

GOOD POLICY PAPER


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2024

Guiding Practice from the Policies of
Independent Accountability Mechanisms



Good Policy Paper

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About the Authors

Accountability Counsel. Accountability Counsel amplifies the voices of communities around the world to protect their human rights and environment. As advocates for people harmed by internationally financed projects, we employ community driven and policy level strategies to access justice.

Bank Information Center (BIC). The Bank Information Center (BIC) promotes social, ecological and economic justice by amplifying local voices and democratizing development.

Center for International Environmental Law (CIEL). Since 1989, the Center for International Environmental Law (CIEL) has used the power of law to protect the environment, promote human rights, and ensure a just and sustainable society.

Centre for Research on Multinational Corporations (SOMO). SOMO's mission is to support and strengthen civil society movements in defending human rights and promoting public interests.

Community Empowerment and Social Justice Network (CEMSOJ). Community Empowerment and Social Justice (CEMSOJ) is an apolitical, informal and not for profit network of human rights and development activists. It works mainly for socio-economic empowerment and promotion of social justice and human rights of marginalized groups of Nepal.

Gender Action. Gender Action promotes ecofeminist development alternatives to International Financial Institutions' (IFIs') corporate-driven paradigm and holds IFIs accountable for promoting and not undermining gender and climate rights and justice for women, men, and sexual minorities in all IFI investments, policies and other activities.

Green Advocates International (Liberia). Green Advocates International promotes community-based institutions and approaches through which individuals and groups can freely interact and effectively empower themselves to transform their economic, social and cultural structures.

Inclusive Development International. Inclusive Development International works to advance social, economic and environmental justice by supporting communities around the world to defend their rights in the face of harmful corporate projects. Through research, casework and policy advocacy, we hold corporations and development agencies accountable to their human rights and environmental responsibilities and promote a more just and equitable international economic system.

International Accountability Project (IAP). IAP is an international human and environmental rights organization that works with communities, civil society and social movements to change how today's development is done.

Jamaa Resource Initiatives. Jamaa Resource Initiatives promotes social responsibility of governments, International Finance Institutions, AU, regional Commissions, Corporate Organizations and individuals in Africa through capacity building, advocacy, networking, research and technical support for a just and equitable society.

Recourse. Recourse campaigns to put people and planet at the heart of development. We work in partnership with others to support communities in their struggle for their rights to be respected and their voices to be heard, and hold financial institutions to account for harms to people and the environment.

Urgewald e.V. Urgewald is an environmental and human rights organization that challenges banks and corporations when their activities harm people and the environment. Our guiding principle: Whoever gives the money bears the responsibility for the business.

Table of contents

About the Authors	3
Glossary and Relevant Documents	6
Introduction	10
Mandate	13
Functions and Roles	15
Structure and Powers	19
Information Disclosure and Outreach	30
Complaint Process	43
Compliance Review	62
Dispute Resolution	75
Advisory	83
Next Steps for IAMs and Financial Institutions	87

Glossary and Relevant Documents¹

ADB's AM	Asian Development Bank's Accountability Mechanism Accountability Mechanism Policy 2012
AFD's ESCM	French Development Agency's Environmental and Social Complaints Mechanism Rules of Procedure
AfDB's IRM	African Development Bank's Independent Recourse Mechanism The Independent Recourse Mechanism - Operating Rules and Procedures 2021
AIIB's PPM	Asian Infrastructure Investment Bank's Project-Affected Peoples' Mechanism AIIB Policy on the Project-affected People's Mechanism
Board	The executive directors of a financial institution.
BSTD's IAD	Black Sea Trade and Development's Internal Audit Department Procedure for the Receipt, Retention and Treatment of Complaints at the Black Sea Trade and Development Bank
CODE	Committee on Development Effectiveness
CR	Compliance Review
CRP	Compliance Review Panel
CSOs	Civil Society Organizations

1. This table does not include all of the respective IAM's policies, only the policies cited in this guide.

DFC	U.S. International Development Finance Corporation Board Resolution: Independent Accountability Mechanism for the U.S. International Development Finance Corporation
DFI	Development Finance Institution
DR	Dispute Resolution
EIB's CM	European Investment Bank's Complaints Mechanism EIB Group Complaints Mechanism Policy
EBRD's IPAM	European Bank for Reconstruction and Development's Independent Project Accountability Mechanism IPAM Project Accountability Mechanism Policy IPAM Guidance Note on Case Handling
EO	European Ombudsman Implementing Provisions
FinDev Canada's IAM	FinDev Canada's Independent Accountability Mechanism (IAM) Independent Accountability Mechanism Policy and Procedures
GCF's IRM	Green Climate Fund's Independent Redress Mechanism IRM Terms of Reference Procedures and Guidelines of the Independent Redress Mechanism Guidelines to facilitate Board consideration of IRM reports on reconsideration requests, grievances or complaints
JBIC's OEEG	Japan Bank for International Cooperation's Office of the Examiner for Environmental Guidelines Objection Procedures on Environmental Guidelines
IAM	Independent Accountability Mechanism

ICM of FMO, DEG & Proparco	Independent Complaints Mechanism (ICM) of the Netherlands Development Finance Company (FMO), the German Investment Development Corporation (DEG), and Proparco Independent Complaints Mechanism FMO Independent Complaints Mechanism DEG Independent Complaints Mechanism Proparco²
ICM of IKI	Independent Complaints Mechanism (ICM) of the International Climate Initiative (IKI) Policy
IDB's MICI	Inter-American Development Bank's Independent Consultation and Investigation Mechanism Policy of the Independent Consultation and Investigation Mechanism of the IDB³ Guidelines for the Consultation Phase: The Dispute Resolution Process of MICI
IFC's CAO	International Finance Corporation's Compliance Advisor Ombudsman IFC/MIGA Independent Accountability Mechanism (CAO) Policy Approach to Responding to Concerns of Threats and Incidents of Reprisals in CAO Operations
OPIC's OA⁴	Overseas Private Investment Corporation's Office of Accountability Operational Guidelines Handbook for Problem-Solving and Compliance Review Services

2. These policies are largely the same except for references to the respective institutions.

3. MICI also has a policy concerning complaints regarding IDB Invest financing. The IDB and IDB Invest MICI policies are almost identical.

4. In January 2020, the Overseas Private Investment Corporation (OPIC) was subsumed into a new agency, the U.S. International Development Finance Corporation (DFC). The BUILD Act legislation that created the DFC mandates an IAM for the agency. In September 2020, the DFC Board approved a resolution setting the foundational principles for the mechanism, and the mechanism is in the process of developing Terms of Reference or procedures to guide its work. While these procedures are being developed, we understand that the mechanism is operating according to the OPIC OA guidelines and the DFC Board resolution. This document will refer to provisions in both policies.

Management	The management and staff of financial institutions involved in the design and execution of internationally financed projects.
NEXI	Nippon Export and Investment Insurance Objection Procedures on Environmental Guidelines
Principals	Senior IAM staff in charge of the dispute resolution, compliance review, or advisory functions.
PS	Problem Solving
TOR	Terms of Reference
UNDP's SECU	The United Nations Development Programme's Social and Environmental Compliance Unit SECU Investigation Guidelines
UNDP's SRM	The United Nations Development Programme's Stakeholder Response Mechanism Stakeholder Response Mechanism: Overview and Guidance
WB's AM	World Bank's Accountability Mechanism Accountability Mechanism Procedures 2020 WB AM Resolution
WB's IP	World Bank's Inspection Panel Inspection Panel Procedures 2020 Panel Resolution Guidelines to Reduce Retaliation Risks and Respond to Retaliation During the Panel Process

Introduction

Independent Accountability Mechanisms (IAMs), when implemented effectively, can be transformative tools for justice. IAMs are a forum for communities whose human rights and environment are harmed by investments to raise their concerns and have them addressed. In 1993, the World Bank created the first independent accountability mechanism in response to political and public pressure from civil society seeking to ensure that project-affected communities could seek remedy. Since then, many other development finance institutions (DFIs), development agencies, and other financial institutions have followed suit. As of 2021, over two dozen IAMs⁵ have received over 1,800 complaints.⁶ To handle these complaints, the IAMs have developed detailed rules of procedure. Viewed collectively, the complaint-handling policies or procedures of the IAMs share many commonalities and a number of differences. From complainants' perspective, the success of a complaint often hangs on the effectiveness of the IAM's particular policies in facilitating an accessible, transparent, and accountable forum for addressing grievances.

As financial institutions without IAMs consider creating them, and as existing IAMs continue to improve their policies to better serve communities, there is much to learn from existing policies. This guide identifies and brings together in one place the 69 current strongest provisions in IAM policies to guide the development of new IAMs and the revision of existing IAM policies. Most of the provisions below are taken from DFI IAMs, given the long history and evolution of IAMs in the DFI space. However, these recommendations are useful for all development and financial institutions seeking to improve their accountability frameworks, as well as other types of complaints mechanisms, such as OECD National Contact Points or those connected to certification bodies and other multi-stakeholder initiatives.

This project began in 2017 when a number of civil society organizations, experienced both in advising and accompanying communities in filing complaints to IAMs and also advising IAMs on internal policy and practice, set out to capture the best existing practices from established mechanisms. Consequently, we evaluated existing IAM policies to find the provisions that we valued the most:

5. For a list of IAMs, see the Accountability Console, [Independent Accountability Mechanisms](#).

6. [Accountability Console, Complaints](#).

provisions that made IAM processes more effective for communities. Based on case experience, we knew that certain provisions gave communities a fairer, more predictable, and more accessible process that allowed them to have a greater role in seeking the accountability they deserve. As we undertook this review, we rooted our analysis in the UN Guiding Principles on Business and Human Rights' effectiveness criteria: Legitimacy, Accessibility, Predictability, Equitability, Transparency, Rights-Compatibility, and Serving as a Source of Continuous Learning.⁷

As a result, we developed this *good* policy paper, which identifies good existing policy provisions that cover the key elements of an effective mechanism: Mandate, Function and Roles, Structure and Powers, Information Disclosure and Outreach, and Complaint Process; as well as the three typical functions of an IAM: Compliance Review, Dispute Resolution, and Advisory.

As IAM policies continue to evolve, so too will this guide. We have already used good practice provisions cited in this guide to provide input into the development and revisions of multiple mechanism policies. In turn, those finalized policies have provided us with new or better versions of the provisions that we had originally identified, which we then used to improve the existing recommendations. And so it will continue. We first published the good policy paper in December 2021. We issued an update in December 2023.

In compiling this *good* policy paper, the following limits were set regarding analysis and assessment:

- ➔ The guide considers existing provisions included in official IAM policies,⁸ and not how those policy provisions are put into practice. A mechanism could have strong policy provisions but not be effective in practice due to a lack of proper implementation of its policy or other factors.
- ➔ The guide considers the policies of the mechanisms themselves, and not the institutions in which they sit. The effectiveness of a mechanism depends to a great extent on the Board's endorsement and support of a strong mandate for the mechanism. It also depends on how robustly the financial

7. [United Nations Office of the High Commissioner for Human Rights, Guiding Principles on Business and Human Rights, Principle 31.](#)

8. This guide cites to 19 accountability mechanisms whose policies had strong provisions. For more information on these mechanisms, and for additional mechanisms, see the [Independent Accountability Mechanisms Network](#).

institution's management engages with its processes and responds to the mechanism's findings. It is rare to find a policy that guides management's role in a complaint process, which makes it difficult to analyze this aspect.

- The guide is defined as a *good* policy paper, not a Best Policy Paper. Although we identify the best provisions currently existing within IAM policies, many of these provisions need to be improved to better serve communities. Even if there were an IAM that had all of the best existing provisions, which there is not, it would still not be a model policy. In this paper, we offer some ways in which existing IAM policies can and should be improved.

We hope that this guide will inform the creation of new IAMs and provide insights for future IAM reviews, spark discussions with IAMs, institutions, management, Boards, and governments about how complaint processes can be more effective, equitable and accessible for complainants seeking remedy, and improve outcomes for all involved in the accountability process.

Accountability Counsel

Bank Information Center (BIC)

Center for International Environmental Law (CIEL)

Centre for Research on Multinational Corporations (SOMO)

Community Empowerment and Social Justice Network (CEMSOJ)

Gender Action

Green Advocates International (Liberia)

Inclusive Development International

International Accountability Project

Jamaa Resource Initiatives

Recourse

Urgewald e.V.

