivolous, malicious or improper intent or to gain undue competitive advantage.

5.2. Further, a request for Compliance Review shall be ineligible if:

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<sup>5</sup> "Closing Date" means: (a) for loans the date specified in the Loan Agreement (or such later date as the Bank shall establish by notice to the Loan Parties) after which the Bank may, by notice to the Loan Parties, terminate the right of the Recipient to withdraw from the Loan Account (for details, see General Conditions for SovereignBacked Loans, Appendix, No. 8.); and (b) for guarantees, the date of completion of the Project.

<sup>6</sup> See, the Bank's Policy on Prohibited Practices which provides definitions of Prohibited Practices.

- 5.2.1. It relates to actions or inactions that do not involve AIIB's failure to comply with the **ESP relevant policies and procedure** or otherwise raises issues unrelated to AIIB's failure to comply with the **ESP relevant policies and procedure**;
- 5.2.2. It relates to activities, parties or impacts beyond the reasonable control of AIIB (including the conduct of the Client or any third party, unless that conduct is directly relevant to assessment of AIIB's compliance with the ESP);
- 5.2.3. It relates to laws, policies, or regulations of AIIB's Member government, unless they directly relate to AIIB's compliance with the ESP;
- ~~5.2.4. It relates to matters concurrently under arbitral or judicial review, save when the Board of Directors authorizes the PPM to process such request; or~~
- 5.2.5. It relates to the subject matter of an ongoing Project Processing Query or a Dispute Resolution.

## **6. Processing of Submissions**

6.1. Submission: The submission shall identify the Requestors making the submission. The Requestors shall be encouraged but not required to indicate under which PPM function they propose their submission to be reviewed **nor to indicate any prior steps the Requestors have taken to resolve the issue and its outcome**. Other information to be included in the submission shall be detailed in the sample submission form to be set out in the Rules of Procedure for the PPM.

6.2. Language of Submission and Other Written Communications With the PPM: The submission may be written in English or in any official or national language of the Requestors' country. The PPM's acknowledgment of submission receipt shall be in English and in the language of the submission, if such language is not English.

Thereafter, PPM's communications with the Requestors shall be in English. The PPM shall also translate the substantive part of these communications into the submission language, if such language is not English. However, the English language version of AIIB's communications shall prevail in the case of a discrepancy between the English and translated version.

6.3. Acknowledgement of Receipt of Submission: The PPM shall acknowledge receipt of a submission to the Requestors and recommend the most suitable processing option based on submission content, timing and eligibility criteria, taking the Requestors' proposal, if any, into account. The Requestors' decision on which process they wish to pursue will, however, be final, subject to the submission meeting the applicable requirements of Section 4 (Time Limits for Filing a Submission) and Section 5 (Eligibility of Submissions).

6.4. Screening for Eligibility; Registration: The PPM shall determine whether the submission meets the eligibility criteria set out in Section 5.1 and inform the Requestors, Management and the Board of Directors of its determination. If the submission meets such eligibility criteria, it shall be registered in the PPM registry.

**6.4.1.** After determining a complaint to be eligible, the PPM will enquire (a) whether efforts have been made by the Requestors with AIIB and/or the Client to address the issues raised in the submission or (b) if such efforts were not undertaken, why.

In the event PPM understands that the Requestor has not made any efforts with AIIB and/or the Client, PPM will establish whether the Requestor wishes to refer the submission to AIIB and/or the Client.

In the event the Requestor does, PPM will refer such submission to AIIB and/or the Client. Requestors who have decided to pursue their submission with AIIB and/or the Client may notify PPM at any time of their desire to resume the processing of the submission by PPM in accordance with this Policy.

In the event no such good faith efforts were made, and the Requestors still wishes to pursue a complaint with PPM, PPM will record the Requestor's response that no such efforts were made.

