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**Policy Framework for Environmental and Social Safeguard Compliance and
the Grievance Redress Mechanism of Overseas Investment and
Financing Projects by Chinese Financial Institutions**

Prepared by Xia Li

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This country policy framework (revised version) is prepared and revised by consultants of the Asian Development Bank (ADB) according to the comprehensive regional policy framework for environmental and social risk compliance and grievance mechanisms drafted by the Office of the Compliance Review Panel, ADB, and in combination with feedbacks from the seminar held in Beijing on 19 May 2019 as well as the current situation of the People's Republic of China (PRC). The outcomes of which can provide a basis or reference for financial institutions in PRC to formulate similar safeguard policies or policy frameworks.

The views expressed here do not necessarily reflect the views and policies of the Asian Development Bank (ADB), its Board of Directors, Management, or staff. This paper is subject to formal revision and correction before it is finalized and considered published.

Abbreviations

CCI	-	Chief Compliance Inspector
PSO	-	Problem-Solving Officer
CRO	-	Complaint Receiving Officer
DRS	-	Dispute Resolution Service
IFC	-	International Financing Corporation of World Bank Group
IFI	-	International Financing Institution
IRM	-	Independent Redress Mechanism
PAPs	-	Project-affected Persons
RAP	-	Remedial Action Plan

Working Paper

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I. INTRODUCTION

A. Background

1. The financial sector has cross-cutting direct or indirect impact on all sectors and economic activities. International Financial Institutions (IFIs) hold the view that their financial sector assistance in investment and financing has often contributed to public and private sector development and enhanced access to finance in developing member countries. Lending through Financial Intermediaries¹, such as commercial banks, private equity funds, or credit agencies, has surged in recent years. According to a study of Oxfam International and other internationally influential civil society organizations (CSOs) in 2016, the International Finance Corporation (IFC) of World Bank Group provided more than USD 50 billion in lending through financial intermediaries (FIs) in the 6 years before 2016.

2. The environmental and social risks and adverse impact of investment and financing projects from the FI's portfolio depend on several factors such as contextual risk associated with the country and region where the financial institution operates, the specific environmental and social circumstances of individual activities carried out by its borrowers or investees, and the performance of the financial institution and its borrower in managing those risks. And while the tenor of financing influences the financial institution's leverage in applying environmental and social requirements (particularly within the loan period), it does not change the underlying environmental and social risks and impact of investments supported. For example, activities like support for the capital market, short-term financing, risk-sharing guarantees, investments in private equities, and on-lending through other second-tier financial intermediaries have environmental and social risk profiles and levels of influence different from those of traditional direct investments. These risks and constraints are often heightened by factors such as lack of transparency, a profit-maximizing corporate culture, weak institutional capacity and commitment to managing environmental and social risks and impact, and the absence of an effective compliance and complaint redress mechanism framework.

3. As of December 2018, 94 financial institutions of 37 countries in the world, including commercial banks, financial groups, export credit institutions, development financial institutions, etc., have adopted the *Equator Principles*², with their financing share accounting for over 70% in emerging markets. Due to a wide applicability, the financial institutions adopting the *Equator Principles* are not only from developed countries, but widely distributed in developing countries³. The *Equator Principles* has been lauded for integrating social and environmental assessment practices into project assessments. However, critics rightly point out that in order for the *Equator Principles* to contribute to sustainable development, fundamental implementation efforts must take place. A study by the United Nations Environment Programme (UNEP) confirms this view and suggests that the *Equator Principles* are adopted mainly for reputational risk management and does not have significant impact on the environmental and social sustainability of projects.

4. Citibank, N.A.: Applying the *Equator Principles* in a wider scope, covering corporate business, investment banking, private business and other fields. As one of the initiators of the *Equator Principles*, Citibank, N.A. has systematically established a risk management system based on the

¹ The term "financial intermediary" refers to a variety of financial institutions such as universal banks, investment banks, private equity funds, venture capital funds, microfinance institutions, and leasing and insurance companies. Non-bank financial intermediaries comprise a mixed bag of institutions, ranging from venture capital companies to various types of contractual savings and institutional investors like pension funds, insurance companies, and mutual funds.

² Qian Lihua, Lu Zhengwei: Interpretation on the Framework and Main Contents of Equator Principles, <http://greenfinance.xinhua08.com/a/20190228/1801080.shtml>

³[Observations] Three Patterns and Typical Cases of the Equator Principles Practices of Financial Institutions, WeChat public account of *China Banking*, July 2019

“corporate citizen” concept, as well as an improved Environmental and Social Risk Management (ESRM) System, to guide the business of commercial banks and investment banks, realizing full coverage of ESRM standards in all banking units. A drafter of the *Equator Principles* - Barclays has also formulated the environmental and social impact assessment (ESIA) policy for its businesses worldwide, especially the ESIA business required by laws of the place where the project is located. Barclays will carry out these ESIA businesses in strict accordance with the ESIA policy.

5. The Standard Bank Group applies the *Equator Principles* (EP) in investment banking, corporate finance, retail, wealth management, etc. The Standard Bank Group is the largest bank in Africa and announced to be one of the EP FIs in 2009. As a member of the Banking Association of South Africa, the Standard Bank Group regulates the conduct of environmental and social risk management and acts on this regulation. Specifying that financial institutions are obliged to protect, promote and realize the coordinated development of the society, environment and economy, the regulation covers banking operations, procurement, financing business, products and services, setting up a benchmark for effective risk management. In 2017, the Standard Bank Group scaled the environmental and social impact assessment system to its investment banking, corporate finance, retail, wealth management and other businesses. In order to properly screen, manage and monitor environmental and social risks in the whole business process, the Standard Bank Group established a risk management system that includes the environmental and social risks as an important part of the credit, management and review process, to define a business scope covering environmental protection, green, low-carbon and climate-friendly areas and generating social benefits.

6. Following an official commitment in October 2003, Mizuho Bank became the first financial institution in Asia that adopts the *Equator Principles*. The screening table of environmental impacts developed by Mizuho Bank by referring to the performance criteria and *Environmental, Health and Safety (EHS) Guidelines* of the International Financing Corporation of World Bank Group and considering the development of green finance in Japan as well as own development situation selected 38 sectors directly related to Mizuho Bank’s business from 63 sectors in the EHS Guidelines. These sectors not only include common sectors in *General EHS Guidelines*, but the sectors not covered in the EHS such as nuclear energy. After screening, Mizuho Bank will review Categories A & B projects specified in the *Equator Principles* according to different sector criteria, to comprehensively learn about the social and environmental responsibilities of project financing, and investigate its capital cost, financing method, project location, etc., and determine whether these projects can be incorporated into the scope of *Equator Principles*. If the financing projects can be included in the *Equator Principles*, the Business Department of Mizuho Bank will determine the project level from multiple dimensions of project scale, project location and its impact on the society and environment, prepare a report and submit it to the Sustainable Department Office. The Sustainable Department Office will forward the report to the project review department for financing loan review.

7. In 2008, the Industrial Bank of China adopted the *Equator Principles*, making it the first financial institution adopting the Principles in China. The Industrial Bank manages the environmental and social risks of eligible projects according to the requirements of *Equator Principles* and scales it to five industries with excess capacity. The *Policy of Environmental and Social Risk Management* released by the Industrial Bank as the principle, guidance, programmatic document for environmental and social risk management across the Bank, with reference to the environmental and social risk management methods and tools of the *Equator Principles*, covers such contents as guidelines, statements and commitments, responsibilities and institutions, applicable standards, management measures, management procedures and information disclosure.

8. With the progress of the “going global” strategy and the Belt and Road Initiative (BRI) across the board, China, as a major developing country, has been growing rapidly in terms of outbound

direct investment since 2000. The statistics of the Ministry of Commerce and the State Administration of Foreign Exchange of the People's Republic of China show that, China's outbound direct investment across the sector has amounted to CNY 859.14 billion (equivalent to USD 129.83 billion) throughout 2018. Among them, the non-financial outbound direct investment of investors in China has reached CNY 797.4 billion (equivalent to USD 120.5 billion), covering 5,735 foreign companies in 161 countries and regions.⁴

9. The BRI has brought great opportunities for the development of China's outbound investment and financing. However, the growth of outbound investment and financing activities was accompanied by increasingly prominent environmental and social risks. From some typical cases greatly concerned by the international community including the CSOs⁵, for example, the Myanmar Myitsone Hydropower Project and Letpadaung Copper Mine Project, we can see huge challenges facing BRI countries in managing the environmental and social risks of the investments and financing projects. No overseas investment enterprises of China with business in BRI countries will afford ignoring these challenges or be able to address such challenges alone. In addition to meeting basic requirements such as local policies, regulations and standards, the investors should take the key concerns and appeals of shareholders into consideration and carry out investment and financing business by benchmarking good international practices, the *Equator Principles* and other higher standards, so as to mitigate the emerging environmental and social risks.⁶