Mandate

The policy of an independent accountability mechanism (IAM) must clearly and precisely state the mechanism's overarching mandate. Typically, the Board of a financial institution grants an IAM its mandate. The Board must set a mandate for the IAM that broadly captures two core purposes of preventing harm to and ensuring remedy for project-affected people and/or the environment, and achieving ongoing improvement to the financial institution's policies and processes. To best effectuate these two purposes, the mandate should not limit or impede the amount or type of complaints that may be received.

Project-affected people have an interest in both of these functions. Communities typically approach IAMs because they are experiencing, or are at risk of experiencing, harm from a project for which they have little or no other recourse to prevention and/or remedy. An IAM's mandate must not merely seek identification of such risks and impacts but should require remediation of harm incurred and prevention of harm anticipated.

Beyond remediation of the harm they have personally experienced, another common goal of complainants is to achieve assurance that the impacts they have experienced will not be experienced by other communities in the future. For this reason, an IAM's function of facilitating institutional learning to improve the financial institution's policies and practices not only serves the financial institution but meets complainants' desire to avoid recurrence of similar adverse social and environmental impacts in other instances.

1. An IAM's mandate should be two-fold.

First and foremost, to prevent harms and provide effective remedy to project-affected people and the environment; and second, to ensure institutional accountability and continuous improvement, especially regarding financial institution compliance with relevant policies and avoidance of social and environmental risks and impacts of financed projects. It is important that the IAM's mandate encompass these two goals, and equally important that it *not* encompass purposes that would, in practice, serve to undermine the achievement of these two goals.

GOOD POLICY (IFC'S CAO POLICY PARAS. 4-5, 7)

“As the independent recourse and accountability mechanism for IFC/MIGA, CAO facilitates the resolution of complaints related to their Projects and Sub-Projects, undertakes investigations of IFC's and MIGA's environmental and social compliance, fosters public accountability for their commitments, and enhances the environmental and social performance of IFC and MIGA, as further described in this Policy.

In executing its mandate, CAO facilitates access to remedy for Project-affected people in a manner that is consistent with the international principles related to business and human rights included within the Sustainability Framework [...]

CAO's mandate is to:

- a. Facilitate the resolution of Complaints from people who may be affected by Projects or Sub-Projects in a manner that is fair, objective, and constructive;
- b. Enhance the environmental and social outcomes of Projects or Sub-Projects; and
- c. Foster public accountability and learning to enhance the environmental and social performance of IFC/MIGA and reduce the risk of harm to people and the environment.”

GOOD POLICY (GCF'S IRM PROCEDURES PARA. 3)

“The objectives of the IRM, as set out in its TOR are to:

- (a) increase the effectiveness of the GCF's operations;
- (b) be responsive to the concerns of people adversely affected by GCF funded projects or programmes;
- (c) be fair and equitable to all stakeholders;
- (d) be independent and transparent;
- (e) be cost-effective and expeditious in the delivery of just redress;
- (f) be complementary to other supervision, audit, quality control and evaluation systems of the GCF; and
- (g) follow international best practices, consistent with the TOR and the PGs of the IRM.”

Functions and Roles

To effectively fulfill its mandate, the mechanism should have three (3) functions: (1) Compliance Review, (2) Dispute Resolution (also known at some mechanisms as Problem Solving), and (3) Advisory. Compliance review and dispute resolution should be considered two different tools used in complaint-handling to achieve the same results: prevention of or remedy for harms and changes in policy or practice to prevent future harm from occurring. The advisory function should draw lessons learned from the IAM's cases to improve the financial institution's environmental and social policies and their implementation.

A common misconception regarding compliance review is that its purpose is simply to identify and correct failure by the financial institution and its client to adhere to its policies. This is incorrect in two respects. In fact, compliance review, like dispute resolution, should facilitate access to remedy for complainants. Indeed, restoring a project to compliance with the financial institution's requirements necessarily includes "fixes" that will not only prevent future harms, but also redress past harms to complainants.

Another misconception regarding compliance review is that it should only ensure accountability for the incorrect implementation of the financial institution's existing policies. In fact, compliance review should also identify shortcomings in the policies even when properly implemented.

Dispute resolution, often in the form of mediation facilitated by a neutral third party, is essential for enabling impacted communities to propose their own solutions and remedial actions to resolve the impacts they face through a process facilitated by a neutral third party. Parties to dispute resolution are typically communities and clients but can also include financial institutions and other stakeholders and responsible actors. IAMs and/or mediators can and often should play an active role in helping parties generate creative solutions and remedies. But the IAM's dispute resolution function - like the compliance review function - should not impose particular outcomes on complainants. Solutions should ultimately be driven by the parties themselves.

An advisory function is needed to fulfill the institutional learning and improvement mandate of the IAM. In recent years, IAMs have increasingly adopted advisory-related tasks. Given its importance, the advisory role of an IAM must be clearly defined in its policies, not merely hinted at through dispersed provisions on reporting or tracking trends. Insights should be taken not only from complaints handled via compliance review, but also dispute resolution, to improve the financial institution's policies and implementation, facilitating better project management and preventing similar harms from occurring again. Insights should also inform improvement of the IAM's own policy and practice of handling complaints.

2. Compliance review

The compliance review function should be an impartial fact-finding body that investigates claims of actual or foreseeable social and environmental harm linked to noncompliance with applicable policies and standards by the financial institution and its clients, or that results from weaknesses and gaps in the institution's policies. The compliance review function should make recommendations regarding prevention and remediation of harms and noncompliance.

GOOD POLICY (UNDP'S SECU INVESTIGATION GUIDELINES PARA. 14)

"[The UNDP's SECU] provides UNDP, and those affected by UNDP projects, with an effective system of independently and objectively investigating alleged violations of UNDP's social and environmental commitments. SECU seeks to protect locally-affected communities and, in particular, disadvantaged and vulnerable groups, and to ensure participation of local stakeholders."

GOOD POLICY (IFC'S CAO POLICY PARA. 76)

"The purpose of the CAO compliance function is to carry out reviews of IFC/MIGA's compliance with E&S Policies, assess related Harm, and recommend remedial actions where appropriate."

3. Dispute Resolution

The dispute resolution function should create a level playing field to enable the parties (the complainant and client, and others where relevant) to develop their own solutions to prevent or remediate adverse social and environmental risks and impacts.

GOOD POLICY (EBRD'S IPAM POLICY PARA. 1.1(A))

“The Problem Solving function, which supports dialogue between Requesters and Clients to resolve the environmental, social and public disclosure issues underlying a Request, without attributing blame or fault. IPAM engages with Project-affected People, Clients, and other stakeholders as a neutral third party, in order to help find mutually-satisfactory resolutions through flexible, consensus based problem-solving approaches;”

4. Advisory

The advisory function should derive thematic and systemic lessons from trends in the mechanism's caseload, in both compliance and dispute resolution, and other sources in order to provide guidance to the financial institution's leadership on improving the institution's social and environmental performance. The advisory function helps to embed an institutional culture of continuous learning and improvement of policy and practices.

GOOD POLICY (IFC'S CAO POLICY PARA. 147)

“CAO's advisory function provides advice to IFC/MIGA and the Boards with the purpose of improving IFC/MIGA systemic performance on environmental and social sustainability and reducing the risk of harm to people and the environment.

CAO's advisory work provides insights and recommendations on broader environmental and social issues relevant to IFC's and MIGA's work by drawing on CAO experience addressing complaints and good international practice."

GOOD POLICY (GCF'S IRM PROCEDURES PARA. 107)

"The IRM will report to the Board, through the Board Committee, on lessons learned and insights gained from handling cases and from good international practices, and may recommend reconsideration of relevant GCF operational policies and procedures, guidelines and systems."

Structure and Powers

For the mechanism to function effectively, it must be trusted by all stakeholders, including local communities, the financial institution's management, the institution's clients, and interested civil society organizations (CSOs). Project-affected people must have confidence that the mechanism is empowered to address their problems and concerns. In order to foster such trust, **the mechanism must be structured in a manner that maximizes its impartiality, credibility, legitimacy, and independence from the financial institution's management, if not the institution as a whole. The mechanism must also be given the power to run its office independently.**

Independence of the IAM should be assured by several key structural elements. IAMs should have a direct reporting line to the Board, not to an office within the management of the financial institution or another institutional body. Some IAMs are housed in an audit or compliance office, an arrangement that is problematic when it does not allow the IAM director a direct line of contact with the Board to ensure challenges and insights arising out of complaints are understood and addressed by the institution's highest level of authority. Other IAMs report to a specific Board committee rather than the full Board.

Independence is also supported by prevention of a "revolving door" between directors and staff of the financial institution and directors and staff of the IAM. The best IAM policies prohibit the IAM director and principals from working at the financial institution before or after their IAM service and provide cooling-off periods for other IAM staff. Independence and credibility are also supported by giving the IAM director authority to hire their own staff and external expert advisors.

An IAM boosts its legitimacy and impartiality when its policies ensure stakeholders a role in evaluating nominees for the principal position. Promoting an IAM's legitimacy must start at the top, and when stakeholders are able to help select a director with appropriate expertise and balanced ties to all stakeholder groups, their trust in the mechanism increases.

In recent years IAMs have shifted away from the “roster” structure – whereby external experts from a roster list are called in to handle the compliance investigation and/or dispute resolution as needed – towards an in-house model with a high-level director overseeing designated staff to handle complaints. This trend is positive: although the roster model can enable independence, it has resulted in inconsistent handling of complaints by a single mechanism and allowed a vacuum at the financial institution of high-level internal expertise and institutional knowledge on accountability issues.

5. The mechanism should report directly to the Board of Directors of the financial institution.

Independence from management is key to the mechanism’s legitimacy. Project-affected communities and CSOs are less likely to use the mechanism if they perceive that it is beholden to or unduly influenced by the financial institution’s management.

GOOD POLICY (EBRD’S IPAM POLICY PARA. 1.5)

“IPAM operates independently, with a direct reporting line to the Board.”

GOOD POLICY (FINDEV CANADA’S IAM POLICY PARA. 1.1.2)

“The IAM is an independent function, governed outside of FinDev Canada’s operations and Management, with the Chief IAM Officer reporting directly to the Board of Directors.”

6. The mechanism or its independent functions should be run by a senior-level term-limited head and a team of permanent staff.

Whether it is a single person or a senior member of a panel, the person responsible for managing an accountability mechanism as a whole or one of its functions should be full-time, senior-level, and have a limited term. The senior leaders of and staff working at accountability mechanisms should not be contracted with on a case-by-case basis from a roster. Complainants need to be assured that their cases are being handled in a predictable and consistent manner, which can be undermined when the mechanism operates on a roster model, rather than with a permanent staff. A single head or a senior panel member at the helm of the mechanism enhances internal governance and independence and can serve as a voice for accountability at the highest level within the financial institution.

GOOD POLICY (EBRD'S IPAM POLICY PARAS. 3.3(A)(I), 3.3(C))

“The IPAM Head is responsible for running IPAM [including CR and DR functions], implementing this Policy, and making the decisions that are the responsibility of IPAM under this Policy.” “The IPAM Head manages IPAM staff, to which the Bank’s Human Resources policies and procedures apply. The IPAM Head is free to make recruitment decisions within the limits of the approved budget, without Bank management or Board involvement.”

GOOD POLICY (ADB'S ACCOUNTABILITY MECHANISM POLICY, PARA. 111)

“Compliance Review Panel. The CRP will have three members, one of whom will be the chair. The CRP chair will be full time.”

7. External stakeholders should participate in the hiring process for the mechanism's head.

Including external stakeholders on the selection committee helps to legitimize the hiring process and build trust in the independence and integrity of the individuals selected. Additionally, the selection committees should not include members of the financial institution's management. Including external stakeholders in the IAM hiring processes of function principals - the senior IAM staff in charge of the dispute resolution, compliance review, and advisory functions - can also boost the legitimacy of the mechanism.

GOOD POLICY (IFC'S CAO POLICY PARA. 15)

“To maintain the independence of the CAO [Director General (DG)], a selection committee will be established to conduct an independent, transparent, and participatory selection process that involves stakeholders from diverse regional, sectoral, and cultural backgrounds, including civil society and business communities. CAO, IFC, and MIGA will solicit nominations for the selection committee from stakeholders and forward them to the CODE Chair and Vice-Chair for their consideration. The CODE Chair and Vice-Chair will appoint six people to form the selection committee, including two Executive Directors, two senior representatives from the global business community, and two senior representatives from the civil society community, and appoint one of these Executive Directors as chair of the selection committee.”