6.5. Site Visits: The PPM may, ~~unless the Member in which the Project is located objects,~~ undertake site visits to the Project area at any time after a submission has been filed, in order to better understand submission issues and possible ways to address them. ~~The PPM will develop a protocol on how to organize reprisal-sensitive site visits, assessing the context and working with the Requestors, Representatives, project-affected peoples, independent experts and multilateral institutions to plan and facilitate these visits.~~ If the Member rejects a site visit request, the PPM will inform the Board of Directors and shall conduct its review on the basis of the available evidence. In the spirit of AIIB's partnership with its Members assistance from Members in facilitating timely PPM site visits is anticipated.

6.6. Project Processing Queries: Once the submission has been registered in the PPM registry, the PPM shall provide a copy of it to Management. Management shall provide its response to the submission. The PPM shall facilitate constructive dialogue between Management, the Client, the Requestors and any other relevant parties to identify solutions to address the concerns raised. The Project Processing Queries shall be handled as promptly as possible in order to facilitate resolution of concerns during Project preparation.

## **6.7. Requests for Dispute Resolution**

6.7.1. Once the submission has been registered in the PPM registry, the PPM shall provide a copy of it to Management. Management shall provide its response to the submission.

6.7.2. The PPM shall forward Management's response to the submission to the Requestors. Management shall forward its response to the Client.

6.7.3. The PPM shall seek consent of the parties to the dispute to undertake dispute resolution and document the agreed approach and methodology, as well as identified issues and timelines for the dispute resolution process.

6.7.4. The PPM shall aim to facilitate the formulation and signing of a dispute resolution agreement containing a time-bound, monitorable implementation schedule for specific agreed actions.

**6.7.4.1** The PPM should be particularly sensitive to the existence of considerable asymmetries between the Parties so as not to undermine the possibility of reaching satisfactory results. Particular attention is to be paid to asymmetries in availability of the information needed, and in the capacity and ability to participate effectively in these processes. PPM may propose capacity building activities and exercises to facilitate the Parties' effective and fruitful participation. In order to address power imbalances in dispute resolution, Requestors and Authorized Representatives can be accompanied with representatives from multilateral and human rights organizations that they are comfortable engaging with.

6.7.5. The PPM shall monitor the implementation of the dispute resolution agreement in accordance with the agreed schedule.

6.7.6. The PPM shall prepare a summary of actions taken to resolve the dispute.

6.7.7. The PPM shall encourage the parties to the dispute to reach an agreement. However, if agreement is unlikely to be reached within a reasonable period of time, the PPM may terminate the ~~dispute resolution process~~ ~~review of the submission~~ after consultation with the parties.

6.7.8. Any party to the dispute may terminate the dispute resolution process at any stage of the review. In such case, ~~or if dispute resolution does not result in an agreement or is wholly or partially unsuccessful,~~ the submission, or any part of the submission, will be referred to ~~Requestors may submit a request for~~ Compliance Review within the applicable time period, provided that it meets the eligibility criteria contained in para 5.2.

## **6.8. Requests for Compliance Review**

6.8.1. Once the submission has been registered in the PPM registry, the PPM shall provide a copy of it to Management. Management shall provide its response to the submission, including its view, if any, on whether the submission meets the eligibility criteria set out in Section 5.2 (Eligibility of Submissions).

6.8.2. Based on the information provided in the submission, Management's response (including any actions proposed by Management to address the issues raised in the submission), and additional information obtained during site visits, from the Board Director concerned and any local authorities or agencies involved in the Project, the PPM shall determine whether the submission meets the eligibility criteria set out in Section 5.2, and **considering the factors set out**



in the Rules of Procedure decide whether to recommend ~~that the Board of Directors approve~~ the commencement of the Compliance Review ~~and share it with the Board of Directors for information~~. The PPM may decide that another course of action in lieu of a Compliance Review is appropriate. In such case, it shall also decide whether approval by the Board of Directors of such course of action is required. If the PPM decides not to recommend a Compliance Review or other course of action, it shall submit to the Board of Directors and Management for information a report explaining its decision.

6.8.3. If the PPM recommends approval of the commencement of the Compliance Review or other appropriate course of action, the decision ~~of the Board of Directors~~ shall be communicated by the PPM to the Requestors and by Management to the Client.