10. In order to strengthen the control over environmental and social risks in overseas investment and financing projects, as well as guide and boost the development of green finance, financial institutions in China (hereinafter referred to as "financial institutions") have input a lot in development strategy, management framework, policy system, business process, product service, internal control compliance and many other aspects, while sticking to the green finance concept, achieving fruitful results in driving the development of green credit. In February 2012, the former China Banking Regulatory Commission issued the *Green Credit Guidelines*, putting forward specific suggestions and requirements for financial institutions to carry out green credit business and enhance environmental and social risk management, covering the contents such as organization management, policy system and capacity building, process management, internal control management and information disclosure.⁷ In 2014, the former China Banking Regulatory Commission issued the *Key Performance Indicators of Green Credit Implementation*, aiming at guiding the financial institutions to actively evaluate the development of green credit and monitoring the dynamics of their green credit development⁸. In order to further standardize the overseas investment and financing activities of China's financial institutions, the former China Banking Regulatory Commission issued the *Guiding Opinions on Standardizing Banking Service Enterprises Going Global and Strengthening Risk Prevention and Control* in January 2017. The *Guiding Opinions* put forward five specific requirements for the environmental and social risk management of financial institutions engaged in overseas investment and financing activities, including strengthening the awareness of environmental and social risk management, the whole process management of environmental and social risks, the protection of legitimate rights and interests of local communities, communication with stakeholders, information disclosure and so on.⁹

11. Although the financial institutions in China have formulated series of incentive policies to guide

⁴ Website of the Ministry of Commerce. <http://www.mofcom.gov.cn/index.shtml>.

⁵ Tang Dingding. *Actively Advance the Compliance and Accountability system, Promote the Green Development inside Financial Institutions in China*.

⁶ Ye Yanfei, Wang Qingrong and Song Xiangyu: Practice of the Environmental and Social Risk Compliance Review and Accountability Mechanisms of International Multilateral Financial Institutions and Experience China Can Learn. *China Banking*. January 2, 2019

⁷ Website of China Banking Regulatory Commission. <http://www.cbrc.gov.cn/index.html>.

⁸ Website of China Banking Regulatory Commission. <http://www.cbrc.gov.cn/index.html>.

⁹ Website of China Banking Regulatory Commission. <http://www.cbrc.gov.cn/index.html>.

the management of environmental and social risks in overseas investment and financing projects and achieved certain progress, there are still large gaps between these financial institutions and international multilateral financial institutions, including some bilateral international development institutions such as JBIC, AFD and DEG, in terms of the environmental and social safeguard compliance of infrastructure investment and financing projects. Specifically, the information disclosure and transparency of overseas investment and financing projects was insufficient; relevant financial institutions and enterprises failed to fulfill environmental and social responsibilities and lacked communication; the banking and financing institutions didn't establish the environmental and social risk assessment and compliance management system for overseas investment and financing projects; the supervision authorities for overseas investment and financing projects didn't provide guidance or propose requirements for the complaint, mediation and remedial mechanism targeted at environmental and social risks; and the overseas investment and financing institutions didn't establish a pool of international professional talents with enough knowledge of international rules and proven communication skills.

12. In order to better serve the development of the BRI, standardize the environmental and social risk control and compliance supervision of the financial institutions in overseas investment and financing projects and build a good image as a responsible power, the Chinese government advocated to promote the green development of the BRI and initiated the International Coalition for Green Development on the BRI participated by more than 100 important institutions at home and abroad, at the Second Belt and Road Forum for International Cooperation on April 25, 2019¹⁰. Moreover, 27 IFIs from 12 countries and regions in the world signed up to the *Green Investment Principles for the Belt and Road* in Beijing¹¹. The Principles emphasized to put the low-carbon and sustainable development on the agenda of BRI construction based on existing initiatives of responsible investment, in a bid to improve the environmental and social risk management level of project investment, promote green investment in BRI countries, and strongly elevate the environmental quality and address climate change, while meeting the huge demands of BRI countries for infrastructure development. To sum up, it's necessary for China's financial regulators to step up efforts in construction of a policy framework for environmental and social safeguard compliance and the grievance redress mechanisms in the context of the BRI, and jointly build a diverse, inclusive and sustainable BRI green investment and financing system by integrating the high-quality, high-standard, affordable and sustainable principles as well as the *Equator Principles* and good international practices into the infrastructure investment and financing projects in BRI countries, which are also a major step taken to implement the green BRI.

B. Experience of International Financial Institutions (IFIs)

13. The experience and good practices of international multilateral financial institutions including the World Bank, Asian Development Bank (ADB), European Investment Bank (EIB) and Asian Infrastructure Investment Bank (AIIB), as well as of international bilateral financial institutions including the German Investment and Development Corporation (DEG), French Development Agency (AFD), Japan Bank for International Cooperation (JBIC) and Overseas Private Investment Corporation (OPIC) of United States show that independent safeguard compliance and compliant mechanisms often contribute to improved environmental and social outcomes and development effectiveness, and enhance a project's response to the concerns of project-affected persons (PAPs) by complementing the IFI's project supervision and monitoring efforts for project quality control.

14. The evaluation report of CSOs acknowledges that PAPs are generally better off than they

¹⁰ Dialogue between China and Foreign Countries: The Eye-catching Green Belt and Road Initiative, <https://www.chinadialogue.net/article/show/single/ch/11212--Green-Belt-and-Road-in-the-spotlight>

¹¹ 27 IFIs signed up to the *Green Investment Principles for the Belt and Road*. <http://greenfinance.xinhua08.com/a/20190426/1821954.shtml>

would be without a complaint mechanism. At the same time, the evaluation conclusion points out that the outcomes rarely provide adequate response to and remedy for the harm experienced by persons affected by the project. The IFIs' own independent compliance reviews, with a focus on lessons learned from having dealt previously with complaint mechanisms, have also identified several challenges in maintaining an effective complaint mechanism. The following discussion highlights IFI experience with compliance and complaint mechanisms and summarizes the findings from some compliance reviews.

15. A study in 2012 by the Independent Complaint Mechanisms Network examined 262 valid complaints involving environmental and social risks from 72 countries¹². These complaints pertained to development projects in both the public and private sectors and the most common issue fields raised in these complaints concerned: (i) project due-diligence and supervision efforts; (ii) consultation and disclosure practices; and (iii) adverse socioeconomic impact on people and the environment.

16. The Complaint Advisor Ombudsman (CAO) of the IFC audited 188 investment and financing projects related to the IFC's 63 financial intermediary clients in 2013. The audit highlighted some of the challenges faced by the IFC and financial intermediaries in complying with the applicable environmental and social performance standards. The following recommendations from this audit give an overview of challenges faced by the IFC and its financial intermediary clients: (i) financial intermediaries need a tailored and detailed environmental and social management system (ESMS) to identify and manage environmental and social risks; (ii) the ESMS must be adequately resourced and have senior management commitment; (iii) financial intermediaries should work with clients to implement project-level grievance mechanisms; (iv) financial intermediaries should use independent third-party consultants to assess and supervise projects with complex environmental and social risks; and (v) financial intermediaries need an adequate framework for redressing the grievances of PAPs.

17. A study in 2014 by the Independent Evaluation Department of the ADB reviewed over 60 investment and financing projects¹³ of financial intermediaries approved from 2007 to 2012. The study raised the following three key issues:

- (i) Over half of the ESMSs reviewed lacked adequate due-diligence procedures related to screening and categorization, analysis of environmental and social risks and institutional capacity, supervision, and reporting.
- (ii) The quality of safeguard monitoring reports from financial intermediaries was rather variable. According to the study, over half of the reports reviewed were not satisfactory. None of the reports from private sector projects supported through financial intermediaries were disclosed.
- (iii) ADB's due diligence related to an assessment of the environmental and social risks and impact of financial intermediary's portfolio, and improvements needed in safeguard implementation capacity.

18. BankTrack, a global network of CSOs in the financial sector, advocates the creation of an independent body within the Equator Principles Association to audit the performance of participating banks, and report on compliance as well as noncompliance. A recent research study by Inclusive

¹² Independent Accountability Mechanisms Network. 2012. Civil Society Engagement with the Independent Accountability Mechanisms: Analysis of Environmental and Social Issues and Trends. [2012 IAM Network Report](#).

¹³ Asian Development Bank. *Safeguards Operational Review: ADB Processes, Portfolio, Country Systems, and Financial Intermediaries*. Manila. 2014.

Development International and Oxfam challenges¹⁴ five arguments that the IFC has put forward to justify limiting its responsibility for the environmental and social risks and impact of these investments.

19. Moreover, a 2012 study¹⁵ by a group of CSOs identified the following five key issues: (i) the failure of IFIs to leverage positive changes in the environmental and social risk management practices of financial intermediaries; (ii) conflicting priorities, as financial intermediaries often make profit-motivated investment decisions; (iii) little or no transparency in sharing information about environmental and social risks, and poor grievance redress measures for PAPs; (iv) weak institutional capacity of financial intermediaries; and (v) inadequate due diligence by IFIs.