8. IAM staff should be selected by the mechanism's leadership.

The mechanism should be responsible for hiring its own staff. Entrusting the IAM with the ability to hire its own staff increases stakeholders' confidence in the mechanism's independence and authority.

GOOD POLICY (IFC'S CAO POLICY PARAS. 21-22)

“... The CAO DG will be responsible for determining the allocation of resources within CAO, including appropriate staffing and recruitment of consultants and experts. ...

The CAO DG is free to make staffing decisions within the approved budget limits, without the Boards' or Management's involvement.”

9. The IAM should be empowered and be given a sufficient budget to hire outside consultants with technical expertise relevant to the complaint to assist IAM staff in complaint handling.

Complaints often raise technical issues on which the mechanism staff does not have sufficient expertise or that may require a skillset the staff does not possess. Compliance reviews often require specialized technical expertise, and agreements reached through dispute resolution processes often involve hiring impartial experts to assess damages or make recommendations to the parties on remedial actions required. Thus, the mechanism must be able to hire and pay for outside consultants to help it fulfill its mandate. To ensure independence of the IAM, experts must not be hired from the financial institution's management.

GOOD POLICY (IDB'S MICI POLICY PARA. 56)

“The MICI Director is authorized to contract any external expert necessary, in strict compliance with the Bank's policies and procedures. In consultation with the Human Resources Department, the MICI Director will also prepare and maintain a list of independent expert consultants with specialized knowledge in areas such as mediation, dispute resolution, compliance, auditing, resettlement, indigenous peoples, environmental and social safeguard policies, and other required areas of expertise. These experts will not come from Management.”

GOOD POLICY (EUROPEAN OMBUDSMAN IMPLEMENTING PROVISIONS ART. 4.11)

“The Ombudsman may commission any studies or expert reports that he or she considers relevant to the inquiry [of a complaint].”

10. The mechanism should be allowed to seek outside legal counsel for advice.

Because an Independent Accountability Mechanism should already have the authority to manage its budget independently and to hire experts as needed, an IAM should also be able to retain external legal counsel without that being enshrined specifically in its policy. However, we have seen in practice that financial institutions prefer for their own legal departments to advise their IAMs, and financial institutions’ legal departments often opine on matters before accountability mechanisms.

This presents a conflict of interest, as legal counsel for a financial institution will not necessarily see accountability as being in its client’s best interest. Because we have seen financial institutions make it difficult for IAMs to retain external counsel and have seen financial institutions’ legal departments weigh in on accountability matters without invitation, we advise that IAM policies specifically enshrine that IAMs can retain their own external legal counsel and that legal advice from the financial institution’s legal department should only be given when requested.

GOOD POLICY (GCF’S IRM PROCEDURES PARA. 100)

“If requested by the Head of the IRM, the General Counsel of the GCF or a counsel designated by the General Counsel will provide legal advice to the IRM on the GCF’s rights and obligations and GCF operational policies and procedures relevant to a request, grievance or complaint. The Head of the IRM may also seek external legal advice on a request-, grievance- or complaint-related matter or with regard to any other matters concerning the IRM.

AfDB (para. 97 “The General Counsel shall, upon request, provide all legal information and advice needed in respect of the Bank Group's policies and procedures and the Bank Group’s rights and obligations in respect of the Bank Group Financed Operations to which a Complaint relates, as well as such advisory opinions and interpretations on points of law as the President or the Boards of Directors shall determine. The Director may also seek external legal advice on a Complaint, grievance or complaint-related matter or with regard to any matters concerning the IRM. The Boards of Directors will have the authority to interpret these rules and procedures.”)

IDB (para.64 “f requested by the MICI Director, the IDB Legal Department will provide legal information and advice regarding the Bank’s rights and obligations in relation to a specific Bank-Financed Operation at issue in a Request, or regarding the interpretation of Relevant Operational Policies. Except with regard to the Bank’s rights and obligations, the MICI Director may also, at any time, seek external legal advice on Request-related issues as they arise.”)

11. There should be a pre-employment ban preventing the hiring of mechanism principals from the financial institution.

To ensure the mechanism’s impartiality and independence from the financial institution’s operations departments and management, there should not be a “revolving door” between the financial institution and the mechanism.

Although previous IAM policies have included a complete pre-employment ban preventing financial institution management and Board members from ever working at the IAM,⁹ currently, the longest ban is 5 years. We encourage IAMs to return to the previous standard and implement complete pre-employment bans.

9. [AfDB IRM Policy \(2015 Version\) para. 85](#) provided that “Executive Directors, Alternate Executive Directors, Senior Advisers and Advisers to Executive Directors, any Officer or Staff member of the Bank or persons holding consultant appointments shall not serve on the Roster of Experts at the end of their service with the Bank.”

GOOD POLICY (AFDB'S IRM OPERATING RULES AND PROCEDURES PARA. 84)

“The Director shall not have worked for the Bank Group in any capacity whatsoever for a period of at least five (5) years prior to their appointment ...”

12. There should be a post-employment ban for the principals of the mechanism and a cooling off period of at least two years for staff.

The possibility of subsequent employment at the financial institution could compromise the impartiality, or the perception of neutrality, of the mechanism's director, experts and key staff. Whether consciously or not, a mechanism's staff member could inappropriately consider his or her current or future relationship with the financial institution's management while handling a complaint.

GOOD POLICY (IFC'S CAO POLICY PARAS. 18, 22)

“Upon conclusion of the appointment, the CAO [Director General] is restricted for life from obtaining employment with the World Bank Group.”

“Contracts for CAO staff restrict staff at the level of specialist and above from obtaining employment with IFC or MIGA for two years after the end of their engagement with CAO, subject to any exception to this restriction that may be mutually agreed between the CAO DG and the Vice President responsible for human resources at IFC or a member of senior management responsible for human resources at MIGA, as applicable, with the goal to avoid any actual or perceived conflict of interest.”

13. Person(s) with a conflict of interest, or an appearance of a conflict of interest, must recuse themselves from the complaint process.

In the event that a member of the mechanism or a consultant has a conflict of interest in regard to a particular complaint, they should disclose that conflict of interest and recuse themselves from the complaint process.

GOOD POLICY (IFC'S CAO POLICY PARA. 22)

“The credibility of CAO staff and consultants is critical to CAO’s work. If a CAO staff or consultant has a conflict of interest about a particular case, that person will withdraw from involvement in that case. In exceptional circumstances, contractual arrangements for CAO consultants may impose time-bound restrictions on their future *involvement with IFC or MIGA*.”

GOOD POLICY (IDB'S MICI POLICY PARA. 65)

“When any official of the MICI has been previously involved in the planning, appraisal, implementation, or evaluation of a project that comes before the MICI, said official will recuse him or herself from working on that Request and will notify the MICI Director immediately of any conflict. If the MICI Director is potentially in conflict of interest, he or she will immediately inform the Board, recuse him or herself, and assign a team member to work on the Request.”

14. The mechanism’s budget, including provision of contingency funds, should be approved by the Board.

A mechanism’s budget should not be dependent on the financial institution’s management whose action it reviews. Otherwise, the institution would have undue influence over the mechanism’s ability to process complaints. As the number or complexity of complaints might exceed the mechanism’s initial budget estimate, the mechanism should also be able to call on additional funds if necessary.

GOOD POLICY (EBRD'S IPAM POLICY PARA. 3.3(B))

“The IPAM Head shall prepare an annual budget (including any contingency funds) identifying a sufficient level of resources to ensure that IPAM can carry out all of the roles, responsibilities, and activities set out in this Policy in an effective way. The IPAM Head will be responsible for determining the allocation of resources within the IPAM department. The IPAM budget will be submitted to the Board for approval on a no objection basis, in the same timeframe as the Bank’s general budget, but as a separate decision.”

15. The mechanism’s principals should only be removed by the Board for cause.

Financial institution management should not have any role in evaluating the performance of or removing the mechanism’s principals. The Board alone should be vested with the authority to do so, and removal should only be for cause. Personnel decisions regarding mechanism staff should be made by the mechanism’s leadership.

GOOD POLICY (WORLD BANK'S 2020 PANEL RESOLUTION PARA. 9)

“Members of the Panel may be removed from office only by decision of the Executive Directors, for cause.”

16. The mechanism must also have a plan in place to respond to retaliation should it occur.

That response should include elevating the issue within the institution, if necessary. Any measures taken by the mechanism or the institution should be discussed with those affected to ensure the steps do not exacerbate the situation.

GOOD POLICY (AIIB'S PPM PROCEDURES ATTACHMENT 4, PARA. 5)

“If PPM monitoring or other information indicates that Retaliation has occurred despite precautionary measures, the PPM endeavors to communicate with the Requestors and in-country Authorized Representative to understand and corroborate the facts. The PPM then presents a Retaliation incident report to the President, Management, and the Board of Directors. The PPM and Management then attempt to implement any planned response developed with the Requestors and in-country Authorized Representative (where possible).”

Information Disclosure and Outreach

The first and primary audience for the IAM's information disclosure and outreach operations is current and potential project-affected people. Many individuals who experience harm as a result of financial institution-supported projects are not initially aware that the project is funded by a financial institution at all, let alone that a complaint mechanism exists to hear their concerns. They may also not be aware of the mechanism's process for reviewing and resolving complaints. To improve project-affected communities' awareness, understanding, and access, the financial institution's and mechanism's policies should: commit to transparency and disclosure of information about the mechanism's procedures, operations, and cases; empower the mechanism to conduct public outreach in the institution's countries of operation; require information sharing by clients; and enable the mechanism's engagement with external stakeholders.

To ensure adequate implementation of outreach activities, the mechanism's information disclosure and outreach responsibilities should be reflected in its mandate. A clear mandate to conduct outreach helps ensure both that the IAM has adequate budget for its work and that it does not face opposition from the financial institution and the client for publicizing its existence and services. Enshrining the IAM's outreach role in its policy helps ensure effectiveness, comprehensiveness, and continuity.

The IAM should implement its public outreach through a well-resourced, thoughtful, and global strategy that proactively and directly shares information about the complaint mechanism with communities, not only those impacted by current or expected projects, but those in the regions where the financial institution tends to operate in general. To achieve accessibility, the IAM's outreach must be undertaken in languages communities understand and via methods that accommodate their cultural backgrounds, literacy, and technological constraints. Special attention should be paid to vulnerable populations, including women and other groups, to ensure that information reaches all those who may be impacted by an internationally financed project.

Given the increased flow of financing through financial intermediaries and the transparency challenges that come with these investments, the strategy should cover outreach towards people potentially affected by the institution's indirect lending through financial intermediaries. This outreach should include information on what financial intermediary lending is, how to access relevant information disclosures, and detailed explanations on any requirements particular to complaints on financial intermediary investments.

Although not currently embedded in existing IAM policies, an IAM's outreach strategy should include plans for in-person visits to all communities impacted by high-risk projects financed by the institution.

The IAM's outreach strategy should also not be one-directional, but receptive to and informed by input from communities and stakeholders, such as members of a stakeholder advisory board and the IAM Network. The mechanism should seek regular advice and engagement from stakeholders and reform its policies and practice accordingly through such public input.

The financial institution also has a role in effectuating successful information disclosure about the mechanism: in addition to itself publicly disclosing information on the mechanism, the institution must require clients and financial intermediary subclients to provide potentially affected people information about the IAM and how to access it.

Maintenance of a complaint registry is critical not only to ensure project-affected people timely information about the developments in their own complaints, but to help all stakeholders understand the IAM's timeframes and reasoning on claims to promote transparency and predictability in the overall system.

Within the complaint process, access to information is crucial for the IAM to do its work effectively. Financial institution and client staff should make project information, documents, and people accessible to the IAM as it conducts the case. Access to this information should be included in contractual agreements with financial institution clients, and institutions should not enter into non-disclosure agreements that could limit the IAM's access to and ability to disclose information.

17. The financial institution should require clients and sub-clients to disclose the existence of the mechanism to project-affected communities.

Clients and sub-clients are often the primary source of information about a project for affected communities. The institution should require clients to disclose the existence of the mechanism during project consultation processes and through other appropriate means.