6.8.4. ~~If the Board of Directors approves the PPM's recommendation to commence the Compliance Review,~~ The PPM shall seek comments from the Policy and Strategy Committee of the Board on the terms of reference for Compliance Review and share the final terms of reference with the Board of Directors for information. The PPM shall form a Project-specific task force to be chaired by the MD-CEIU. to carry out the Compliance Review. The Requestors, the Client, local authorities and agencies involved in the Project, the Board Director concerned, Management and other AIIB staff shall be provided an equal opportunity to be heard during the Compliance Review.

~~6.8.5. If at any point during the Compliance Review the PPM learns of arbitral or judicial proceedings involving substantive issues raised in the submission, the PPM shall assess the implications of such parallel processes and submit a recommendation to the Board of Directors on whether to continue with the Compliance Review. As an interim measure, the PPM may suspend the Compliance Review until the Board of Directors decides on the matter.~~

6.8.6. Once the Compliance Review has been completed, the PPM shall prepare a draft Compliance Review report. ~~The Compliance Review report may include recommendations from the PPM as to actions that may help remedy harm and resolve conflicts. The PPM shall simultaneously provide~~ circulate the draft Compliance Review report to the Requestors, ~~for comment and to Management, for a response. Management shall circulate the draft report to~~ and the Client for comment.

6.8.7. Management shall prepare its response to the PPM's draft Compliance Review report and seek comments on it from the Client. Management shall update its response, taking into account comments received.

6.8.8. If the PPM determines that there has been noncompliance with the ESP, Management shall also prepare a proposed Management Action Plan (MAP). The MAP shall ~~be based on the PPM recommendations in the Compliance Review Report and include actions to address issues set out in the PPM's draft Compliance Review report~~ clear time-bound actions for returning the Bank to compliance and achieving remedy for affected populations. Management shall circulate

its draft MAP to the Client and Requestors for comment. Management shall update the MAP, ~~taking into account~~ disclosing and summarizing the comments received and how they informed the MAP, and send it to the PPM for review and comment.

6.8.9. The PPM shall then finalize the Compliance Review report taking into account Management's response (and the MAP, if applicable) and send it to Management. Management shall then finalize the MAP, if applicable, to address the findings of the final Compliance Review report. ~~The Compliance Review report may include recommendations from the PPM as to actions that may help remedy harm and resolve conflicts.~~

6.8.10. The PPM shall submit to the Board of Directors its final Compliance Review report, including any comments received. ~~Management's response and~~ ~~the MAP, including any comments made by Requestors on the adequacy of consultations and their satisfaction with proposed actions,~~ if applicable, shall be attached to the final Compliance Review report. The MAP shall be subject to the approval of the Board of Directors.

6.8.11. ~~Management~~ ~~The PPM shall monitor implementation of the MAP approved by the Board. It will report to the Board of Directors concerning implementation of the MAP, including its determination on the progress in bringing the project into compliance and will continue for as long as non-compliance is addressed. submit implementation reports to the Board of Directors on the implementation of the MAP in accordance with timelines specified in the MAP. The PPM shall review Management's implementation reports.~~ As appropriate, the PPM may submit recommendations to improve the delivery of remedy if delays or conflicts arise during MAP implementation. The Board of Directors and Management shall consider the PPM's recommendations and take appropriate steps to amend MAPs for improved efficiency and outcomes. The methodology for monitoring may include (i) consultations with the Requestors, the Client, the Board member concerned; Management; and staff; (ii) a review of documents; and (iii) site visits. The PPM will also consider any information received from the Requestors and the public regarding the status of implementation. The PPM will make the monitoring reports available to the Requestors, the Client, the Board, Management, staff, and the public.

6.9. When Requestors include Indigenous Peoples, the PPM will take particular care to respect community-specific decision-making structures, gender inclusivity, history and legacy issues, customary practices, ancient traditions, language preferences, existing legislation on prior consultation, and capacity-building needs throughout the case process and in particular when facilitating redress for harms suffered.

## **7. Effect of a Submission on the Project**

7.1. The fact that a submission has been found eligible shall not affect ongoing Project preparation or implementation. The review by the PPM of an eligible submission shall not prevent Management from addressing the issues it raises directly with the Requestors or the

Client. During its review, the PPM may consider actions taken by Management to address issues raised in the submission.