C. Compliance and Grievance Policy Framework

20. For the reasons discussed above, an effective compliance and grievance redress mechanism framework for overseas investment and financing projects is greatly needed among financial institutions to (i) ensure that the stated commitment and strategies they have adopted for environmental and social risk management do not remain on paper; and (ii) provide access to persons who have been affected or are likely to be affected by the environmental and social risks and impact of investment and financing activities financed, so that the financial institutions can work toward a swift resolution of their grievances and continuously improve relevant policies and their working procedures.

21. The financial institution's compliance and grievance redress mechanism is a "last resort" for project-affected communities and persons, as well as the last resort for the response to and redress of complaints from PAPs. Irrespective of funding source, the project implementing agencies and related financial institutions must make a last-ditch effort to strengthen and improve project design and implementation, including the project-level grievance redress mechanism, to avoid and minimize adverse impact on the community and people and redress the legitimate concerns of PAPs as these arise. The compliance and complaint mechanism means not only being responsible for actions but also ultimately being answerable for those actions taken (or not taken) and the resulting outcomes.

22. On the basis of summarizing the investment and financing activities carried out in foreign countries and the lessons learned for years, financial institutions in China have gradually realized that the effective management of environmental and social risks will not only help avoid potential investment risks and ensure the sustainability of the project but will be conducive to building a good international reputation. With the proposal of the green BRI, the establishment of an effective compliance and grievance policy framework during the implementation of overseas investment and financing projects, especially the BRI projects by China's financial institutions has become more urgent than ever. The goals include: (i) ensuring the implementation of commitments and strategies for environmental and social safeguard management, including for climate change; and (ii) providing necessary assistance to individuals or communities affected by or likely to be affected by environmental and social risks brought by the investment and financing activities.

23. Based on good international practices and China's current situation, this document provides further discussions on the policy framework of the compliance and grievance redress mechanism mentioned above from the following two aspects. The first part highlights to comply with the

¹⁴ Inclusive Development International and Oxfam, 2016. *Owning the Outcomes: Time to Make the World Bank Group's Financial Intermediary Investments More Accountable. Briefing Note.* October.

https://www.oxfam.org/sites/www.oxfam.org/files/file_attachments/bn-ifc-owning-outcomes-031016-en_0.pdf

¹⁵ Oxfam and Center for International Environmental Law (CIEL). 2012. *Risky Business: Intermediary Lending and Development Finance.* https://www.ciel.org/wp-content/uploads/2015/06/RiskyBusiness_English_US.pdf.

environmental and social safeguard policy framework applicable to overseas investment and financing projects by Chinese financial institutions. These compliance requirements and important principles proffer the basis for financial institutions to formulate relevant policies or work procedures, while the second part suggests to establish a policy framework for the acceptance, response and remedy of grievances. The compliance and grievance policy framework only provides general policy recommendations for China's financial institutions. The financial institutions can select, adjust or modify relevant contents of the framework according to own conditions and business needs.

D. Vision and Goals

24. By learning from good practices of IFIs and combining the requirements of green BRI policies issued by the Chinese government as well as the *Green Investment Principles for the Belt and Road*, the vision and goals of the Policy Framework for Environmental and Social Safeguard Compliance and Grievance Redress Mechanisms of Overseas Investment and Financing Projects of Financial Institutions in China (hereinafter referred to as the "Framework") aim to:

- (i) promote the social development and inclusive growth of local communities in the host countries of overseas investment and financing projects, including their customs and traditional cultures;
- (ii) integrate the environmental and social safeguard compliance and complaint mechanism into the decision-making process of investment and financing projects, advance the construction of an information disclosure and policy transparency system, improve the project sustainability, and achieve the balance between economic, environmental and social benefits;
- (iii) contribute to realizing the goals of the UN's *2030 Agenda for Sustainable Development* and other multilateral framework agreements, including the goal proposed by the *Paris Agreement* to keep the increase in global average temperature to well below 2 °C above pre-industrial levels and to pursue efforts to limit the temperature increase to 1.5 °C above pre-industrial levels;
- (iv) facilitate the early risk identification, process supervision and late evaluation of investment and financing projects from the mechanism level; and help financial institutions in China banking to maintain a good reputation, and promote the relationship advocated by the Belt and Road Initiative for bringing amity, security and common prosperity to our neighborhood and enhancing people-to-people bonds.

E. Scope

25. The Framework applies to overseas cooperation projects financed by Chinese financial institutions with the legal person status (including policy/development banks and commercial banks established within the territory of the People's Republic of China, as well as financial intermediaries such as private equity funds or credit institutions). If the financial institution considers that relevant requirements of the host country of the investment and financing project, including policies, regulations and standards, are more stringent than those under the policy framework, the financial institution should require its clients and related investment and financing project parties to comply with more stringent ones.

II. KEY PRINCIPLES OF ENVIRONMENTAL AND SOCIAL SAFEGUARD COMPLIANCE

26. **Screening and categorization.** The financial institution will review the content of each of its proposed projects, early in the investment and financing project cycle, to identify the potential

environmental and social risks and impact associated with those projects and to determine the nature and level of the required environmental and social review and assessment, the type of information disclosure, and the process of stakeholder engagement for the projects.

27. The financial institution will classify the investment and financing project into one of the four categories described below, taking into consideration its nature, location, sensitivity, and scale, and determine the applicable safeguard compliance requirements that are commensurate with the significance of the potential environmental and social risks and impact. As needed, it may also conduct a field-based review of the project to collect more information. The project's category will correspond to the category of the project component presenting the highest environmental and social risk, including direct, indirect, cumulative, and induced impact, as relevant, in the project area. In cases where environmental and social assessment work may already have been done for the project, the financial institution will review the past work and, in consultation with the client, determine whether any additional environmental or social assessment is required.

- (i) A Category A project is likely to have significant adverse environmental and social impact that is significant, irreversible, diverse, or unprecedented; may affect an area larger than the sites or facilities; and may be temporary or permanent in nature. The financial institution will require the client to conduct an environmental and social impact assessment (ESIA) or equivalent assessment to look into the project's potential environmental and social impact, positive or adverse; compare it with the impact of feasible alternatives (including the "without project" situation); and design measures to avoid, minimize, mitigate, or compensate for adverse impact and improve the environmental and social performance of the project.
- (ii) A project is assigned to Category B if its potentially adverse environmental and social impact is likely to be limited and confined to the project area; is not significant or unprecedented, irreversible; and can be successfully managed through good design and implementation practices. The financial institution, in consultation with the client, will determine the appropriate instrument (narrower in scope than the Category A ESIA) with which the client can assess the project's environmental and social risks and impact, on a case-by-case basis. The assessment, similar to that for a Category A project, will examine the project's potential negative and positive environmental and social impact and recommend measures needed to avoid, minimize, mitigate, or compensate for adverse impact and improve the environmental and social performance of the project.
- (iii) A Category C project is likely to have minimal or no adverse environmental and social risks and impact. While an environmental and social assessment is not required, the client must conduct a review of the environmental and social implications of the project.
- (iv) A Category financial intermediary project involves the provision of funds to or through another financial intermediary, with the financial institution delegating to the related financial institution all decision making regarding the use of its funds, including the selection, appraisal, approval, and monitoring of subprojects funded. The financial institution will require the related financial institution to screen and classify subprojects financed with funds from the financial institution as Category A, B, or C, using the criteria stated above; conduct relevant due-diligence reviews; and monitor the environmental and social risks and impact associated with the subprojects, all in a manner consistent with the financial institution's own environmental and social requirements.

28. **Environmental and social due diligence.** The financial institution will conduct environmental and social due diligence as an integral element of its appraisal of the proposed project, to support the process of deciding whether to finance the project or not. The environmental and social due-

diligence process will be carried out in a manner that is appropriate to the nature and scale of the investment and financing project; and proportional to the project's potential environmental and social risks and impact. The due-diligence process may involve both field-based and desk review by the financial institution's environmental and social specialists, with possible supplemental work by independent consultants or investigation by an independent and impartial third party entrusted. The financial institution and the third party shall jointly bear the legal responsibility of this link. Key objectives of the due diligence, which should be proportional to the potential environmental and social risks and impact, will be to determine whether the client or the project implementing agency (i) has identified all key environmental and social risks and impact and incorporated effective measures to avoid, mitigate, and manage these successfully; (ii) possesses the required institutional commitment and capacity to manage the project's environmental and social risks and impact satisfactorily, or has made arrangements to strengthen its execution capacity; and (iii) has engaged in meaningful consultations with the people affected by the project, shared all relevant information with them in a timely manner, and disclosed relevant information in accordance with the process that was agreed on earlier with the financial institution.

29. The financial institution will also (i) assess whether the project can be implemented according to the financial institution's environmental and social standards and procedures; and (ii) allocate responsibility for implementing the required mitigation and monitoring measures and consider the costs and timing of implementation. As part of the assessment, the financial institution will give special consideration to the following aspects: (i) the significance of gaps in information at the time of due diligence, the potential risks these omissions may present to complying with the environmental and social safeguard requirements, and supplemental measures that should be taken by the client to address the gaps; (ii) projects under construction or that have already been fully prepared and have received construction permits; and (iii) the need for external environmental and social experts to provide independent oversight and advise the client during the preparation and implementation of projects with potentially high or contentious environmental and social risks and impact.