GOOD POLICY (DFC'S BOARD RESOLUTION ON THE IAM PARA. 5)

“The Corporation will assist the IAM in carrying out its outreach efforts, including requiring clients and subclients (for financial intermediary projects) to disclose the existence of the IAM to project affected communities in a culturally appropriate, gender sensitive, and accessible manner. The existence of the IAM and how to contact it will be included in appropriate project documents.”¹⁰

GOOD POLICY (ADB'S AM POLICY PARA. 211)

“Staff, working with the borrower, will disseminate information early in the project cycle about the Accountability Mechanism and its availability as a recourse in case other mechanisms for dealing with harmful project effects are not successful. The intensity and format of this activity will vary with the nature of the project. Operations departments will focus on projects with a high degree of safeguard risks, such as projects with heavy resettlement. Pamphlets in national or official languages, community notice boards, audiovisual materials, or other appropriate and effective means will be used to inform people.”

10. Similar language can be found in para. 4 of the AfDB IRM policy. Some institutions, including the Inter-American Development Bank, Asian Infrastructure Investment Bank, Green Climate Fund, and European Investment Bank, have codified this requirement in their safeguard policies. We recommend that this requirement be included in both IAM and safeguard policies.

18. Information about the mechanism should be included in relevant financial institution publications and should feature prominently on the institution’s website in order to raise awareness of the mechanism’s availability.

A link to the mechanism’s webpage should be displayed prominently on the institution’s website. The financial institution’s management should collaborate with the mechanism to support its efforts to publicize its role.

GOOD POLICY (IDB’S MICI POLICY PARA. 60)

“The MICI Director will coordinate with other Bank offices and units to ensure that information about the Mechanism is integrated into Bank activities and publications designed to promote information about the institution. Management will support the MICI’s efforts to publicize the Mechanism.”

GOOD POLICY (NEXI OBJECTION PROCEDURES ART. 16.5)

“The Examiner shall disclose his/her contact address on NEXI’s website, and endeavor to have his/her presence and activities widely known to the public by formulating and distributing pamphlets and notification on NEXI’s website, in collaboration with NEXI’s Public Relations Group.”¹¹

19. Information about the mechanism, including a model complaint letter, should be produced in multiple languages and accessible formats.

Informational documents about the mechanism regarding its policies, guidelines, and other relevant materials should be produced in digital and printed formats in multiple languages.

11. Similar language can be found in the JBIC OEEG policy art. VI.3.

A simple model complaint letter should be produced to guide communities to submit the necessary information for registering a complaint.

GOOD POLICY (IFC'S CAO POLICY PARAS. 35, 163-164)

“On request, CAO will provide guidance on how to lodge a complaint without providing advice regarding the substance of the complaint. The CAO website includes a model complaint letter. Potential complainants may also contact CAO for clarification before lodging a complaint. ...”

“While CAO’s working language is English, CAO seeks to make reports and communication materials available in relevant local languages to promote accessibility. CAO issues public information materials in the official languages of the World Bank Group (Arabic, Chinese (Mandarin), English, French, Russian, Spanish, and Portuguese), and additional languages where deemed necessary. CAO makes available these materials in electronic and hard copy and by other culturally appropriate means.

Complainants may submit a complaint to CAO in any language, and CAO’s correspondence and engagement with the Complainant and its representatives will be in both the language of the complaint and English.”

20. The IAM should develop a public outreach strategy, including accessible events in the financial institution’s countries of operation, with adequate budget to support participation in the events by potentially affected communities.

The low receipt of complaints by many IAMs is not an indication that projects are without adverse impacts, but rather that institutions, clients, and mechanisms do not make project-affected communities adequately aware of the existence of IAMs and the opportunity IAMs afford communities to defend their rights.

To counter this knowledge and access gap, an IAM should have the authority and adequate resources to produce outreach materials and organize events that increase communities' ability to participate in complaint processes.

GOOD POLICY (ADB'S AM POLICY PARAS. 208-211)

“The OSPF and OCRP should update their outreach strategies regularly (for example, every 3 years). The OSPF, OCRP, and staff should undertake three kinds of outreach activities to achieve a positive culture change.

Internal. This outreach should improve awareness and disseminate lessons to ADB staff through workshops, training courses, and orientation sessions. The Accountability Mechanism should be included as part of regular staff training [...].

National level. The OSPF and OCRP should hold regular dissemination activities in DMCs. They should distribute simple, pictorial-based and user-friendly descriptions of the mechanism. In each resident mission, a staff member should be designated as a focal person for handling grievances caused by ADB financed projects. Some resident missions have already assigned such focal persons; this practice should be extended to all resident missions.

“Project level. Improving the awareness of the Accountability Mechanism requires that ADB staff work as conduits to disseminate information. Staff, working with the borrower, will disseminate information early in the project cycle about the Accountability Mechanism and its availability as a recourse in case other mechanisms for dealing with harmful project effects are not successful [...] ADB can explore the possibility of outsourcing outreach activities to credible NGOs or civil society organizations. Gender issues will be taken into consideration when designing the outreach strategy.”

21. The mechanism should publish a complete and updated complaint registry.

The registry should include pending, completed, and closed cases, including ineligible complaints, with links to complaint letters (redacted if complainants request confidentiality), decisions on complaint admissibility, assessment reports, dispute resolution reports and agreements, terms of references for compliance review investigations, investigation reports, management responses and proposed remedial actions, monitoring reports, conclusion reports, and other relevant documentation. All public materials should be provided in full, not merely in summarized form and posted online as they become available and remain there indefinitely, not for a limited period of time.

GOOD POLICY (AFDB'S IRM OPERATING RULES AND PROCEDURES PARA. 106)

“The IRM shall maintain a transparent and comprehensive online Register. The information posted on the Register shall include pending, completed and closed cases and all relevant documentation relating to Complaints processing, including Complaints with links to complaint letters (redacted if Complainant(s) request confidentiality), decisions on Complaints eligibility, assessment reports, Problem-Solving report and agreements, terms of reference for Compliance Review reports, monitoring reports and final monitoring reports. All material shall be provided in full and posted online as they become available and remain there indefinitely.”

22. The mechanism should establish an external stakeholder advisory group to regularly provide strategic guidance, advice and feedback.

The advisors should include representatives from CSOs and technical experts in fields such as accountability, sustainable development and conflict resolution.

GOOD POLICY (AFDB'S IRM OPERATING RULES AND PROCEDURES PARA. 105)

“The IRM shall have an external stakeholder advisory group comprised of stakeholders from for example civil society organizations, the private sector, academia and/or international organizations to regularly provide strategic guidance, advice and feedback to ensure the effectiveness of the mechanism.”

GOOD POLICY (IDB'S MICI WEBSITE, https://www.iadb.org/en/mici/external-consultative-group?open_accordion=1)

“The External Consultative Group (GCE) is made up of eight experts from different nationalities and expertise that provide pro-bono advice to MICI on its operational strengthening process.”

23. If the mechanism meets the IAM Network's eligibility criteria, then the mechanism's policy should commit it to participate in the Network.

The IAM Network is a forum for information exchange and peer learning for mechanisms of international financial institutions. The Network is guided by principles of independence, impartiality, transparency, integrity, professionalism, accessibility, and responsiveness. One of the key eligibility criteria for membership is that the IAM is operationally independent from financial institution management. The mechanism's written policy should codify its commitment to engagement in the IAM Network.

GOOD POLICY (FMO/DEG/PROPARCO'S ICM POLICY PARA. 1.2.7)

“The ICM is a member of the global network of Independent Accountability Mechanisms (IAM).”

24. The mechanism must regularly review its policy and guidelines through a public process.

In order to ensure that the mechanism continually improves and remains responsive to project-affected communities, it should conduct public reviews at regular intervals. The review should include a public consultation process, soliciting input from project-affected communities, complainants and other stakeholders.

Ideally, this consultation process should include (1) a first-round public consultation on the existing policy and (2) a second-round public consultation on the draft revised policy. Draft documents should be disclosed as a part of the consultations, and the comment periods should last at least 60 days.

Additionally, there should be in-person and/or virtual consultation events held in multiple regions reflecting the financial institution's areas of operations. The final revised policy should be published at the same time it is being considered by the institution's Board, and the institution should publish a matrix of all recommendations received and whether they were adopted or not.¹²

In addition to regular reviews, the mechanism should implement systems to collect information about its own performance. To ensure the mechanism's independence from the financial institution, the IAM should have the authority to initiate its own review, organize the consultation, and propose changes to its policy.

12. For recent examples of IAM consultation processes incorporating many of these practices, see the recent reviews of the [IFC CAO](#), the [EBRD PCM/IPAM](#), and the [AfDB IRM](#).

GOOD POLICY (EIB'S CM POLICY PARA. 9.1)

“At least every five years, the EIB-CM will consider the need to launch a review of this Policy, including consultation with EIB Group stakeholders.

In line with the EIB Group Complaints Mechanism’s operational set-up (consisting of an internal tier as well as an external one), the EIB Group reviews its Complaints Mechanism in close cooperation with the [European Ombudsman].”

GOOD POLICY (FMO/DEG/PROPARCO'S ICM POLICY PARAS. 3.6.1-2)

“The Independent Complaints Mechanism will be reviewed in case of e.g. new (international) laws, regulations or FMO policies and may be updated accordingly in due course. It will be revised immediately when needed and will at least be evaluated once every four years. ... The Independent Complaints Mechanism was and will be developed in consultation with FMO’s various stakeholders.”

25. The mechanism should have the ability to draft its policies independently from Bank management.

The ability of the mechanism to independently draft and update operational procedures without preemptive intervention from Bank leadership and staff ensures the actual and perceived integrity of an accountability framework. The terms of reference establishing accountability mechanisms should operate to describe the intent, function, responsibilities, resourcing, governance, and administrative arrangements of the mechanism, but they should not impose restrictive procedural parameters that impede the independence of the office. This honors the independence of the mechanism, helps to build trust in the accountability framework, and avoids the perception that a Bank has unduly limited the extent that it is willing to be held accountable.

GOOD POLICY (GCF'S 2020 UPDATED TERMS OF REFERENCE OF THE IRM, INTRODUCTION, PARAS. 5, 20)

"20. **Detailed guidelines and procedures:** ... some of the procedural provisions in ... the [past] TOR are best dealt with in the detailed guidelines and procedures and have been removed from the updated TOR."

GOOD POLICY (GCF'S 2020 UPDATED TERMS OF REFERENCE OF THE IRM, INTRODUCTION, PARAS. 5, 20)

"20. **Detailed guidelines and procedures:** ... some of the procedural provisions in ... the [past] TOR are best dealt with in the detailed guidelines and procedures and have been removed from the updated TOR."

"5. ... Accordingly, this [TOR] document does not address matters which are expected to be covered in the detailed guidelines and procedures, such as third party costs and expenses; the categories of information that the IRM may request from persons seeking redress; forms and procedures of the IRM; time frames for IRM processes; threshold considerations... ; issues relating to the language and accessibility of the IRM; safeguarding against threats made or retaliation against complainants or requesters; and provisions ensuring that the recommendation of the IRM and related decisions of the Board in connection with grievances or complaints cannot be used in any litigation against the GCF."

GOOD POLICY (GCF'S IRM, PARAS. 7, 100)

"7. Consistent with its TOR and these [Policies and Guidelines (PGs)], the Head of the IRM may develop and issue Supporting Operating Procedures (SOPs) for the IRM to facilitate implementation of its TOR and PGs, and to ensure the effective and efficient operation of the IRM."

"100... With respect to interpretation of its TOR, the IRM will apply the TOR as it understands them, subject to the Board's review."

26. The mechanism should be automatically granted access to information held by the financial institution and its clients.

A mechanism cannot effectively perform its functions without full access to the operational files and internal databases used by institution staff. Moreover, contractual provisions should require clients to allow mechanism staff access to sites, personnel, and records.

GOOD POLICY (EBRD'S IPAM POLICY PARA. 3.1(F)-(G))

“In connection with a Case, IPAM staff will have full and direct access to relevant Bank staff and all Project files (including electronic and hard-copy files) and will have access to cabinets and other storage facilities. Bank management and consultants engaged by Bank management will be required to fully cooperate with IPAM staff.”

“Financing agreements between the Bank and Clients will include requirements for Clients to disclose Project-related information to IPAM in connection with a Case, upon reasonable request by the Bank and subject to any applicable laws and regulations.”

GOOD POLICY (JBIC'S OEEG OBJECTION PROCEDURES PARA. 15)

“[T]he Examiners shall have the following powers:

- 1) To have free access to the information necessary for their activities, including, but not limited to, documents and records possessed by JICA;
- 2) To be able to interview JICA's personnel and to ask that they submit relevant documents;
- 3) To be able to ask relevant departments of JICA to make arrangements to interview third parties, including persons concerned other than JICA's personnel, and to request the submission of relevant documents.”