7.2. The PPM shall inform Management in writing if, during its review of the submission, it identifies that the information about the Project-level GRM or the PPM has not been adequately disclosed or that the Project-level GRM has not been established or that it is ineffective. The MD-CEIU shall inform the President if Management fails to take action to address such matters within a specified period following the PPM's notice to Management, in order to enable the President to work with Management to address such matters. If appropriate action is not taken within a set period of time following the PPM's notice to the President, the MD-CEIU shall inform the Board of Directors of the situation on a confidential basis.

7.3. If, during its review of the submission, the PPM concludes that continued Project preparation or implementation may potentially result in irreversible material adverse impacts that have not been adequately addressed in accordance with the ESP, the PPM ~~may recommend that AIIB suspend financial disbursements for the project pending the outcomes of the processes undertaken by the PPM or the accountability mechanisms of AIIB's co-financiers.~~ ~~shall inform Management in writing of such possible impacts and the reasons for reaching this view. The PPM may also request Management to consider the matter and take appropriate action to address the situation. In such case, the MDCEIU shall inform the President if Management fails to take action to address these matters within a specified period of time following the PPM's notice to Management, in order to enable the President to work with Management to address such matters. If appropriate action is not taken within a set period of time following the PPM's notice to the President,~~ The MD-CEIU shall inform the Board of Directors of this recommendation ~~the situation~~ in writing ~~on a confidential basis~~.

## 8. Disclosure

8.1. Disclosure of information by the PPM shall be carried out in accordance with the Bank's Policy on Public Information. ~~The PPM shall maintain a transparent and comprehensive online Register. The information on the Register should include pending, completed and closed cases and all relevant documentation relating to Submission processing, including Submissions with links to submission forms or request letters (redacted if Requestor(s) request confidentiality), decisions on eligibility for all submissions. Accordingly, unless a request for confidentiality has been granted by the PPM, all eligible submissions, PPM acknowledgements of receipt of such submissions and PPM eligibility reports for all submissions~~ All material shall be provided in full and posted online on the PPM website as they become available and remain there indefinitely ~~shall be disclosed on the PPM website.~~

8.2. The following additional information will be disclosed on the PPM website:

8.2.1. In the Case of a Project Processing Query: a summary of actions taken at the Project level.

8.2.2. In the Case of a Dispute Resolution: the Dispute Resolution agreement (if the parties agree to disclose the agreement) or, if no Dispute Resolution agreement has been reached or if the parties do not agree to disclose it, a summary of the Dispute Resolution process and its outcomes; and Dispute Resolution monitoring reports.

8.2.3. In the Case of a Compliance Review: the ~~decision of the Board of Directors on~~ PPM's recommendation ~~on whether or not to proceed with to approve~~ the Compliance Review or other course of action; the terms of reference prepared by PPM for the Compliance Review; the final Compliance Review report; Management's response to the Compliance Review report; the MAP approved by the Board of Directors; and any periodic MAP status ~~and monitoring~~ reports.

## 9. Confidentiality; Retaliation

9.1. Confidentiality: The Requestors may request confidentiality for a variety of reasons, including risk of retaliation. The request for confidentiality and the reasons for the request shall be provided with the submission. ~~Upon request, all the information provided to the PPM (especially names and personal information) by the Requestors and Representatives will be held strictly confidential. The request for confidentiality shall be considered by the PPM and all reasonable efforts will be made to grant confidentiality.~~ The PPM will advise all PPM personnel, and Management will advise all other AIIB personnel, of their obligations to ensure the requested confidentiality when handling any submissions received. ~~The information will only be used and shared with their informed consent and will be assessed if disclosure of such information could lead to retaliation risk.~~ If, however, confidentiality becomes an impediment to eligibility assessment or to effective resolution of issues raised, the PPM shall advise the Requestors of such concerns and seek to agree on how to proceed. ~~Failing such agreement, the PPM may terminate the review of the submission.~~