30. **Environmental and social management plan.** Once the client has identified the project's risks and potential impact through the environmental and social assessment, the financial institution will require the client to develop measures for managing and mitigating the impact and to include the measures in an environmental and social management plan (ESMP). To prepare the ESMP for the project, the financial institution will require the client to (i) identify the potential adverse impact; (ii) determine what is needed to ensure that the impact is addressed effectively and in a timely manner; (iii) describe how those requirements can be met; and (iv) disclose the draft ESMP and conduct meaningful consultations with PAPs on the draft ESMP, in the manner required of it.

31. For effective ESMP implementation, the client must (i) define individual mitigation and monitoring measures, performance indicators, an implementation schedule, estimates of the investment and recurrent costs of implementing the ESMP, and assigned institutional responsibilities; (ii) integrate these measures into the project's overall planning, design, budget, and implementation schedule; and (iii) where appropriate, provide for adaptive management to address issues that may arise during project implementation. If the client has inadequate capacity to implement the ESMP, the financial institution will require the client to include and design capacity-building and-strengthening activities in the project.

32. **Grievance redress mechanism (GRM) at the project level.** The financial institution will require the client to set up its GRM, scaled to the potential risks and impact, to receive and facilitate the resolution of the concerns and complaints of individuals or communities who believe they have been adversely affected by the project's environmental and social impact. A well-designed grievance mechanism is expected so that the complainant and related institutions can address these concerns and complaints promptly, by using an understandable and transparent working

process that is gender-sensitive, culturally appropriate, and readily accessible to all PAPs. A well-functioning grievance redress mechanism will (i) protect complainants from retaliation and allow them to request confidentiality of identity; (ii) maintain a publicly accessible case register of complaints received, reports on complaints, grievance response and redress measures, including implementation results, etc.; and (iii) enable people and communities dissatisfied with the way the grievance mechanism addressed their concerns to contact the independent redress mechanism (IRM) at a higher level.

33. The project-level GRM may use or supplement existing formal or informal mechanisms if the financial institution confirms that these are properly designed, implemented, and suitable for the project.¹⁶

34. A well-functioning project-level GRM can provide an understanding of how well the project has complied with the financial institution's environmental and social requirements, especially if the environmental and social risks and impact are moderate and issues are less complex to deal with. It must be noted that the project-level GRM is not a substitute for a grievance mechanism at a higher (financial institution) level, because the grievance mechanism cannot determine whether the financial institution has complied with its own environmental and social policies, standards, and procedures.

35. The financial institution may decide to offer the client the option to use all or part of the country's or client's existing ESMS for all or part of the project if FI's review determines that:

- (i) the project operates in one of the *Equator Principles* – designated countries, or the relevant parts of the client's existing corporate ESMS can adequately address the environmental and social risks and impact of the project in a manner that is materially consistent with the objectives of the financial institution's own environmental and social safeguard standards; and
- (ii) the past performance of the client's ESMS proposed for use and the client's capacity and ability to apply the system are acceptable and will contribute to achieving the project's desired environmental and social outcomes.

36. If the financial institution allows the client to use all or part of its own ESMS for one or more specific parts of the project, the financial institution, in consultation with the client, will identify specific actions, including time frames for their implementation, required to address any identified gaps in order to achieve the project's desired environmental and social outcomes. The financial institution will conduct this review with the client and the project stakeholders and disclose its findings in a timely manner. The financial institution may also rely on reviews done by other financial institutions if it is satisfied with the quality of those reviews.

37. The client is required to notify the financial institution of any material change in its ESMS that may adversely affect the project. In such a case, if the latter determines that the change is likely to materially affect the desired environmental and social outcomes of the project, then it will require the client to take such other actions as the financial institution deems appropriate to address any potentially adverse environmental and social risks and impact. The financial institution may also apply any contractual remedies available to it under its financing agreement for the project.

¹⁶ A toolkit for project-level grievance mechanisms, published by the CAO of International Finance Corporation (IFC), provides useful guidance for small and medium-sized companies in non-extractive sectors, which often lack hands-on tools for conceptualizing, designing, and managing project-level grievance mechanisms. Grievance Mechanism Toolkit interactive website: www.cao-grm.org.

38. **Information disclosure.** The financial institution will require the client to ensure that relevant information about the investment and financing project and the environmental and social risks and impact of the project is made available in the project area in a timely and accessible manner, and in a form and language(s) understandable to the PAPs, other stakeholders, and the general public, so they can provide meaningful input in project design and implementation. According to the *Guiding Opinions of China Banking Regulatory Commission on Standardizing Banking Service Enterprises Going Global and Strengthening Risk Prevention and Control*¹⁷, for overseas investment projects with potential major environmental and social risks, an agreement shall be reached with the client in advance, and the key information, including the name of the project, names of major investors and contractors, the credit amount, the environmental impact assessment, etc., shall be properly disclosed in a timely manner.

39. To further enhance access to environmental and social information related to projects, in addition to the client's disclosure of such information, the financial institution will also disclose on its website the client's project documentation referred to above and its own review results of the use of country and corporate systems. The financial institution may adjust or defer the disclosure of the above information because of legal or other regulatory requirements or the commercially sensitive nature of the information, where premature disclosure may compromise the financial worth or competitiveness of a corporate entity or its assets.

40. **Consultation.** The consultation will cover project design, mitigation, and monitoring measures; the sharing of development benefits and opportunities on a project-specific basis; and implementation issues. The financial institution will require the client to engage in meaningful consultation with stakeholders, especially the communities and individuals that may be adversely affected during the project's preparation and implementation phases, in a manner commensurate with the risks to, and impact on, those affected by the project.

41. Consultation is normally more elaborate for a Category A project than for a Category B project. For each project with significant adverse environmental and social impact, the financial institution may assign relevant personnel to participate in consultation activities to understand the concerns of the affected persons and to ensure that the client addresses those concerns in the project's design and ESMS or environment and social management framework (ESMF), as applicable. The client is required to make a record of the consultations held and keep the record.

42. Since indigenous peoples may be particularly vulnerable to the loss of, alienation from, or exploitation of their land and access to natural and cultural resources, the financial institution will require the client, in accordance with accepted or good international practices, to engage suitably qualified and experienced independent experts to assist it in conducting free, prior, and informed communication and meaningful consultation (FPICon).¹⁸

43. **Monitoring and reporting.** The financial institution will require the client to implement the project in compliance with the ESMP or the ESMF (or both) and to furnish the financial institution with periodic monitoring reports on the client's performance under the project, including subprojects implemented by subordinate financial intermediaries. The extent of monitoring activities, including their scope and periodicity, will correspond to the project's environmental and social risks and impact.

¹⁷ http://www.gov.cn/xinwen/2017-01/26/content_5163560.htm

¹⁸ For details on FPICon, refer to World Bank. 2016. Addressing Risks and Impacts on Disadvantaged or Vulnerable Individuals or Groups. *World Bank Directive*. Washington, DC. [WB Directive Vulnerable Groups](#); World Bank. 2017. *ESS7: Indigenous Peoples, Sub-Saharan African Historically Underserved Traditional Local Communities*. Washington, DC. [WB ESS 7](#); and Asian Infrastructure Investment Bank (AIIB). 2019. *Environmental and Social Framework*. Annex, para. 61. [AIIB ESF, February, 2019](#).

44. The monitoring responsibilities of the financial institution and the client are complementary but distinct. Specifically, the client must (i) establish and maintain appropriate procedures for monitoring progress in the implementation of the environmental and social measures agreed on with the financial institution; (ii) verify compliance with these specific measures and progress toward intended outcomes and identify any needed corrective actions; and (iii) document and disclose the monitoring results.

45. While supervising and monitoring the implementation of measures addressing the environmental and social risks and impact of the project until completion, the financial institution will (i) review the periodic monitoring reports furnished by the client, to ascertain whether adverse risks and impact are being mitigated as planned and as against the client's obligations set forth in the legal agreement governing the project; (ii) advise the client on corrective measures needed to rectify any failure to comply with its environmental and social obligations; (iii) conduct comprehensive field-based reviews if the project has significant adverse environmental and social risks and impact; and (iv) prepare a completion report assessing whether the objective and desired outcomes of the project's environmental and social measures have been achieved.

F. INDEPENDENT COMPLIANCE REVIEW AND REDRESS MECHANISM

a. Overview

46. The following principles are fundamental to an effective IRM: (i) expectations are defined and understood by all concerned; (ii) decision making is rational and informed by evidence; (iii) the staff embrace grievance and criticism, which they view as a different perspective on their performance that gives them an opportunity to improve; (iv) responsibility, not just for meeting performance expectations but also for achieving the intended outcomes, is accepted; and (v) continuous improvement is institutionalized. Practice has proved, a learning organization is an important cornerstone of high performance and effective performance management.