27. The mechanism should have the authority to use its judgment when referencing non-public information.

While still subject to the financial institution's access to information policy, the mechanism should nonetheless have the discretion to quote from or refer generically to sources of information critical to their findings.

GOOD POLICY (EBRD'S IPAM POLICY PARA. 3.1(F)-(G))

“IPAM’s disclosure of information gathered during its activities will be subject to the Access to Information Policy and any other applicable requirements to maintain sensitive information as confidential. If necessary and unavailable through other sources, IPAM may refer generically to non-public information, following consultation with the relevant Parties.”

Complaint Process

For project-affected people, the journey of filing a complaint with an IAM usually begins when a person or community starts experiencing actual or potential impacts to their livelihoods, health, and environment from a project. Many future complainants are members of marginalized populations or communities whose particular vulnerabilities, such as poverty, are exacerbated by the project impacts. To decide to engage in a potentially time and resource-intensive process, it must be “worth it” for these communities; that is, it must at least have the potential of resulting in meaningful outcomes. IAMs should recognize this context and ensure that the complaint process is accessible, predictable, transparent, and rights compatible. To deliver real results for affected communities, the mechanism’s jurisdiction and admissibility rules should be designed to minimize barriers to access to the mechanism’s complaint process and allow complaints to proceed in a predictable, transparent, and effective manner.

At an early stage, the community typically does not know the full nature of the project, involved companies and funder(s), or availability of a complaint mechanism. While ideally IAM processes should be sufficiently accessible to communities so that they do not need advisers, in practice, community members face language, resource, technological, and information barriers that make it difficult if not impossible for them to pursue a complaint independently. Given this reality, communities frequently seek advice and representation from local, national, or international civil society organizations, lawyers, economists, scientists, negotiation experts, and others. It is critical that IAMs protect communities’ right to involve any and all organizations as advisers and representatives. While an IAM may seek evidence of the community’s authorization for an advisor to represent it, the IAM should not obstruct individuals’ access to remedy by limiting their choice of representatives. To do so would establish an unequal requirement for communities vis-à-vis financial institutions and their clients, which are often advised and represented by international consulting and legal teams.

Even with outside help, it can take years for a community to access information about the project and understand the range of impacts community members face, ascertain a will among the people to raise a complaint, and develop the

complaint and accompanying engagement strategy. To allow communities time to prepare, it is essential that IAMs accept complaints for a sufficient time period after a project's closure or when a community becomes aware of the impacts. As discussed below, the current good policy standard puts that time period at two years. However, given the long-term nature of project impacts, mechanisms should seek to provide as much time as possible for filing complaints – at least four years after an individual is aware of the harm or after financing concludes, whichever is later.

Sometimes communities learn of a project's expected impacts before the project is approved and seek quick action to prevent anticipated harm. Given the IAM's and financial institution's goal of preventing adverse impacts wherever possible and the irreversible nature of some impacts, it is critical that the IAM accept complaints before the project approval stage. In such cases, the outcome of the complaint should influence the financial institution's decision whether or not to approve the project and inform the social and environmental protection strategies guiding the project's implementation. To ensure no gap in access to remedy and to ensure accountability and institutional learning for each financial institution involved in a project, IAMs should accept complaints related to projects co-financed with other institutions.

While typically many people experience adverse impacts from development projects, sometimes just one individual does.¹³ Or, only one individual feels safe being named as a complainant. The IAM's rules should not preclude a single individual from seeking remedy for the impacts they face.

Recognizing the information and language barriers complainants face, IAMs should establish simple eligibility requirements. For example, especially when they lack representation, complainants might struggle to identify which of the financial institution's policy clauses have been violated, or to provide detailed or scientific information linking the harm they experience to the project. Complainants should be allowed simply to outline how the alleged harm they are experiencing or anticipate is tied to financial institution-supported activities. Relatedly, any requirement that harm be "substantial" or "material" is subjective, risking bias or inconsistency in the IAM's application.

13. For all current and past complaints filed by individuals, see the Accountability Console, [Individual Complaints](#).

Once communities feel ready to file a complaint, it is important they be allowed to do so without being required to first raise the issue elsewhere, such as by talking to the client or financial institution management or pursuing remedy via a project-level or local grievance mechanism. Communities often have good reason to fear sharing their concerns with project implementers and to doubt the ability of managers, project-level complaint mechanisms, and local courts to give their concerns fair hearing. Complainants should not need to justify their choice to the IAM; the IAM should respect that complainants will choose the complaint forum that maximizes their security and the utility of their efforts. Complainants also know best which complaint path – compliance review or dispute resolution – is right for them. Depending on their own vision of remedy and strategy to achieve it, either or both of these methods, in sequence or simultaneously, may be most beneficial. Again, rather than erecting barriers to remedy by limiting or appraising their choice, IAMs should enable complainants to pursue both paths. By the same token, IAMs should not bar complaints that are subject to parallel complaint proceedings. Because no other forum has the mandate to assess compliance with the financial institution internal policies, the IAM’s handling of a complaint should not be deemed to interfere with another proceeding.

Once compliance review or dispute resolution commences, it is key that the IAM’s processes be accessible, transparent, predictable, and safe for complainants. Ensuring a process that is culturally appropriate and gender responsive increases community members’ ability to manage the complaint themselves. Adherence to pre-set timeframes and provision of regular status updates lets community representatives keep their communities informed about a process that can be slow and opaque. Meanwhile, careful protection of complainants’ identities helps prevent retaliation against complainants, a phenomenon that is unfortunately increasing globally.¹⁴ Setting protection of identities as the default mode of engagement, with an opt-out available to complainants, is a strong step in promoting safety.

It is also key that the process enables complainants’ participation by covering their costs (i.e., travel to mediations, etc.). The project itself is an imposition on communities and may have affected their livelihoods and access to resources. It would be an imposition as well as a barrier to accessibility to require

14. Global Witness, [In Numbers: Lethal Attacks Against Defenders Since 2012](#).

complainants to shoulder the financial costs for their engagement to seek amelioration of the impacts.

Once it has received a complaint, it is then vital that the IAM conduct a site visit to speak to complainants.¹⁵ Site visits make the mechanism more accessible and “real” to communities and give the mechanism further insight into the complainants’ experiences. Based on what it reads and sees, a mechanism should be empowered to recommend suspension of a project that risks causing imminent harm.

When the complaint is underway, the financial institution also has a role in ensuring an effective process. The institution should require its own staff and those of its clients to cooperate fully with the mechanism. As mentioned above, this means that financial institution and client staff should make project information, documents, and people accessible to the IAM as it conducts the case. The financial institution should contractually require clients’ constructive engagement in complaint processes – and prevent repetition of irresponsible activities in the future – in their financing and investment agreements and should make clear that they will not award the client new or renewed financing unless legitimate complaints are resolved. The institution should also use its influence with the host country to assure the IAM’s freedom to conduct site visits throughout the complaint process.

28. The mechanism should accept complaints across all of the financial institution’s operations, including activities co-financed with other financial institutions.

The risk of harm to communities and the environment is not limited to certain lending instruments but can result from all types of activities financed or co-financed by the institution. Accordingly, the jurisdiction of the mechanism should cover all financial institution-supported operations and activities, including those funded through financial intermediaries.

15. Although site visits are best practice, there might be circumstances when they are impossible, for example due to COVID-19 travel restrictions or because communities would not feel safe meeting in person. In this case, an IAM’s process should be flexible to permit the eligibility or assessment process to continue without a site visit and should permit alternatives that the complainants select, including use of consultants and virtual communications.

GOOD POLICY (IFC'S CAO POLICY PARA. 32)

“Complaints may relate to environmental and social harm regarding any aspect of the planning, implementation, or impact of a Project or Sub-Project.”

GOOD POLICY (ADB'S AM POLICY PARA. 207)

“The Accountability Mechanism will also apply to ADB-administered cofinancing operations.”

29. The admissibility requirements should be simple.

Complainants should be required simply to outline how the alleged harm they are experiencing or anticipate is tied to financial institution-supported activities. Critically, admissibility requirements should **not** require complainants to show or do anything else. Complainants should not be required to first pursue their complaint with another grievance mechanism or management, or list which clauses of the institution's policies have been violated. Admissibility requirements also should not qualify acceptable complaints with terms such as “credible,” “reasonable likelihood of harm,” “substantial adverse impacts,” or require complainants to demonstrate the harm. Complainants often lack the resources and information necessary to file detailed claims of their grievances and policy non-compliance.

GOOD POLICY (EIB'S CM POLICY PARA. 1.4)

“Members of the public who are not aware of the policies, procedures or standards applying to the EIB Group may also submit complaints. They do not need to identify the specific policy, procedure or standard nor do they need to directly challenge the EIB Group's non-compliance with specific policies, procedures or standards.”

30. Complaints should be admissible prior to project approval.

In order to prevent or mitigate potential adverse impacts, complainants should be able to bring complaints to the mechanism before the project is approved by the institution's Board or management. Complaints can often be most easily addressed at this early stage, which is critical for preventing harm, including by ensuring the proper application of environmental and social standards to projects that proceed.

GOOD POLICY (GCF'S IRM PROCEDURES, PARA. 20)

“A grievance or complaint can be submitted to the IRM by a person or group of persons or community who has/have been or who may be affected by adverse impacts of a GCF funded project or programme.¹

[fn 1] GCF funded project or programme includes a project or programme being actively considered for funding by the GCF.”

31. Complaints should be admissible for a period of at least 2 years after the financial institution has ended its relationship with the client.

The full implementation of applicable environmental and social standards – and the realization of their objectives – are sometimes only achieved after project loans have been fully disbursed and the “main” project activities (e.g., infrastructure construction) have been completed. Moreover, an activity's social and environmental impacts may only be felt after the financial institution is no longer involved. Thus, the mechanism should accept complaints throughout the project lifecycle and for a period of time after the project is closed.

GOOD POLICY (GCF'S IRM PROCEDURES PARA. 23)

“The IRM shall not process a grievance or complaint regarding a GCF funded project or programme submitted to the IRM on or after whichever is the later of the following two dates: (a) within two (2) years from the date the complainant became aware of the adverse impacts referred to in paragraph 20 above or (b) within two (2) years from the closure of the GCF funded project or programme.”

32. Complainants should not be required to take other steps to resolve their grievances through other means or mechanisms as a precondition to filing a complaint to the IAM.

There are many reasons why it may not be feasible for project-affected people to attempt to resolve their grievances through other means. For example, financial institution staff and clients may not be accessible or equipped to address grievances. Additionally, project-affected people may fear reprisals if they attempt to challenge or oppose a project through local institutions and offices, particularly those lacking the ability to keep their identities confidential. Moreover, project-level grievance mechanisms, where they do exist, are frequently inefficient and ineffective because they lack independence, capacity, and resources.

GOOD POLICY (GCF'S IRM PROCEDURES, PARAS. 25-26)¹⁶

“There are no formal requirements for filing a grievance or complaint ... [W]here possible a complainant may wish to include ... A description of other efforts including access to grievance/redress mechanisms of AEs or other dispute resolution processes, if any, that the complainant has pursued or intends to pursue to resolve the concerns, and redress, if any, already received from such efforts.”

16. Similar language can be found in paras. 33-34 of the IFC CAO policy.

33. The mechanism should accept complaints from one or more individuals.

There is no correlation between the existence of harm and the number of complainants. Even just one complainant should have the right to seek redress for harm.

GOOD POLICY (IFC'S CAO POLICY, PARA. 30)

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

GOOD POLICY (BSTD'S ICD, PG. 2)

“Any staff member, or an individual or group of persons or a legal entity outside the Bank affected or feeling affected by a decision or practice of the Bank, or of an operation funded by the Bank, may file a complaint.”

34. Judicial or other parallel proceedings should not bar complaints to an IAM.

An IAM should always be able to undertake a compliance review, regardless of other ongoing processes, because no other forum has the mandate or authority to assess a financial institution's compliance with its own policies. Additionally, if the parties are willing to engage in a dispute resolution process, the IAM should facilitate such a process, notwithstanding other processes. Thus, neither a complaint at another accountability mechanism nor a domestic judicial proceeding should be used to exclude a complaint from an IAM's jurisdiction.