9.2. Retaliation Risk: ~~The PPM will not tolerate any form of retaliation in all the projects the AIIB finances, and t~~The PPM shall recognize and assess the risks of retaliation against the Requestors, any in-country Authorized Representative and, if determined by the PPM, other relevant persons in connection with a submission. ~~The risk assessment conducted by the PPM will assess the quality of civic space and the likelihood of a reprisal occurring. The assessment will be consulted with Requestors, Representatives and project-affected peoples, based on various sources from human rights mechanisms and civil society organizations, regularly updated throughout the project cycle, and result in coming up with risk-reducing strategies and a response protocol when reprisals do occur.~~

~~The PPM will establish a clear procedure and protocol on what actions to take once they receive allegations of retaliation. The PPM will have an ability to self-initiate compliance reviews once it receives credible allegations of reprisals. The PPM will develop a directive for staff on how to assess, prevent, mitigate and respond to cases of retaliation. This will include allocating resources to develop staff capacities and supplementing these with the expertise of consultants, civil society organizations, defenders and protection groups when necessary.~~

The PPM shall advise the Requestors and the in-country Authorized Representative about the ~~inability of the PPM to assist with the physical protection measures~~ various channels to raise their complaints safely and explore with them if confidentiality of the identity of the Requestors or the in-country Authorized Representative and, if applicable, other relevant persons and/or any other information would mitigate the retaliation risks. ~~The PPM will establish secure and direct communication channels where project-affected peoples can report cases of reprisals, discuss prevention measures and response plans. Reprisal prevention measures and response plans of the PPM should be in consultation with defenders, communities or groups that have a knowledge of the context.~~

~~The PPM will allocate resources to ensure urgent assistance for project-affected peoples at risk of retaliation. The PPM will also facilitate linkages to provide support for Requestors, Representatives and other project-affected peoples from protection organizations, civil society, bank management, board members, and multilateral institutions.~~

## 10. Co-financing

10.1. ~~If PPM receives a submission arising out of a Project that is co-financed with another MDB or bilateral development organization and AIIB has agreed to apply the environmental and social policies and procedures of such institution, all efforts will be made to cooperate with the other IAM to ensure the case is handled efficiently, while remaining within the rules and mandate of each IAM, including on requirements of confidentiality and disclosure of information. If PPM is made aware by the IAM of a co-financing institution, of a submission relating to an AIIB co-financed Project, the PPM will brief Management and the Boards of Directors –as information on such cases becomes available and report to the Board of Directors on the outcome of the review by the co-financier’s IAM of these submissions including lessons learned from handling the case and recommendations for reconsideration of relevant AIIB operational policies and procedures, guidelines and systems to ensure that similar cases will be prevented in the future. Such a report will be published on the PPM website within five (5) calendar days of it being submitted to the Board.~~

~~In cases where the Project is co-financed with another MDB or bilateral development organization and AIIB has agreed to apply the environmental and social policies and procedures of such institution and to rely on the co-financier’s IAM to handle submissions from Project affected people under the Project, the PPM shall coordinate closely with the co-financier’s IAM on the handling of the submissions and report to the Board of Directors on the outcome of the review by the co-financier’s IAM of these submissions.~~

## 11. General Provisions

11.1. Periodic Reporting to the Board of Directors: The PPM shall submit periodic reports to the Board of Directors on the status of the submissions, including on the implementation status of the MAPs.

11.2. Outreach, Learning and Training: The PPM shall ~~conduct outreach to ensure people affected by AIIB-financed projects are aware of the PPM's existence and how to access it if they feel they have suffered harm raise awareness of the opportunities it provides with Clients and other stakeholders that may be interested in, or affected by, AIIB-financed Projects.~~ The PPM shall also collaborate with the other IAMs and MDBs and systematically capture and share lessons learned to enhance effective implementation of the ESP. ~~The PPM will report to the Board, through a Board Committee, on lessons learned and insights gained from handling cases and from good international practices, and may recommend reconsideration of relevant AIIB operational policies and procedures, guidelines and systems. Such a report will be published on the PPM website within five (5) calendar days of it being submitted to the Board.~~

11.3. Implementation: The President shall issue a Directive, which, among other things, will authorize the MD-CEIU to issue and when necessary, interpret, the Rules of Procedure for the PPM to ensure the effective and efficient implementation of this Policy.