47. The guidance below, adapted from the compliance and grievance mechanism policies of ADB and several IFIs¹⁹ and drawn from their rich experience in applying these policies, is meant to assist financial institutions in developing an effective IRM that is scaled to potential environmental and social risks and impact from its portfolio of investments. The *Accountability Resource Guide*²⁰ published by the Accountability Counsel of the international NGO is a useful document for an overview of the compliance and complaint mechanisms of relevant IFIs, especially of the information about what accountability mechanisms are, how they function, how a complaint is filed, etc. and good practices. The following discussion covers some of the essential elements and principles of designing an effective IRM.

b. Objectives and Principles

48. An IRM is intended as an independent and effective forum where people adversely affected or likely to be affected by investment and financing projects financed by a financial institution can voice their concerns and seek solutions. They may also request an independent compliance review of allegations of noncompliance by the financial institution with its stated commitment to, and

¹⁹ Asian Development Bank (ADB), Asian Infrastructure Investment Bank (AIIB), European Bank for Reconstruction and Development (EBRD), European Investment Bank (EIB), Green Climate Fund (GCF), Inter-American Development Bank (IDB), International Finance Corporation (IFC) and World Bank.

²⁰ Accountability Counsel. 2015. *Accountability Resource Guide: Tools for Redressing Human Rights & Environmental Abuses in International Finance and Development*. 8th Edition. <https://www.accountabilitycounsel.org/accountability-resources/guides/>.

policies for, managing the environmental and social risks and impact from its investment and financing projects.

49. To maintain an effective and efficient IRM, financial institutions must
- (i) be independent and transparent, and fair and equitable to all stakeholders;
 - (ii) respond to the concerns of people affected by the investments financed in a timely manner;
 - (iii) deliver just redress cost-effectively and expeditiously; and
 - (iv) complement their supervision, audit, quality control, and evaluation efforts with a meaningful contribution to environmental and social sustainability and the quality of investments financed.

c. IRM Roles and Functions

50. The IRM's main role is to try to resolve the legitimate grievances or complaints of people affected or likely to be affected by a project funded by a financial institution, through any one of the following three complementary functions:

- (i) dispute resolution services (DRS), to attempt to respond to or resolve the concerns through problem solving;
- (ii) compliance review, to investigate compliance with the applicable environmental and social risk management commitments of the financial institution; and
- (iii) advisory function, to share with the board and senior management of the financial institution the lessons learned through its DRS and compliance review functions related to broader environmental and social policies, guidelines, procedures, and strategic and systemic issues, with the aim of promoting systemic improvements in environmental and social risk management.

51. The IRM's other important role is to monitor and report back to the board on the implementation status of the agreements reached through the DRS problem-solving process, as well as of the decisions made by the board on the IRM's recommendations and the remedial action plans prepared by the management to bring the project into compliance with the financial institution's applicable environmental and social policies and standards.

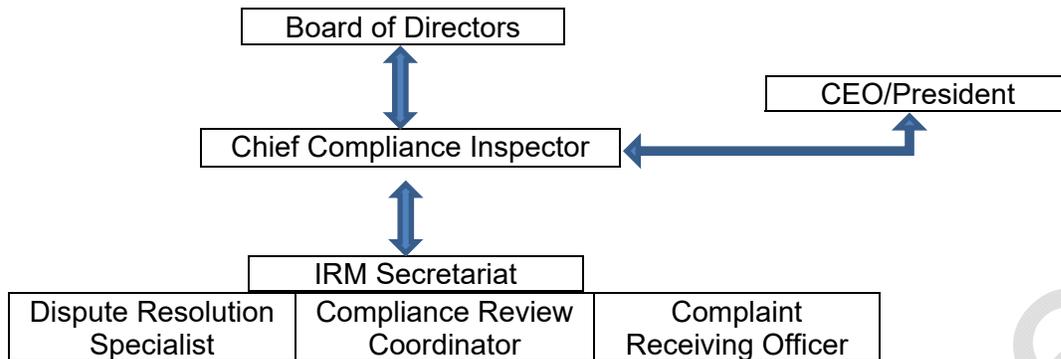
d. Complaint-Handling Governance Management Structure and Process

52. As a first step, the financial institution must define an appropriate governance structure, processes, and procedures so that the IRM can discharge its DRS and compliance review functions according to the guiding principles stated in this framework. The experience of several IFIs indicates that the IRM must be managed by an independent environmental and social risk chief compliance inspector (CCI), appointed by the board at the recommendation of the CEO or the president of FIs.

53. In view of current situation in China, the IRM office can either be a stand-alone office or be part of the financial institution's other functions like legal and compliance, financial audit, project evaluation, or risk management. However, regardless of location, the IRM must remain an independent, transparent, credible, accessible, and equitable means of addressing the grievances and complaints of the PAPs in a flexible and predictable manner.

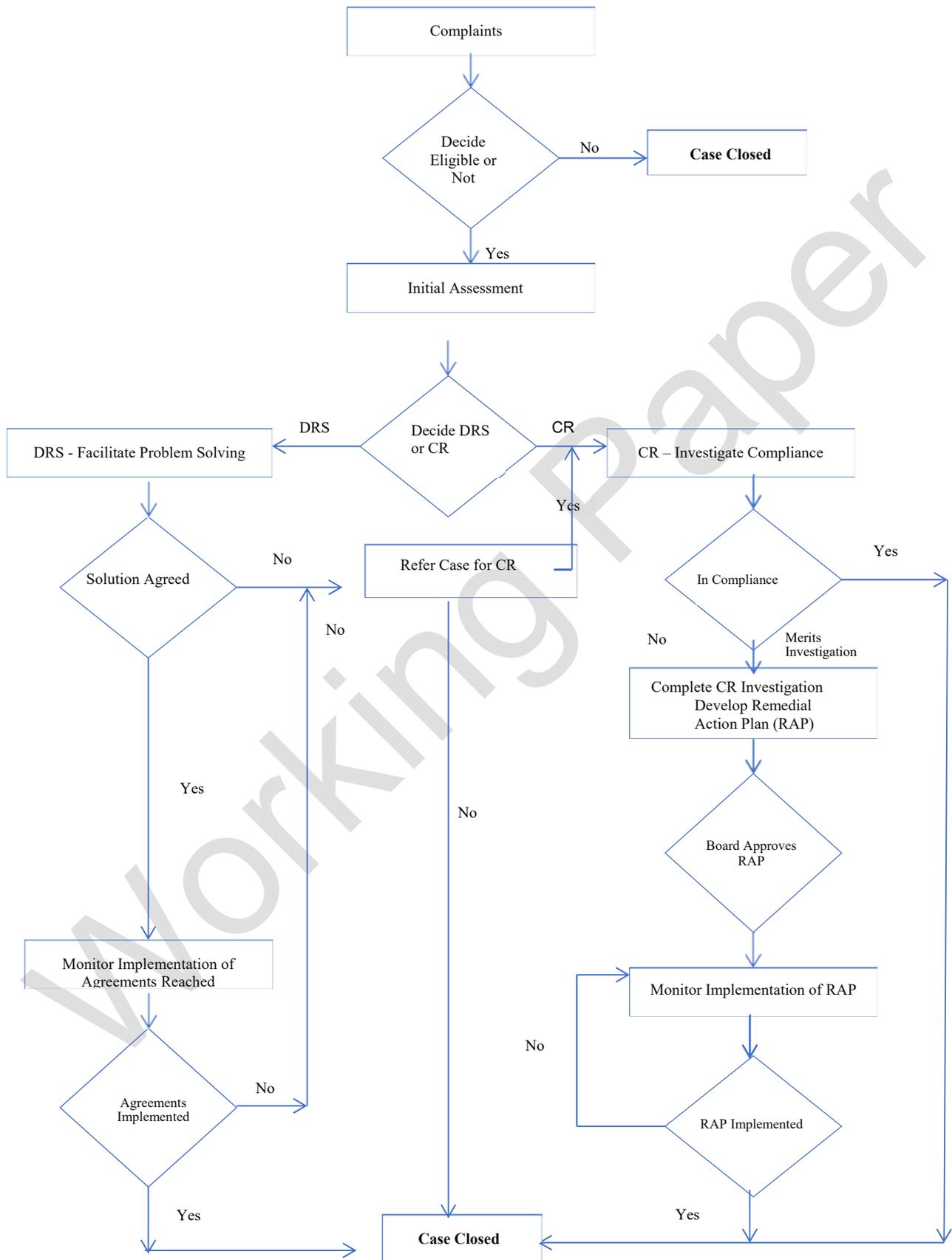
54. A possible governance structure for an IRM Secretariat within the financial institution is shown in Figure 1 and described in paras. 52 and 53, together with the key roles and responsibilities of the CCI and his/her staff. The final structure will, however, depend on the size and nature of the financial institution's portfolio and the potential environmental and social risks and impact of the investments it finances.