GOOD POLICY (IDB'S MICI STATEMENT, <https://www.iadb.org/en/node/30986>)

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

35. Complainants should be allowed to have representation and/or advisors support them throughout the complaint process.

CSOs and other advisors can play an important role in informing, advising, and otherwise supporting complainants throughout the complaint process, for both compliance review and dispute resolution. The mechanism should respect this relationship and be open to the involvement of the complainants' chosen advisors in a manner that they request. Moreover, due to potential reprisals, affected communities may need to file complaints via a representative. Both local and international organizations, the latter of which often have greater experience with complaints to IAMs and access to institutions, should be allowed to represent and/or support the complainants.

GOOD POLICY (EBRD'S IPAM POLICY PARA. 2.1(D)(VII))

“If desired, Requesters may identify a Representative who will assist them in the Case handling process. In these cases, the Request must contain written proof (such as a signed letter by the Requesters) of the Representative's authority to act on behalf of the Requesters in relation to the Request.

The Requesters must indicate whether they wish their Representative to act as the point of contact for all formal communications between IPAM and the Requesters, in which case, contact information for the Representatives must also be provided. However, IPAM may communicate directly with the Requesters as necessary.”

36. The mechanism should ensure that the complaint process is culturally appropriate, gender responsive, and equally available to all.

For example, complainants should be able to submit complaints in a variety of forms, either in writing, orally, or via recording, and in their own language.

GOOD POLICY (AFDB’S IRM OPERATING RULES AND PROCEDURES PARA. 5)

“The IRM will ensure that the Complaints process is culturally appropriate, gender responsive, and equally available to all.”

GOOD POLICY (UNDP’S SECU PARAS. 14, 25)

“SECU provides UNDP, and those affected by UNDP projects, with an effective system of independently and objectively investigating alleged violations of UNDP’s social and environmental commitments. SECU seeks to protect locally-affected communities and, in particular, disadvantaged and vulnerable groups, and to ensure participation of local stakeholders. ...Complaints are accepted by email, online form, phone hotline, postal mail, and text message through SMS, WhatsApp, Viber, WeChat, etc.”

37. The mechanism’s policy should empower the mechanism’s staff to conduct site visits as a matter of routine during the admissibility phase and as often as necessary throughout the process.

Site visits allow the mechanism to explain its process to complainants, clients, and financial institution staff and provide the mechanism with a better understanding of the issues and context germane to the complaint. For complaints filed with DFIs, the mechanism should be empowered to conduct site-visits without first needing to seek DFI-member permission.

GOOD POLICY (GCF’S IRM PROCEDURES PARA. 36)

“Where a grievance or complaint has been found eligible, the IRM will within sixty (60) calendar days engage with the complainant, including but not limited to meetings at the place the complainant or the project or programme is located, to: (a) understand the issues in the complaint; (b) provide further information regarding problem solving and compliance review; (c) ascertain whether the complainant would like to pursue problem solving and/or compliance review; and (d) ensure that the complainant is able to make an informed decision.”

38. Complainants should be allowed to choose dispute resolution, compliance review, or both and their sequence.

Considering the intrinsic differences between the functions of the mechanism, complainants should have the right to choose which one(s) may best serve them and in what sequence. The mechanism should be empowered to conduct dispute resolution and compliance review contemporaneously or sequentially, as appropriate and as requested by the complainants.

GOOD POLICY (UNDP'S SECU INVESTIGATION GUIDELINES PARA. 33)

“If both processes are applicable, the Complainant will be informed that both are applicable, and be given the choice to proceed with compliance review, stakeholder response [dispute resolution], or both.”

GOOD POLICY (UNDP'S SRM OVERVIEW AND GUIDANCE PARA. 18)

“When SECU advises the SRM of the need for [a compliance] review, it is the responsibility of the receiving office to communicate to the requestor any planned action by the SECU to review compliance issues, and to discuss with the requestor the possibility of conducting compliance review before, after, in parallel with, or instead of grievance resolution.”

GOOD POLICY (IKI ICM'S POLICY, PARA. 4.2.1(H))

“The complaint mechanism allows for flexibility in conducting a compliance review after a problem-solving process, and vice versa.”

39. The mechanism should establish clear timelines for each stage of the complaint process.

Predictability and transparency of the complaint process is essential for communities' trust in the mechanism. The mechanism should develop an indicative deadline for the compliance review phase that could be extended, if necessary, with proper notification to complainants. It is important to note that while clear timelines are important in general for predictability, flexibility in timelines, in consultation with the parties, should be permitted for dispute resolution processes.

GOOD POLICY (AIIB'S PPM PROCEDURES PARA. 6.4.1(A))

“Indicative timelines for handling submissions are set forth below for each action. Attachment 3 summarizes the indicative timelines for processing submissions under each PPM function in tabular form. Working Days are defined in the Definitions (above).”

40. The mechanism should keep complainants regularly updated on the status of their case in a manner that is culturally appropriate, gender responsive, and secure.

Regular communication from the mechanism will reassure complainants that their complaint has not been forgotten even if there is little progress to report. Communication should be culturally and gender sensitive, in the complainants’ own language, and should account for the complainants’ literacy levels. The mechanism should have a roster of interpreters available to ensure efficiency of communication. Further, the mechanism should have a clearly established line of secure communication for electronic communication with local communities in politically restrictive environments.

GOOD POLICY (EBRD'S IPAM POLICY PARA. 3.1(A))

“IPAM shall keep Requesters (or their Representatives, if any), informed about the status of Requests in a timely manner.”

GOOD POLICY (IFC'S CAO APPROACH ON RETALIATION, <https://www.cao-ombudsman.org/about-us/approach-reprisals>)

“Wherever feasible, CAO will use encrypted mediums for communication and seek to adopt other technology best practices to help safeguard confidentiality online and in communications.”

GOOD POLICY (IFC'S CAO POLICY, PARAS. 10[B], 165)

“CAO carries out its work guided by the following core principles:

Transparency: Making every effort to keep Parties informed about processes and the progress of a complaint, and ensuring transparency and disclosure of CAO reports, including findings and outcomes.”

“CAO publishes all CAO reports in English, including case reports, advisory reports, and annual reports. All publicly disclosed reports on casework—including assessment reports, dispute resolution reports, and compliance reports — will be translated into the Complainant’s local language. When deemed necessary, CAO will translate its reports into additional local languages and present them in a culturally appropriate manner.”

41. The mechanism should cover complainants’ costs associated with participating in the complaint process.

Complainants incur a range of costs when participating in a complaint process. For example, complainants may need mobile phone credits so that they can communicate with the mechanism or bus fare to travel to meeting locations. Complainants may also incur opportunity costs if they must lose a day’s wage or leave their fields in order to participate at a dialogue table or a compliance review site visit. This is in stark contrast to staff of the financial institution or client, whose job responsibilities include participation in the complaint process.

GOOD POLICY (GCF'S IRM PROCEDURES PARA. 91)

“The IRM shall bear the costs of conducting problem solving, compliance review and monitoring as well as the costs of ensuring the meaningful participation of complainants, witnesses and stakeholders in problem solving, compliance review or monitoring.”¹⁷

17. Similar language can be found in para. 101 of the AfDB IRM policy.

42. The mechanism should take necessary measures to prevent retaliation against complainants.

Globally, individuals defending their human rights and the environment have increasingly faced intimidation, violence, and reprisals. The mechanism should have a zero-tolerance position on retaliation and a process for assessing and preventing risks of and actual instances of retaliation against potential complainants and all others associated with the complaint process (such as complainants' family members, NGOs, translators, drivers, etc.). Prevention of risks includes, but is not limited to, ensuring that complainants are aware that they can request that the mechanism keeps their identities confidential from internal and external parties.

GOOD POLICY (EBRD'S IPAM POLICY PARA. 3.1(K))

"IPAM does not tolerate Retaliation against Requesters or any other individuals involved in an IPAM process or outreach activity, and rejects any form of threat, intimidation, harassment, violence, or discrimination based on the fact that they have exercised their right to raise concerns."

GOOD POLICY (WB'S IP GUIDELINES TO REDUCE RETALIATION RISKS PARA. 3)

The IP has developed a protocol whose objective is to "(i) identify and monitor potential risks of retaliation, including emerging risks; (ii) plan and adopt preventive measures to address and reduce these risks; and (iii) identify appropriate responses if retaliation occurs."

GOOD POLICY (FMO/DEG/PROPARCO'S ICM POLICY PARA. 3.1.8)

The ICM will "strictly respect and safeguard the absence of explicit consent by a complaining natural person, and refrain in such cases from disclosing the Complainants' identity to internal and external parties."

GOOD POLICY (EIB'S CM POLICY PARA. 2.6)

“Complainants to the EIB Group Complaints Mechanism must not be subject to any form of retaliation, abuse or any kind of discrimination based on the fact that they have exercised their right to complain. This shall apply to the EIB Group as well as to any counterpart that is in a business relationship with the EIB Group. The EIB Group is committed to taking steps to prevent and address potential risks of reprisal against complainants and complaint-related people.”

43. The mechanism should have the authority to recommend the suspension of the project in the event of imminent harm.

Complaint processes can take a year or more to complete. The mechanism should do what it can to ensure that, if needed, measures up to and including suspension of the project will be taken to protect affected communities from harm throughout the process.

GOOD POLICY (UNDP'S SECU INVESTIGATION GUIDELINES PARA. 55)

The SECU Guidelines allow the Lead Compliance Officer to “recommend to the Administrator that UNDP take interim measures pending completion of compliance review... Such interim measures could include suspending financial disbursements or taking other steps to bring UNDP into compliance with its social and environmental commitments, or to address the imminent harm. The Lead Compliance Officer will endeavor to consult potentially affected people on these measures, depending on time and related constraints.”

GOOD POLICY (IKI'S ICM POLICY SECTION 7)

If at any time during the processing of the complaint, the complaint mechanism believes that serious, irreparable harm could be caused by further project implementation, the complaint mechanism may recommend that IKI suspend disbursements for the project.

44. A client's participation in a complaint process should be included in financial institution due diligence and monitoring.

The extent to which a client has engaged, in good faith, with complainants, remedied any harms it may have caused, and complied with the financial institution's policies should be taken into account in the Bank's due diligence for additional or subsequent financing.

Recalcitrant clients should not be eligible for financing, similar to the consequences for those clients found to be involved in fraud and corruption. Just as in fraud and corruption cases, this information should also be shared among mechanisms and financial institutions.¹⁸

18. [Cross Debarment: Agreement for Mutual Enforcement of Debarment Decisions Among Multilateral Development Banks.](#)

Moreover, financing agreements should require clients not just to apply the financial institution's environmental and social standards, but also to engage in complaints processes relating to potential non-compliance with those standards. We described earlier what this would mean in practice for clients, including disclosure of information to the IAM, accepting its findings and recommendations, and implementing remedial actions.

GOOD POLICY (EBRD'S IPAM POLICY PARA. 2.2(G)(I), 3.1(E))

“When Bank management submits a newly proposed Project to the Board or the relevant approver (if the Board has delegated the approval authority), it will first establish if the proposed Client has ever been a Party to a Case reviewed by IPAM or its predecessors, and determine, in conjunction with IPAM, if this information, and the outcome of the Case, must be included in the submission for consideration by the Board or the relevant approver.”

“If the Project at issue in a registered Request is subject to co-financing by other institutions, IPAM will notify the accountability mechanism(s) of the co-financing institution(s) of the Registration of the Request, and will encourage them to notify their respective management teams for awareness and consideration in their own project appraisals and/or project implementation... If a Request or grievance is submitted to a co-financing institution only, but it relates to an EBRD Client and IPAM is made aware *by the IAM of the co-financing institution*, IPAM will brief Bank management – and if deemed necessary, the Board – as publicly available information on such cases becomes available.”

45. The financial institution’s management and staff should be required to fully cooperate with the mechanism in order to ensure the mechanism’s effective functioning.

Upon the request of the mechanism, the institution’s management and staff should, *inter alia*, provide full access to project-related information, respond frankly to questions posed by the mechanism in the course of its activities, and assist in arranging travel to the project site and field offices. The financial institution’s engagement should not be just a box-ticking exercise, but rather an opportunity to involve complainants as constructive partners in development in furtherance of its mission.

GOOD POLICY (ADB’S AM POLICY PARA. 137)

“ADB Management and Staff will (i) ensure that the OSPF and CRP have full access to project-related information in carrying out their functions; (ii) provide assistance to the OSPF in problem-solving; (iii) coordinate with the CRP on compliance review; ... (v) assist in mission arrangements for the OSPF, CRP, and OCRP; [...]” etc.