11.4. Review of the Policy: The Policy shall be reviewed no later than five years from its adoption. The MD-CEIU shall initiate and guide the review. The review shall take into account the views gathered through public consultations, including with Project-affected communities, AIIB's Members, clients and other stakeholders.

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**Non-Exhaustive List of Amendment Required in the 2024 Terms of Reference  
Complaints-resolution, evaluation, and integrity unity and 2019 PPM Rules of Procedure  
and Attachments**

A. 2024 Terms of Reference for Complaints-resolution, evaluation, and integrity unity

~~The MD CEIU is appointed by the Board following the recommendation of a selection committee set up for the election of the MD CEIU. To maintain the independence of the CIEU, the selection committee will conduct an independent, transparent, and participatory selection process that involves stakeholders from diverse regional, sectoral, and cultural backgrounds, including civil society and business communities.~~

~~The MD CEIU may be removed from office only by a decision of the Board, for cause, as determined by the Board. The MD-CEIU is appointed by the President following consultation with the Board and otherwise in accordance with the Staff Rules. The President shall share all relevant information with the Board regarding a candidate they intend to appoint, including background, experience, and their curriculum vitae. The Board may provide feedback to the President, through the Corporate Secretary, within 14 calendar days.~~

## B. 2019 PPM Rules of Procedure and Attachments

**6.1.1.** The submission includes the following information:

[...]

(e) ~~Direct and material~~ Potential or actual adverse environmental or social issues to be addressed.

**6.6.2.** The PPM explores with the concerned parties mutually acceptable dispute resolution methods and ~~may should~~ hire appoint professional dispute resolution and subject-matter specialists to facilitate the dispute resolution process, ~~who may be externally hired. The facilitator should be appointed based on mutual consent of the parties.~~ This process may include consultative dialogue, information sharing, joint-fact finding, creation of a mediation mechanism or other methods. The PPM coordinates and guides the parties during the agreed dispute resolution process.

**6.7.2.** Under this procedure, the PPM assesses whether: [...]

(b) A ~~direct causal~~ link exists between the adverse impact and alleged AIIB noncompliance with the ESP.

~~(c) The alleged adverse impact is material.~~

**6.7.3.(c)** Recommendation ~~regarding compliance review to the Board.~~ Within thirty (30) Working Days following its receipt of Management's response, the PPM determines whether the submission meets the additional eligibility requirements applicable to Compliance Reviews set out in Section 5.2 (Additional Eligibility Criteria for Compliance Reviews) and decides whether to recommend ~~that the Board approve the~~ commencement of the Compliance Review. This decision is based on information in the submission, Management's response and additional information obtained during site visits, from the Board Director representing the Member concerned and any local authorities or agencies involved in the Project. ~~The PPM will recommend a compliance review when upon preliminary consideration, it appears that the Project may have caused, or may be likely to cause, direct or indirect and material harm to the Requesters (or, if different, the relevant Project-affected People); and there is an indication that AIIB may not have complied with the relevant policies and procedures. The PPM may decide that another course of action in lieu of a Compliance Review is appropriate. In such a case, it also decides whether approval by the Board of Directors of such course of action is required.~~ The PPM does not make any definitive findings on issues of compliance or the adverse impact suffered by the Project-affected People at this stage. Any definitive findings are made in the final Compliance Review Report.