Figure 1: Sample Governance Structure for the IRM Secretariat in a Financial Institution



55. The IRM governance structure suggested above has the following key features:
- (i) The compliance and grievance unit will be led by Chief Compliance Inspector (CCI).
 - (ii) The CCI will be appointed by the Board at the recommendation of CEO or president.
 - (iii) The CCI will be responsible for managing all three functions — DRS, compliance review, and policy advisory.
 - (iv) The CCI will either report to the Board and keeps the CEO or president informed, or report to the CEO or president and keep the Board informed. Whichever option is chosen, the CCI must remain independent and follow through on the guiding principles stated in relevant articles.
 - (v) The CCI will submit semiannual reports to the Board summarizing its activities and distilling lessons learned from its dispute resolution and compliance review cases to improve the financial institution’s operational policies, processes and the environmental and social performance of its portfolio.
 - (vi) The IRM secretariat (or the “secretariat” in short) will have three staff members — a dispute resolution specialist, compliance review coordinator and a complaint receiving officer (CRO), who will be recruited by the CCI in accordance with the human resource policy of the financial institution. Depending on the nature, size, and diversity of the investment portfolio and the potential environmental and social risks and impact, the IRM secretariat may employ a full-time dispute resolution specialist or the CCI may instead recruit part-time consultants as and when needed.
 - (vii) The CCI will have complete authority to recruit subject matter specialists and independent consultants as needed, on a case-by-case basis. To maintain credibility and ensure objectivity and neutrality, the CCI will be an external candidate or a former employee who has not worked with the financial institution in any capacity for at least 3 years before his or her appointment. The CCI will be appointed for an initial period of 3 years, extendable by up to 2 more years. Draft terms of reference for the CCI, the dispute resolution specialist, and the CRO are given in Appendix.
56. The various steps involved in processing complaints from PAPs are shown in Figure 2 and discussed in detail below.

Figure 2: Process of Handling Complaints



e. Submission of a Complaint

57. A complaint can be submitted to the IRM by either of the following:
- (i) an individual or a group of individuals or a community affected or likely to be affected by a project funded by the financial institution; or
 - (ii) an in-country representative duly authorized by the complainant(s) to submit the complaint on behalf of those affected or likely to be affected by a project funded by the financial institution. In such cases, the IRM will facilitate the direct involvement of the complainant(s) as the person(s) affected or likely to be affected by the adverse impact of the project.

58. All complaints filed must include the following: (i) the name and complete contact information of the complainant(s); (ii) information about the investment that has caused or may cause adverse impact, and its effect on the complainant(s); (iii) evidence of authorization, if the complaint is being filed on behalf of the complainant(s); and (iv) an indication of whether the complainant requests confidentiality.

59. The complainant may also wish to provide a summary of the allegations of noncompliance; state whether efforts have been made to gain access to the project-level GRM or to the management of the financial institution to resolve the issues raised; and include additional relevant information (e.g., documents, media reports, photographs, videos) that might assist or facilitate the processing of the complaints by the IRM. A sample request form for the submission of grievances or complaints by PAPs or their representatives can be found in Appendix.

60. A complaint can be submitted in any language and through any means such as an online complaint form, mail, e-mail, voice or video recording, personal visit, short message service (SMS) or text messaging; social media options or a call to a toll-free hotline designated for that purpose by the IRM.

61. The CRO will acknowledge the receipt of the complaint and publish it on the IRM website. While processing the complaint, the IRM will ensure confidentiality to the complainant at the request of the latter.

f. Eligibility Determination of Complaints

62. After acknowledging the receipt of a complaint, the IRM will review the details received to determine whether the complaint meets all of the following eligibility criteria:

- (i) The complaint pertains to a project or investment activity that the financial institution is currently supporting or is actively considering supporting;
- (ii) The issues or grievances raised in the complaint pertain to actual, possible or potential environmental and social risks and impact of the project/investment activity; and
- (iii) The complaint is from the individual(s) or community affected or likely to be affected by the environmental or social impact mentioned in the complaint.

63. The complaint will be considered ineligible if it is:

- (i) based on a malicious, frivolous, or fraudulent grievance;
- (ii) put forward to gain competitive advantage;
- (iii) related to administration, human resources, or procurement issues; submitted anonymously; or
- (iv) pertains to matters of which the problem solving decisions have already been

made by the IRM, unless the complainant has presented new material information or evidence that was not available when the matter was previously considered.

64. During the eligibility determination phase, the IRM will allow the complainant to provide further information to meet the eligibility criteria for registration. The registration eligibility determination by the IRM is a matter of procedure and does not represent a judgment on the merits or the substance of the complaint. The IRM will inform the complainant of its registration eligibility determination, including the reasons for it.

65. If the IRM finds the complaint ineligible for registration according to the criteria listed in the framework, it will take no further action concerning the complaint and will inform the board, the president or the CEO and the complainant accordingly. The IRM will publish its registration eligibility determination decision on the IRM website, after redacting the information as appropriate to respect any request for confidentiality.

g. Initial Assessment

66. Once the IRM finds a complaint eligible for registration, it will conduct an initial assessment to collect relevant facts and to get a better understanding of the issues and concerns or appeals cited in the complaint. This will involve engaging the complainant, the project executing agencies, and other stakeholders, as well as making site visits as needed. The IRM will familiarize the complainant with the key differences between the DRS and compliance review functions, and with the pros and cons of choosing one over the other and ensure that the complainant makes an informed decision between the two options.

67. The IRM may, where appropriate, offer the use of its DRS to solve the problems or issues raised by the complainant, in consultation with the latter and other key stakeholders of the project. Such a consultation is essential because the DRS is a voluntary function and the participation of everyone concerned is important for developing practical and implementable solutions in a timely manner. If the complainant declines problem solving or DRS, or if problem solving becomes impractical because it is declined by any of the stakeholders, the IRM will offer compliance review services to the complaint upon request and publish its decisions on the IRM website.

h. Dispute Resolution Services (Problem Solving)

68. Problem solving is a voluntary process focused on addressing the dispute or concern that gave rise to the complaint in a way that meets the interests of the complainant and other stakeholders and is mutually satisfactory or agreed. The process seeks to identify who can take constructive problem solving action, and not to assign culpability.

69. Problem-solving processes vary in duration, depending on the nature, complexity, and scope of the issues, and other factors. The IRM will work with the parties involved to set up a reasonable timetable for the process and will strive to assist the parties in finding expeditious solutions to the concerns and problems raised.

70. If the IRM decides that meaningful progress, for whatever reason, is no longer possible, the IRM may terminate the process in consultation with the parties and after providing written notification.

71. As needed, the IRM will recruit independent dispute resolution specialists as consultants to lead or coordinate the problem-solving process. Methods that may be

used in the process include: (i) meaningful consultative dialogue; (ii) information sharing with the parties; (iii) joint fact-finding; and (iv) mediation by a neutral third party appointed by the IRM.

72. The outcome of successful problem solving will be reflected in a written agreement or a series of written agreements, as appropriate, between most or all of the parties to the problem-solving process. The parties to the agreement will implement the agreed problem-solving actions, as appropriate.

73. Agreements reached through problem solving, including their contents, will be recorded in the IRM register and published on the IRM website with the consent of all concerned. In the absence of consent, the IRM will record only the final result of problem solving, excluding specific agreement contents, and publish a notification of the agreement entered into.

74. When entering into an agreement after reaching a consensus through problem solving, the parties to the agreement will ensure that the agreement does not violate the operational policies of the financial institution, including its environmental and social standards, the host country's domestic laws, and international commitments under bilateral or international treaties or agreements to which the country is a party.

75. If problem solving does not result in an agreement, or is wholly or partly unsuccessful, the complainant may submit the portion of the complaint that remains unaddressed to the IRM for compliance review and the IRM website will be updated accordingly.

i. Compliance Review

76. When conducting a compliance review, the IRM will focus on examining whether or not the project funded by the financial institution has complied with its applicable environmental and social policies, standards, and procedures, and whether any noncompliance found has caused or may cause adverse impact on the complainant.

77. Within 14 calendar days of the referral of a complaint for compliance review, the compliance review coordinator will conduct initial assessment, prepare a preliminary assessment report after confirming the complaint meets basic acceptance requirements of compliance review and submit it to the CCI. After the CCI approves, the complaint will be sent to the president or CEO of the financial institution, with a copy to its board, requesting a management response within 21 calendar days of the submission of the request. The complaint will have been redacted as necessary to respect any agreed confidentiality arrangements and will be submitted together with information about noncompliance with the environmental and social policies and procedures of the financial institution, as provided by the complainant or identified by the IRM.

78. The management response will contain information related to (i) the allegations of noncompliance that are the subject of the complaint; (ii) steps taken to ensure compliance with applicable environmental and social standards and procedures, including those identified by the complainant or the IRM; and (iii) any response or remedial actions that the management may have taken or intends to take to ensure compliance with such policies or procedures, as appropriate.

79. Within 21 calendar days of the receipt of such response, the compliance review coordinator will carry out a compliance review registration appraisal under the guidance of the CCI, to determine whether there is initial evidence that the complainant has been affected or may be affected by adverse impact resulting from noncompliance with the applicable environmental and social standards and procedures and to ensure that

compliance investigations are initiated only for projects that raise substantial concerns regarding environmental or social outcomes. After being approved by the CCI, 1-2 independent experts may be hired as needed, to provide necessary support for the appraisal.