GOOD POLICY (GCF’S IRM PROCEDURES PARA. 101)

“It shall be the duty of the GCF Secretariat to be reflective and responsive in connection with all processes and phases related to a grievance or complaint to ensure that the funded project or programme concerned is in compliance with GCF operational policies and procedures. It shall also be the duty of the GCF Secretariat to cooperate with the IRM in the discharge of its functions under its TOR.”

GOOD POLICY (AIIB’S PPM POLICY PARA. 2.6)

“The President shall also ensure that the MDCEIU has full access to AIIB’s staff and files, including electronic files, relevant to submissions received and processed by the PPM, and will ensure that AIIB personnel fully cooperate with the PPM.”

Compliance Review

A robust compliance review (sometimes referred to as “CR”) function is a hallmark of all IAMs. Compliance review has two key purposes.

First, compliance review seeks to ensure that the financial institution has complied with its environmental and social policies, standards, and other criteria with a goal of institutional learning to ensure effective policies and implementation in future. The CR function is a critical tool to ensure the accountability of an institution by assessing its compliance with its environmental and social policies and national and international requirements. This includes identifying gaps or weaknesses in the institution’s existing policies even when they are implemented correctly and completely and ensuring the institution’s compliance with a flexible array of other expectations, such as host country legal and regulatory requirements and international standards. As mentioned earlier, often one of the outcomes sought by complainants through the complaint process is assurance the harm they experienced will never impact other communities again. To this end, the results of compliance review should inform continuous improvements to policies and procedures and their implementation.

Second and most importantly, a compliance review process should also result in material remedies for complainants. Restoring a project to compliance with the financial institution’s requirements necessarily involves redress of past harms to complainants and prevention of future harm. Complainants do not pursue CR as a service to financial institutions to help them identify policy and implementation gaps, but to seek acknowledgement and remediation of harms incurred and material changes to the project, as appropriate, to prevent further harm from occurring.

Given the critical role of compliance review in ensuring the financial institution meets its commitments and the project-affected people receive remedy, the IAM should have the power to undertake CR when requested. While some IAMs first perform an appraisal of eligible complaints to assess if a compliance review is appropriate, this risks blocking an investigation into legitimate complaints. All complaints requesting compliance review that meet the mechanism’s eligibility criteria should proceed directly to a full investigation. At a minimum,

if the mechanism has a compliance appraisal stage, it should ensure that the criteria for a full investigation are public and clear, approval of investigation does not depend on a “cost-benefit” analysis, and complainants are consulted throughout the process.

The IAM should also be empowered to initiate CR itself rather than waiting for a request from complainants or the Board; the IAM is well placed to notice where compliance is in jeopardy before project-affected people or the Board apprehend the risk. To protect its independence in undertaking CR and follow-on monitoring, the IAM should have the power to seek outside counsel. Achieving full and effective remedy through a compliance review process also requires the active and constructive participation of institution management and clients, an aspect that is often lacking at most financial institutions.

Although compliance review is a technical process, project-affected people should remain central to it. The IAM should keep complainants informed throughout and consult complainants to ensure its recommendations will address their concerns before issuing recommendations to bring the project into compliance. Next, financial institution management must be required to accept the findings and recommendations of the IAM and consult with complainants when developing an action plan to respond to CR findings of non-compliance, in order to find mutually agreeable ways to address the IAM’s findings. Financial institution clients should be contractually obligated, through their financing agreements, to similarly respect IAM findings and recommendations and to constructively participate in the development and implementation of an action plan to bring the project into compliance. The process for management and client engagement should be elaborated either in the IAM’s policy or in a separate public procedure governing management’s role in a complaint process. In the experience of complainants, action plans are often not implemented fully or not implemented in a manner that meets the complainants’ expectations. For this reason, it is important that the IAM monitor outcomes, including by consulting project-affected people to understand, from their perspective, whether the plan and implementation are effectively stopping the impacts they experienced and ensuring the remedies they were promised.

To effectively achieve both institutional accountability and redress for complainants, the following elements of a CR are necessary:

46. The mechanism should have the sole authority, without need of Board approval, to determine whether to conduct a compliance investigation.

The decision to conduct a compliance review should be an objective one based on clear criteria taken by an entity without conflicts of interest. Financial institution management should be allowed to provide information and its perspective on the complaint but should have no role in determining whether a compliance investigation is warranted. In the DFI context, DFI Board members may also have a conflict of interest if the complaint originates in their country or relates to the actions of its government. Involving the Board in approving a recommendation to investigate unduly politicizes what should be a reasoned decision.

GOOD POLICY (GCF'S IRM PROCEDURES PARA. 55)

“If the compliance appraisal report concludes that there is prima facie evidence of adverse impacts and/or non-compliance with GCF operational policies and procedures, by a GCF funded project or programme, the IRM will commence a compliance investigation. In such a case, the compliance appraisal report shall also set out the scope of the compliance investigation”

47. In addition to accepting complaints from project-affected people, the mechanism should have the authority to initiate a CR itself.

In limited circumstances –for example, if the mechanism receives information suggesting serious non-compliance by the financial institution or if the filing of a complaint would entail significant risk to project-affected people– the mechanism should initiate its own investigation.

GOOD POLICY (UNDP'S SECU INVESTIGATION GUIDELINES PARA. 24, PROACTIVE INVESTIGATIONS PARAS. 3-4)

“Investigations may also be triggered on SECU’s own initiative by the Lead Compliance Officer, or at the request of the UNDP Administrator. When this occurs, disclosure of documents will occur in a manner similar to disclosure pursuant to complaint processes triggered by community complaints. UNDP takes all reports of alleged breaches of social and environmental commitments seriously, and all allegations are assessed to determine whether an investigation is appropriate.”

“Proactive investigations are defined as investigations intended to identify and respond to significant potential or actual harm to an individual or community resulting from an existing (but yet unidentified) failure of UNDP to meet its social and environmental commitments... The ability to investigate matters without first having to receive a request is intended to:

- Allow SECU to respond to high risk projects before harm occurs to individuals or communities, as well as damage to project success and UNDP’s reputation;
- Address the situation in which, for a variety of reasons (e.g. cultural, lack of knowledge, etc.), impacts are not likely to be reported;
- Serve as an effective deterrent to avoiding compliance with these commitments;
- Build a more comprehensive and balanced portfolio of compliance cases at the corporate level across regions and development sectors;
- Strengthen UNDP’s credibility with donors.”

GOOD POLICY (IKI'S ICM POLICY SECTION 5)

- (i) “receives information from a credible source that an IKI project is having a direct, negative impact on a person, a group of persons, communities or the environment, or if there is evidence of corruption, fraud or misappropriation of funds; and
- (ii) the resulting harm is not insignificant; it may decide, on the basis of prima facie evidence, to initiate proceedings as per this Section.”

48. The mechanism should assess compliance against a set of criteria appropriate to the case at hand.

These criteria could derive from, for example, applicable policies, standards, guidelines, environmental and social assessments, host country legal and regulatory requirements, and international standards.

GOOD POLICY (FMO/DEG/PROPARCO'S ICM POLICY PARAS. 2.3.1-2.3.2)

2.3.1. “One element of the Mechanism is to review compliance of FMO’s financing activities with FMO policies.

2.3.2. All policies can be found under <https://www.fmo.nl/policies-and-position-statements> and are (amongst others) based upon relevant laws, principles and guidelines, such as the IFC Performance Standards, the Equator Principles, the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises.”¹⁹

49. The mechanism should additionally seek to identify weaknesses and gaps in the financial institution’s policies and standards that result in adverse social and environmental risks and impacts.

When harm occurs despite compliance with financial institution policies, it may be an indication that the policies themselves are not adequate. Mechanisms should be empowered to identify such policy gaps, which should prompt the financial institution to strengthen its policies to prevent negative impacts in the future.

19. Similar provisions can be found in the DEG and Proparco versions of the ICM policy.

GOOD POLICY (OPIC'S OA OPERATIONAL GUIDELINES PARA. 7.2)

“A compliance review may examine 1) whether or not the set of policies applied was appropriate and adequate to prevent harm from the project, and 2) the actions taken by OPIC to implement relevant policies (up to the time when the request for review was submitted). In particular, the review examines whether or not appropriate implementation steps were followed and whether these steps were adequate to meet the objectives of relevant policies.”

50. The mechanism should make recommendations to bring the project into compliance and redress harms.

Where the IAM finds non-compliance that has contributed to harms or the risk of harm, or harms or risk of harm resulting from gaps or weaknesses in the financial institution's policies, the CR report should include a set of recommendations for remedial measures.

GOOD POLICY (EBRD'S IPAM POLICY PARA. 2.7(D)(III))

“[T]he Compliance Review Report will:...ii. provide Bank Management with specific recommendations to address the findings of non-compliance: a. at the Project level, identifying Project-specific actions to bring the Bank into compliance and address the harm or potential harm associated with the findings of non-compliance; and b. at the procedural and systemic levels, identifying changes to EBRD practices, procedures, guidance or systems to bring the Bank into compliance and to avoid recurrence of such or similar situations on the Project at issue in the Request as well as in other Projects.”

(AfDB's IRM Policy para. 67(iii)) "If the Compliance Review Report concludes that any Bank Group action, or failure to act, in respect of a Bank Group Financed Operation has resulted in any material non-compliance in accordance with Paragraph 9, it may recommend: [...] c. That redress be provided to those harmed, which may include financial and/or non-financial considerations, as the case may be."

51. The Board should expeditiously consider the mechanism's findings, granting deference to its factual assessments.

The Board should not delay in reviewing CR reports, and it should refrain from initiating a *de novo* review of the facts. When considering recommendations offered by the mechanism, the Board should maintain an unbiased and remedy-focused disposition, and it should publicly communicate any agreement or reasons for disagreeing with the mechanism's findings or recommendations.

GOOD POLICY (GCF GUIDELINES TO FACILITATE BOARD CONSIDERATION OF INDEPENDENT REDRESS MECHANISM REPORTS ON RECONSIDERATION REQUESTS, GRIEVANCES OR COMPLAINTS, PARAS. 2.1, 5.4)

"In considering reports on complaints and reconsideration requests presented by the IRM to the Board, the Board will:

- (a) In accordance with the Rules of Procedure, expeditiously consider the IRM report, findings and any recommendations and decide whether to accept them or not;
- (b) Not engage in a fresh (*de novo*) investigation of the complaint/grievance or request; ...
- (f) Seek clarifications on the report, findings and recommendations from the IRM; and
- (g) Consider the report fairly, in an unbiased fashion with a view to providing redress, where appropriate."

“When the Board has come to a decision on the IRM report, that decision, together with the notes of the Board meeting relevant to that decision, or the summary of reasons in the event of a closed executive session, should be made public by the IRM in accordance with the [IRM Procedures and Guidelines] and these Guidelines.”

52. All parties should have the opportunity to comment simultaneously on a draft CR report.

Most IAMs allow complainants to review a draft of the CR report to suggest factual corrections, but parties should also be able to share their perspectives on the proposed recommendations. To ensure an equitable process, both parties should comment on the same draft. The mechanism should retain the final decision whether to address the comments received.

GOOD POLICY (GCF'S IRM PROCEDURES PARA. 60)

“The draft compliance report of the IRM will be provided to the complainant and the Executive Director of the GCF Secretariat for their comments, if any, to be provided within twenty-one (21) calendar days of the receipt of the report. The draft compliance report of the IRM will also be provided to the relevant AE where the report contains recommendations concerning the AE. The main purposes of this opportunity to comment are to enable the complainant, the GCF Secretariat and the AE to provide feedback on statements of facts and factual findings, and on the recommendations, in the draft compliance report.”

GOOD POLICY (IDB'S MICI POLICY PARA. 44)

“Once the MICI has completed its investigation, it will issue a draft report including a review of its main findings of fact and recommendations, and forward them to Management and the Requesters for their comments. Management and the Requesters will have a term of 21 Business Days to send comments on the draft report.”

53. The final CR report should be shared simultaneously with complainants and the financial institution's Board and management.

Complainants should have access to the final CR report before entering into dialogue with management regarding the action plan to give effect to the recommendations. Complainants also require the final report in order to inform the Board of their perspectives on its findings and the proposed recommendations to address them.