**6.7.3.** (l) Assessment of Impact can be a Complex Matter. The Project-specific task force takes the without-project scenario as the base case for comparison, taking into account any available baseline information. Nonaccomplishments and unfulfilled expectations that do not generate a material deterioration compared to the without-project scenario are not considered as a **material** adverse impact for this purpose. As the assessment of **material** adverse impact in the context of the complex reality of a specific Project can be difficult, careful judgment on these matters by the Project-specific Task Force, and guidance from the ESP, are required. ~~Issues of causation also require careful attention and exercise of judgment to determine if the impact in question is partially or wholly caused by noncompliance.~~

**11.3 Legal Advice.** The General Counsel, as the legal advisor to AIIB, advises MD CEIU, as needed, on matters related to the PPM. In providing legal advice to the PPM, the General Counsel ensures that there is no conflict of interest or, should a conflict of interest arise, adequately manages the conflict so that the PPM can properly discharge its obligations on the basis of independent legal advice. ~~Where the General Counsel determines that, in order to inform his/her advice, the assistance of external counsel is required, the General Counsel appoints the counsel following AIIB's standard procedures for hiring external counsel. If MDCEIU considers the proposed choice of external counsel to be inimical to the functioning of the PPM, the General Counsel discusses alternative choices of external counsel with MD-CEIU with an aim to reach a mutually agreeable solution.~~ The MD CEIU may also seek external legal advice on a submission, query, grievance, grievance-related matter or with regards to any matters considering the PPM. The Board of Directors will have the authority to interpret the policy and rules of procedure.

**11.4. Outreach, Training and Learning.** In addition to the PPM's function of handling submissions, it performs outreach, learning and training functions. ~~The outreach function raises awareness of the opportunities it provides with Clients and other stakeholders that may be interested in, or affected by, AIIB-financed Projects.~~ The outreach function's primary purpose is to ensure people affected by AIIB-financed projects are aware of the PPM's existence and how to access it if they feel they have suffered harm. The training function raises awareness about the PPM with AIIB personnel. Under the learning function, the PPM collaborates with the other IAMs and MDBs and systematically captures and shares lessons learned to enhance effective implementation of the ESP. Attachment 5 below provides details on such outreach, learning and training functions.

#### **Attachment 4 Implementing Retaliation Risk Mitigation Measures**

AIIB incorporates mitigation measures for retaliation risk into its Project-financing cycle through five main steps:

**1. Risk Identification:** The PPM makes a due diligence desk review of the risk environment and potential or actual risk of Retaliation against the Requestors, in-country Authorized Representative and other persons determined by the PPM to be relevant. This review forms a routine part of submission eligibility assessment. The PPM collates and endeavors to



corroborate information from public sources, AIIB staff, international legal, financial, donor and governance institutions, NGOs and CSOs, private sector organizations, researchers, reporters, **and** the Requestors **and Authorized Representatives**. The review is documented as a restricted access report that is stored and protected within the PPM management information system. The first review report is updated as appropriate and especially if the likelihood of retaliatory risks increases, until the submission has been concluded or the Requestors and any in-country Authorized Representative indicates that confidentiality is no longer required. If the review report identifies that Retaliation may occur, MD-CEIU notifies Management and discusses any actions that Management may take to avoid increasing the risk to the safety of the Requestors, in-country Authorized Representative and other relevant persons. **Any action to be taken to address reprisals will be consulted with the Requestors, Authorized Representatives and project-affected peoples. The PPM will organize reprisal-sensitive site visits, assessing the context and planning these in consultation with the Requestors, Authorized Representatives and project-affected peoples.** The PPM, **upon assessing the risk**, may also decide to forgo a site visit if this provides these persons with greater protection against Retaliation or avoids security risks to AIIB staff and consultants involved in the site visit.

**2. Implementing Retaliation Mitigation Measures:** Following completion of the due diligence desk review, the PPM works with Management to identify Retaliation mitigation measures, if any. **The PPM will have an ability to self-initiate compliance reviews if it receives credible allegations of reprisals.** Other parties with specific expertise may also be involved in this process, but PPM retains the prerogative to implement the measures it considers necessary and feasible. These measures are specific precautionary actions and contact processes.

3. Such measures may include safer locations, methods, timing and transport for site visits, meetings and other communication; and selection and use of trusted intermediaries, interpreters, information providers, consultants and facilitators, including during Dispute Resolution. Persons approaching the PPM may also request confidentiality of their identities or information in accordance with these Rules of Procedure. Free, prior and informed consent will be required before information, digital recordings or images of Requestors can be made public by the PPM.