80. After confirming the complaint meets basic conditions for compliance review registration, the compliance review coordinator (or under the support of an independent expert) will prepare the compliance review registration appraisal report and submit it to CCI for review. The approved compliance review registration appraisal report will be shared with the complainant, the Board of Directors and CEO/President of the financial institution and disclosed on the IRM website within five days. The report needs to include the basis and preliminary evidence for registration and review, as well as the terms of reference for conducting the compliance review work.

81. If the compliance review registration appraisal finds evidence of adverse impact or noncompliance with the environmental and social standards and procedures of the financial institution, the IRM will commence a detailed compliance investigation within the scope approved by the board. If, on the other hand, no evidence of adverse impact or noncompliance is found initially, the IRM will close the case, notify the complainant, and publish the appraisal report and conclusion on the IRM website.

82. The compliance review will typically be based on a review of documents, interviews with stakeholders, expert opinion, and observation of project activities and conditions through site visits or other appropriate means. The verification of evidence is an important part of the compliance review process. The CCI is responsible for managing the process, determining the knowledge and skills required for compliance review investigations, and hiring specialists with appropriate expertise based on needs. While the CCI may seek clarification during the investigation, it will not agree to an expansion of the terms of reference identified in the appraisal report and approved by the board, without authorization.

83. After the compliance review, the IRM will prepare a draft compliance review report, typically including the following:

- (i) a summary of the grievance or complaint, and the issues raised;
- (ii) a summary of the response from the management;
- (iii) a summary of the applicable environmental and social standards and procedures;
- (iv) a description of the procedures and investigative methods followed by the IRM;
- (v) a summary and evaluation of the relevant evidence;
- (vi) the IRM's findings on the issues raised in the complaint;
- (vii) recommended remedial actions, as appropriate; and
- (viii) lessons learned and recommendations for future projects, as appropriate.

84. The CCI will share its draft compliance review report with the complainant and the management of the financial institution for their comments, if any, to be provided within 21 calendar days of the receipt of the report. The main reason for sharing the draft report is to seek feedback on statements of fact and factual findings, and on the recommendations, in the report.

85. The IRM will take the feedback received into consideration and submit a final compliance review report with its findings and recommendations, if any, to the board or CEO/president for consideration. The board or CEO/president will consider the findings and recommendations in the final compliance review report and may ask the

management to implement the report recommendations proposed by the IRM.

86. The time required for the CCI's compliance investigation will vary depending on the nature, complexity, and scope of the project, and the alleged adverse impact and noncompliance. However, the investigation should ordinarily be completed within 6 months of the publication of the IRM's compliance appraisal report on its website.

87. The IRM will share the final compliance review report with the complainant and disclose it on its website within 10 calendar days after receiving the decision of the board or CEO/president. There will be no right of appeal or another review by the complainant or anyone else regarding the final compliance review report by the IRM to the board or CEO/president or any decisions taken by the board.

j. Remedial Action Plan

88. The management will develop a draft remedial action plan (RAP), in consultation with the client and the IRM, to bring the project into compliance with the environmental and social policies, standards, and procedures of the financial institution, or to provide redress as set out in the decision of the board or CEO/president, and will have the plan approved by the CEO or the president. The approved RAP will be shared with the board and the complainant and disclosed on the IRM website.

89. The management of the financial institution will require the project executing agency to implement the relevant remedial actions under the approved RAP and within its control.

k. Oversight

90. The IRM will monitor the implementation of (i) agreements reached through DRS; (ii) the final RAP approved by the board or CEO/president; and (iii) any decisions made by the board or CEO/president regarding the IRM's recommendations. CCI will report to the board or CEO/president on the status of implementation, and on its observations and findings related to the progress in bringing the project into compliance with the environmental and social standards and procedures of the financial institution.

91. The monitoring methods used may include: (i) consultations with the complainant, the management, and stakeholders; (ii) a review of documents; (iii) access to expert opinion; and (iv) site visits.

92. Unless the board or CEO/president and the IRM specify a different timeline, the CCI will submit yearly monitoring reports on the implementation of relevant remedial measures to the board or CEO/president and make these public through its website within 5 calendar days of submission to the board or CEO/president. The monitoring time frame will be project-specific unless extended by the IRM, and will not exceed 3 years, otherwise it requires the approval of the board or CEO/president.

I. Retaliation Risk

93. The IRM will provide confidentiality to a complainant or a representative who requests it.

94. The complainant, the witnesses, and others associated with a complaint being processed by the IRM may face risks of retaliation. In such cases, the IRM will strive to minimize those risks in relation to the implementation of its functions while recognizing that there are limits to its ability to protect those who face such risks. The IRM will take

all possible steps within its means to protect the complainant, the witnesses, and other parties involved from retaliation for their participation in a complaint processed by the IRM.

95. The IRM will not purport to replace national or international judicial bodies and law enforcement agencies, whose functions include protecting the public in such situations.

m. Site Visits

96. Site visits are an essential part of collecting facts and evidence for a compliance review. If a site visit is declined by the project owner, or if the IRM is hindered from gathering information for a compliance review, the IRM may make findings of fact based on the best available information or evidence and draw appropriate inferences in completing its work. Not allowing a site visit could constitute default under the financing agreement.

n. Information disclosure

97. The IRM will ensure the timely disclosure of the following documents on its website:

- (i) Complaint submission process:
 - a. complaint registration;
 - b. eligibility determination report; and
 - c. decision to proceed with DRS or compliance review.
- (ii) DRS process:
 - a. IRM report on agreements reached; and
 - b. IRM monitoring and conclusion reports.
- (iii) Compliance review process:
 - a. Compliance review registration appraisal report
 - b. final compliance review report, approved by the board or CEO/president;
 - c. remedial action plan drawn up by the management; and
 - d. IRM monitoring and conclusion reports.

APPENDIX

Sample Terms of Reference for the Chief Compliance Inspector, the Dispute Resolution Specialist, the Compliance Review Coordinator and the Complaint Receiving Officer

1. Terms of Reference for the Chief Compliance Inspector

Background

The Chief Compliance Inspector (CCI) will have overall responsibility for the day-to-day functioning of the independent redress mechanism (IRM) and accountable for the effective and efficient management of the IRM's functions with utmost integrity, independence, and transparency. The board/council will appoint the CCI for an initial period of 3 years, extendable by a maximum of 2 additional years. The CCI will report directly to the board/council and will be independent of the management and the operations units of the financial institution. The financial institution will do CCI's annual performance evaluation with input from the board/council members.

Scope of Work

The CCI will be responsible for the following tasks:

- Maintaining independence and impartiality and avoiding any conflicts of interest in the IRM process by not getting involved in the internal policy interpretations, processes, and procedures of the financial intermediary related to project preparation and implementation, and by not providing project-specific advice.
- Making every effort to ensure transparency and disclosure of IRM reports and outcomes, without compromising the complainant's right to confidentiality or the financial institution's disclosure policy provisions related to the protection of the project's business or commercial interests.
- Keeping the board/council informed about the IRM's activities through reports on cases received and pursued, and through semiannual reports on IRM activities, lessons learned from dispute resolution and compliance review cases, and policy and operational advice on how to manage systemic issues.
- Establishing and managing the IRM's work program and budget and providing leadership to the IRM team in implementing operational goals, guidelines, and work programs.
- Carrying out the problem solving and compliance review function of the IRM.
- Consulting with the board/council regarding questions about the interpretation of environmental and social policies and standards, as applicable to the financial institution's operations, if needed.
- Maintaining a roster of independent experts (in areas such as mediation, dispute resolution, compliance review, resettlement, indigenous peoples, and environmental and social safeguard policies) for hiring as needed, in accordance with the financial institution's recruitment policies and procedures.
- Reviewing and monitoring the status of all current and ongoing IRM cases, seeing to it that time frames are met, and maintaining quality control and the integrity of the IRM process.
- Providing comments on the remedial actions proposed by the management to bring the project into compliance.
- Monitoring the implementation of the agreements reached during the dispute/problem-solving process, and the remedial actions approved by the

- board/council to bring the project into compliance.
- Producing summary or learning reports to provide generic, not project-specific, advice to decision-makers on how to prevent problems and issues and resolve them when they arise.
- Maintaining appropriate contacts with nongovernment organizations (NGOs), civil society, and the business community to the extent necessary to carry out IRM activities, if requested to do so, to improve the ability to communicate directly with complainants and other stakeholders, while respecting the confidentiality of sensitive business information and the complainants.
- Connecting and coordinating with grievance mechanisms of other financial institutions and international financial institutions (IFIs) as appropriate.
- Carrying out other functions related to the IRM, as assigned by the board/council.

Educational Qualifications

Advanced degree (master's or equivalent) in a relevant discipline (business administration, public administration, project management, sociology, anthropology, economics, environmental studies, law, international relations, engineering, or other fields relevant to international development).