**4. Monitoring Risk of Retaliation:** The PPM has primary responsibility for monitoring, reviewing and updating Retaliation risk status and measures, in consultation with MD- CEIU and Management. **The PPM will maintain direct and secure channels with Requestors, Authorized Representatives and project-affected peoples to monitor their situation, verify information independently, develop protocols to urgently respond and mitigate reprisal risks. The PPM should let the affected communities know of available avenues within the AIIB, such as Management and board members, to raise retaliation risks.** Information, identities and findings may be shared on a confidential basis with co-financiers to enhance the response against Retaliation, provided the Requestors and any in-country Authorized Representative has given specific consent. Retaliation risk monitoring requires the risk identification report to be updated and contact maintained with the Requestors and the in-country Authorized Representative, particularly after site visits or other meetings.

**5. Responses to Retaliation:** If PPM monitoring or other information indicates that Retaliation has occurred despite precautionary measures, the PPM endeavors to communicate with the Requestors and in-country Authorized Representative to understand and corroborate the facts. The PPM then presents a Retaliation incident report to the President, Management, and the Board of Directors. The PPM and Management then attempt to implement any planned response developed with the Requestors and in-country Authorized Representative (where possible). **The PPM will be able to recommend immediate temporary measures, such as temporarily suspending financing or project operations, upon consultation with Requestors, Authorized Representatives and project-affected peoples involved. The PPM will also be able to recommend consequences for clients that engage in retaliation to the Management and Board of Directors, such as public statements denouncing the action, divestment or disengagement, inclusion in debarment lists, and will be able to monitor how its recommendations are being implemented. Redress measures should be determined by those who faced the retaliation, as well as their communities, be proportional to the gravity of the violations and harm suffered, and restore victims, families and communities to their pre-violation condition.**

The AIIB will allocate necessary resources to an independently-managed fund to provide emergency assistance to Requestors, Authorized Representatives or project-affected peoples facing reprisals, which can be used for medical care, bail and legal fees, among others. The PPM will also facilitate necessary support to Requestors, Representatives and project-affected peoples by connecting them to trusted organizations, protection groups, and multilateral institutions.

**6. Improving Responses to Retaliation:** The PPM will develop a directive for its staff on how to assess, prevent, mitigate and respond to reprisal risks. The PPM will also allocate resources to develop capacities of staff and hire independent consultants to improve its expertise in responding to retaliation. The PPM will work with the Independent Accountability Mechanisms Network, a professional association of IAMs, and other groups to advance development of approaches to effective reduction and management of Retaliation against Project-affected people. This may include developing an incident database and related information exchange measures, including naming of agencies or clients involved in Retaliation. The PPM learning function will also routinely capture and incorporate emerging good practices for mitigating the risks of Retaliation. **The PPM will publicly disclose reports, with statistical information and disaggregated data, on the cases of retaliation they have encountered. The report should include the kind of reprisal, sectors involved, countries where these took place, and responses of the bank.**

#### **Attachment 5:**

2.1.2. Including links to the PPM website on AIIB's website, and working with Management to encourage the Client to develop and maintain a dedicated website for each Project, including a

link to the PPM website. Links to the Client's site are made available on the PPM website. The PPM will work with Management to ensure the Client discusses the PPM's existence and how to access it with project affected people in the course of the stakeholder consultation process and discloses such information at the project site in a culturally appropriate and gender sensitive manner and format accessible to project affected people, including at sub-projects financed via financial intermediaries. Pamphlets in national or official languages, community notice boards, audiovisual materials, or other appropriate and effective means will be used to inform people. This should include information on how to access the PPM, the option for confidentiality and anonymity, and the available avenues to approach in instances of reprisals.

The PPM will conduct periodic project site visits to monitor the implementation of this requirement.

**Attachment 5: 3.2 [...]** The PPM will report to the Board the lessons learned from the outcomes of the reviews from cases handled by co-financier's IAMs. These reports include recommendations for reconsideration of relevant AIIB operational policies and procedures to ensure the effective implementation of the ESP and will be published on the PPM website within five (5) calendar days of it being submitted to the Board.