Experience

Minimum of 15 years of the following relevant experience:

- Proven leadership and management skills;
- Demonstrated knowledge and experience related to environmental and social sustainability issues, IFIs or economic development organizations, and civil society in the region;
- Knowledge of, and experience in, project, personnel, and budget management;
- Demonstrated integrity, with proven ability to deal independently, objectively, impartially, and efficiently with the complaints brought to the IRM;
- Proven advanced communication and diplomatic skills, with excellent writing and editing skills, presentation skills with the ability to communicate complex issues supported by specific fact-based reporting, and ability to lead effective sharing of knowledge within and outside the organization and contribute to a continuous learning environment;
- Excellent interpersonal skills, with proven ability to engage in team building and consensus building and ability to work and incorporate the diverse views of stakeholders;
- Strategic thinking, with proven ability to formulate objectives, set priorities, drive results, and allocate and use resources optimally and efficiently;
- Understanding of, and experience in, dealing with multilateral financial institutions and private sector financing intermediaries in the region (desirable); and
- Knowledge of, and experience with, independent grievance mechanisms (valuable).

2. Terms of Reference for the Dispute Resolution Specialist

The Dispute Resolution Specialist will provide overall support to the CCI and assist in the smooth functioning of the IRM. More specifically, the Dispute Resolution Specialist will have the following responsibilities:

- Working under the general supervision and guidance of the CCI.
- Supporting the CCI in determining the eligibility of complaints received.
- Conducting initial assessments of eligible complaints and making proposals to the CCI as to whether to move forward with the dispute resolution services (DRS) or the compliance review process.
- Leading DRS cases by working with complainants and other stakeholders to build consensus, and solving problems using consensual and flexible dispute resolution and mediation methods.
- Preparing reports on problem-solving results, and monitoring reports on the implementation status of agreements reached during the DRS process.
- Conducting outreach programs among the operational staff of the financial institution and among the beneficiaries of select high-risk operations, which will include a holistic introduction to the IRM.
- Undertaking additional tasks as necessary or relevant to the DRS process, under the guidance and supervision of the CCI.
- Supporting the CCI, when requested, in carrying out tasks and assignments that may be relevant to the compliance review process.
- Maintaining appropriate contacts with NGOs, civil society, and the business community, under the guidance of the CCI, to improve the ability to communicate directly with complainants and other stakeholders, while respecting the confidentiality of sensitive business information and the complainants, if requested.

Educational Qualifications

Advanced degree (master's or equivalent) in a relevant discipline (negotiations and conflict management/dispute resolution/mediation, business administration, project management, sociology, anthropology, economics, law, international relations, or other field relevant to international development).

Experience

- Minimum of 10 years of the following relevant experience:
- Proven leadership skills in mediation, negotiation, conflict management, and problem solving;
- Demonstrated integrity, with proven ability to deal independently, objectively, impartially, and efficiently with the complaints brought to the IRM;
- Excellent interpersonal skills, with proven ability to work as a facilitator and engage in team building and consensus building, and ability to work and incorporate the diverse views of stakeholders;
- Proven advanced communication and diplomatic skills, with excellent writing and editing skills, presentation skills with the ability to communicate complex issues supported by specific fact-based reporting, and ability to lead the effective sharing of knowledge within and outside the organization and contribute to a continuous learning environment;
- Knowledge of, and experience in, project, personnel, and budget management;
- Strategic thinking, with proven ability to formulate objectives, set priorities, drive results, and use resources efficiently;

- Understanding of, and experience in, dealing with multilateral financial institutions and private sector financing intermediaries in the region (desirable); and knowledge of, and experience with, independent grievance mechanisms.

3. Terms of Reference for the Compliance Review Coordinator

The Compliance Review Coordinator will provide overall support to the CCI and assist in the smooth functioning of the IRM. More specifically, the Dispute Resolution Specialist will have the following responsibilities:

- Working under the general supervision and guidance of the CCI.
- Supporting the CCI in determining whether the complaints received meet basic acceptance requirements of compliance review.
- Conducting an initial compliance review registration appraisal on the complaint received, which can be made under the assistance of an independent expert. This includes collecting relevant evidence and information through communication with complainants and other stakeholders and providing recommendations and reports to CCI on whether the compliance review is necessary.
- Coordinating with relevant experts to carry out the compliance review, including coordinating and organizing the preparation of review reports and the disclosure of relevant information.
- Assisting CCI and coordinating with relevant experts to review the remedial plan submitted by the management of the financial institution and summarizing relevant review comments.
- Undertaking additional tasks as necessary or relevant to the compliance review process, under the guidance and supervision of the CCI.
- Supporting the CCI, when requested, in carrying out tasks and assignments that may be relevant to the problem solving process.
- Maintaining appropriate contacts with NGOs, civil society, and the business community, under the guidance of the CCI, to improve the ability to communicate directly with complainants and other stakeholders.

Educational Qualifications

Advanced degree (master's or equivalent) in a relevant discipline (sociology, economics, law, environmental engineering and science field).

Experience

- Minimum of 10 years of the following relevant experience:
- Proven skills in mediation, negotiation, and problem solving;
- Demonstrated integrity, with proven ability to deal independently, objectively, impartially, and efficiently with the complaints brought to the IRM;
- Excellent interpersonal skills, with proven ability to work as a facilitator and engage in team building and consensus building, and ability to work and incorporate the diverse views of stakeholders;
- Proven advanced communication and diplomatic skills, with excellent writing and editing skills, presentation skills with the ability to communicate complex issues supported by specific fact-based reporting, and ability to lead the effective sharing of knowledge within and outside the organization and contribute to a continuous learning environment;
- Knowledge of, and experience in, project, personnel, and budget management;
- Strategic thinking, with proven ability to formulate objectives, set priorities, drive

- results, and use resources efficiently;
- Understanding of, and experience in, dealing with multilateral financial institutions and private sector financing intermediaries in the region (desirable); and knowledge of, and experience with, independent grievance mechanisms.

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4. Terms of Reference for the Complaints Receiving Officer

The Complaints Receiving Officer (CRO) will provide overall support to the CCI, the Dispute Resolution Specialist and the Compliance Review Coordinator. More specifically, the Complaints Receiving Officer will have the following responsibilities:

- Receiving complaints from anyone who is seeking access to the IRM, and promptly acknowledging them.
- Registering the valid complaints received and providing complainants with the necessary clarifications on the IRM processes and procedures, including contact details for future communications.
- Forwarding complaints that are beyond the scope of the IRM, such as those relating to procurement or corruption, to other relevant departments of the financial institution, with a copy to CCI, in consultation with the Problem-solving Coordinator or the Compliance Review Coordinator.
- Maintaining the IRM website to improve access to the IRM, and the comprehensiveness, consistency, and timely disclosure of relevant documents and information.
- Producing a clear and succinct information packet about the IRM, highlighting the different processes and remedies available under the DRS and compliance review functions.
- Conducting, or assisting the CCI and the Dispute Resolution Specialist in conducting, outreach programs among the operational staff of the financial institution and among the beneficiaries of select high-risk operations, which should include a holistic introduction to the IRM.
- Assisting the Dispute Resolution Specialist and the CCI in determining the eligibility of complaints received in accordance with the IRM policy and procedures.
- Assisting in the collection and analysis of relevant background information and facts from relevant internal documents and reports related to cases that are determined to be eligible for DRS or compliance review.
- Carrying out the above tasks, including any other relevant tasks assigned by the CCI and the Dispute Resolution Specialist, with objectivity and neutrality.

Educational Qualifications

Advanced degree (master's or equivalent) in a relevant discipline (business administration, project management, sociology, anthropology, economics, environmental studies, or other field relevant to international development).

Experience

- Minimum of 5 years of the following relevant experience:
- Knowledge of, and experience in, project management;
- Demonstrated integrity, with proven ability to work independently;
- Excellent interpersonal and communication skills; and
- Understanding of, and experience in, dealing with multilateral financial institutions, private sector financing intermediaries, and independent accountability mechanisms (desirable).

Sample Request Form for Project-Affected Persons or Their Representatives²¹

For each question, please select the appropriate answer or write your own answer in the space provided. You may take as much space as you need for your response or attach a separate document.

1. Are you the directly affected party in this request, or are you representing the affected party?
 - Affected Party
 - Representative
2. Do you want the Office of the Independent Redress Mechanism to keep your identity confidential?
 - Yes
 - No
3. Please provide your contact details (name, address, e-mail address, and phone number). If you are acting as an authorized representative for the directly affected individual(s) or community, please provide evidence of authorization and contact details for the project-affected persons and for yourself.
4. Please provide the location of the project about which you have concerns, a brief description of the project, and (if known) the name of the company that owns or is otherwise associated with the project.
5. State the way in which you or the party you represent has been adversely affected by the environmental or social impact of the project or might be adversely affected in the future.
6. Please indicate whether you or the party you represent has tried to resolve your concerns with the project-level grievance redress mechanism or with the staff of the project implementing agency. If applicable, please indicate what steps you have taken with other parties to resolve your concerns about the project, the outcomes of these steps, and why you are not satisfied with the results.
7. Please indicate your expectations or the results that you expect to achieve.

²¹ Adapted from templates used by the Asian Development Bank (ADB), the European Investment Bank (EIB), the Overseas Private Investment Corporation (OPIC), and the Green Climate Fund (GCF).