GOOD POLICY (AFDB'S IRM PROCEDURES PARA. 68)

"...the Compliance Review Report shall be made available to the Complainants at the same time as it is submitted for consideration and decision."

54. Financial institution management must be required to develop and implement a management action plan (MAP) to remediate harm and give effect to the mechanism's recommendations as approved by the Board.

In the absence of this requirement, articulated in a Board-approved policy, management may simply disregard the CR findings and prevent the mechanism from fulfilling its mandate.

For the same reason, financial institutions should contractually require their clients to constructively participate in the development and implementation of a MAP.

GOOD POLICY (ADB'S AM POLICY PARA. 190)

“If the CRP concludes that ADB’s noncompliance caused direct and material harm, Management will propose remedial actions to bring the project into compliance with ADB policies and address related findings of harm.”

GOOD POLICY (AFDB'S IRM POLICY PARA. 69(B))

“If IRM finds the Bank to be non-compliant, Management shall: [...] (b) Include in the Management Action Plan clear time-bound actions for returning the Bank to compliance and achieving remedy for affected populations

55. Management should consult with complainants and the mechanism on the development of the MAP.

Incorporating the ideas and perspectives of the complainants and the mechanism in the action plan is essential to ensuring that the measures will satisfactorily address their grievances and redress harms they have suffered.

GOOD POLICY (WB'S IP OPERATING PROCEDURES PARA. 82)

“Management will communicate to the Panel the nature and the outcomes of the consultations with the affected parties on the action plan agreed between the Borrower and the Bank. The Panel may submit to the Board, for its consideration, a written or verbal report on the adequacy of these consultations.”

GOOD POLICY (GCF'S IRM PROCEDURES PARA. 67)

“A draft remedial action plan shall be provided to the IRM, complainant, AE or the Executing Entity, giving them a minimum of ten (10) calendar days to comment.”

56. The Board should have the benefit of the complainants' and mechanism's perspectives on the plan's adequacy prior to approving the MAP.

Management should be required to report to the Board how it has incorporated the feedback received on the draft MAP. In addition, the Board should also have the benefit of the mechanism's and complainants' input in order to resolve any disagreements on the best course of action.

GOOD POLICY (EBRD'S IPAM POLICY PARA. 2.7.1(F))

"Upon a finding of non-compliance in respect of a Project, IPAM will submit the final Compliance Review Report; the final Management Action Plan; the Management Response, if any; and Requesters' or Representatives' comments on the draft Management Action Plan, if any, to the President and the Board... The IPAM Head will communicate to the Board, whether, in IPAM's view, the commitments identified in the final Management Action Plan adequately address the findings and recommendations of the Compliance Review Report."

GOOD POLICY (AIIB'S PPM PROCEDURES PARA. 6.7.3(R))

"The MAP includes a summary of how Management has taken into account the Compliance Review report and addressed any comments from the Client, the Requestors and the PPM."

57. The mechanism should have the mandate to monitor the case until all instances of non-compliance have been remedied.

The duration of the monitoring period should not be prescribed by the policy.

Further, it is not sufficient for the IAM to monitor only the implementation of the action plan, because the measures committed to in the plan, even if implemented, might not bring the project back into compliance. Instead, monitoring must focus on actual remediation of all instances of non-compliance.

GOOD POLICY (FMO/DEG/PROPARCO'S ICM POLICY PARA. 3.2.22)

“In cases where material non-compliances are identified, the ICM will monitor the situation until actions taken by FMO assure the ICM that FMO is addressing the material non-compliance(s).”

GOOD POLICY (UNDP'S SECU INVESTIGATION GUIDELINES PARA. 50)

“In cases where UNDP is found to be out of compliance and the Administrator directs staff to undertake remedial measures, SECU will keep the case open and monitor the situation until actions taken by UNDP assure SECU that UNDP is addressing the noncompliance. This monitoring may involve desk review, correspondence with the affected communities, progress reports from the Country Office or relevant business unit, and onsite inspections, as appropriate. When UNDP completes the steps to bring the project into compliance, SECU will close the case.”

58. The mechanism should consult with parties in the development of its monitoring reports and conduct site visits, as appropriate, to verify information provided to it.

Cases should not be closed unless there is evidence that the non-compliance has been remedied. This will require the mechanism to consult with all parties involved and conduct site visits to document progress or lack thereof. Cases often receive less attention after the CR report has been published, but ensuring that findings have resulted in concrete improvements on the ground is critical to an effective grievance mechanism.

GOOD POLICY (ADB'S AM POLICY PARA. 194)

“The methodology for monitoring may include (i) consultations with the complainants, the borrower, the Board member concerned; Management; and staff; (ii) a review of documents; and (iii) site visits. The CRP will also consider any information received from the complainants and the public regarding the status of implementation.”

59. The mechanism should have the authority to alert the Board when the MAP is not being adequately implemented and make recommendations for its improvement.

Even with the best of intentions, the implementation of the MAP may not achieve its intended purpose of bringing the project back into compliance with the financial institution's policies. When the client or management is not implementing their commitments, it is not enough for the mechanism just to publish a monitoring report.

Instead, the mechanism should have the ability to alert the Board and make recommendations as appropriate on what additional steps should be taken to achieve compliance, so that the Board can take appropriate action.

GOOD POLICY (GCF'S IRM PROCEDURES PARAS. 68, 70)

“The IRM shall report to the Board any cases of which it becomes aware where a final remedial action plan, or any part thereof, cannot be or is not being implemented. ...[The IRM's prior agreement on the final remedial action plan (see paragraph 67)] shall not prevent the IRM from recommending improvements to the final remedial action plan, if necessary, during its implementation. Where the IRM recommends improvements to a final remedial action plan, the Secretariat shall take appropriate steps to amend such final remedial action plan...”

Dispute Resolution

All IAMs should have a dispute resolution (commonly referred to as “DR”) function. The DR function must, through applying a range of dispute resolution tools, empower parties themselves to generate and agree on solutions and remedial actions.

When done most effectively, dispute resolution involves the IAM bringing the complainants together with the financial institution client and other stakeholders to resolve grievances about negative social and environmental risks and impacts of a project through a range of approaches, including facilitated dialogue or mediation by professional mediators, joint fact-finding, and other multi-stakeholder processes appropriate to the case at hand. It is important that the IAM be broadly empowered and equipped to tailor its DR approach to the particulars of each case, the context and the parties to the dispute. DR is distinct from an approach found at some IAMs that is primarily undertaken between complainants and the Bank itself, where the mechanism and/or the financial institution proposes a solution to the complainants for them to accept or reject. An IAM, through its mediators, may propose solutions for discussion. However, an approach that does not involve the financial institution’s clients and in which the bank offers a take-it-or-leave-it outcome to complainants does not constitute effective DR, because it does not involve the parties in creative solutions and fails to address power imbalances or improve communication between the complainants and the financial institution client, as is needed for a constructive long-term relationship. Although dispute resolution should occur between the complainants and the client, the financial institution does have responsibilities to fulfill. These include encouraging clients to constructively engage in DR, engaging itself when requested, and providing financing to support the DR as needed by complainants.

In order to engage parties in an effective process to develop their own solutions to the dispute, the dispute resolution function must take steps to rectify power imbalances between the parties. Although complainants are effective advocates and know their own needs best, they are in many ways at a disadvantage when compared to the financiers, owners, developers, and operators of the project that affect them.

In recognition of this power imbalance, any dispute resolution process between complainants and clients of the financial institution, and indeed the financial institution itself, should ensure the application of a set of protections to ensure fairness, legitimacy and trust throughout the process. For example, the IAM should educate both parties about the rights project-affected people have with an eye to ensuring any resolution reached is compatible with those rights. The DR should be handled by an independent mediator or facilitator agreed to by parties, and the mediator should be empowered to support the parties differently, in line with their respective capacity, access to information and other resources, and ability to participate. As with the compliance review process, the IAM should monitor implementation through consultation with the complainants to ensure the client carries out any agreement reached with the complainants.

The decision to attempt to resolve grievances through dispute resolution should not preclude a compliance review. In fact, CR and DR should be allowed to occur in sequence or simultaneously, though mechanisms should be on guard against conflict of interest if an IAM director engages in both CR and DR processes for the same case. Sometimes complainants choose to end a dispute resolution before it has finished because they feel the DR process is not working. They should be allowed to do so and pursue compliance review to have their concerns addressed. Meanwhile, a CR need not become an obstacle to DR and productive efforts to reach agreement among the parties; instead, such efforts should be taken into account in the compliance review process.

The DR process of all IAMs should include the following minimum protections:

60. The dispute resolution function should not be prescriptive but allow the parties (the complainant and financial institution client, at a minimum) to engage with each other and arrive at solutions voluntarily.

The dispute resolution function should encompass a range of tools and approaches to assist parties in reaching solutions to address or remediate adverse social and environmental risks and impacts. IAMs should not undertake to present solutions to the parties for their input.

GOOD POLICY (OPIC'S OA OPERATIONAL GUIDELINES PARA. 6)

“The problem-solving function focuses on finding ways for the Parties to address the issues raised in a request. The OA takes no position on the validity of the allegations made, nor does it impose solutions to the conflict. It seeks to build the Parties’ trust in the process and with each other in order to create conditions conducive to the resolution of the issues raised.”

GOOD POLICY (IDB'S MICI CONSULTATION PHASE GUIDELINES PARAS. 3.2, 3.6)

“In accordance with MICI’s guiding principles (Section C, Paragraph 6) and in order to ensure ethical, transparent and effective case management, CP officials must observe *the following principles*:

Co-design: CP processes should be designed and prepared using as primary input the methodology, format, cultural and linguistic preferences of the actors to whom they are directed. Co-design in CP processes is aimed at increasing the trust between actors and the sense of ownership of the process in addition to creating the conditions for an effective exchange.[...]”

“Voluntary Nature: CP processes are voluntary, and the Parties may withdraw at any moment from them if they wish to do so. MICI officials, as well as professionals acting as expert facilitators in these processes, will pay particular attention to any symptom that shows that the Parties are uncomfortable with the progress of the process. They may exchange information and opinions on these issues and suggest changes to the methodology or the procedure.”

61. When mediation is undertaken in the DR phase, the mechanism should use a neutral, professional mediator, or other facilitator as appropriate, agreed to by the parties.

The mediator's background and skills should be suitable to the context and dynamics of the case. Parties should agree to the mediator.

GOOD POLICY (FMO/DEG/PROPARCO'S ICM POLICY PARA. 3.2.6)

"In the Dispute Resolution phase, a Complaint may be handled by the Independent Expert Panel or mediators selected by the Panel, as long as all parties agree on the selected mediator."

62. While maintaining its impartiality, the dispute resolution function should seek to ameliorate the power imbalances between the parties.

Parties to mediations generally do not have equal resources, capacity, political power, and information regarding the issues at hand. Mediators may have to support the parties differently in order to ensure both may participate effectively and on equal terms in the process.

GOOD POLICY (IDB'S MICI CONSULTATION PHASE GUIDELINES PARA. 3.7)

"In accordance with MICI's guiding principles (Section C, Paragraph 6) and in order to ensure ethical, transparent and effective case management, CP officials must observe the following principles:

“Attention to Asymmetries: CP processes should be particularly sensitive to the existence of considerable asymmetries between the Parties so as not to undermine the possibility of reaching satisfactory results. Particular attention is to be paid to asymmetries in availability of the information needed, and in the capacity and ability to participate effectively in these processes. MICI officials may propose capacity building activities and exercises to facilitate the Parties’ effective and fruitful participation.”

63. Complainants should have the right to withdraw from DR at any time and have their complaint handled by the compliance function.

The voluntary participation of parties is essential to mediations and other DR processes. If at any stage complainants believe that the DR process is not productive or fair, they should be free to withdraw, without repercussions or penalty. In this instance, their complaint should be transferred to the compliance function unless they explicitly request to withdraw their complaint entirely.

GOOD POLICY (GCF IRM PROCEDURES PARAS. 37, 48)

“If problem solving is declined by the complainant, or if problem solving becomes unviable because it is declined by any of the other stakeholders, the IRM shall within five (5) calendar days of that event refer the grievance or complaint to compliance review in accordance with the provisions in paragraphs 50 - 70 below.” “If problem solving does not result in an agreement, or if problem solving is wholly or partially unsuccessful, the grievance or complaint or any part of the grievance or complaint that remains unaddressed will be referred for compliance review within seven (7) calendar days of the conclusion of problem solving...”

64. The mechanism should permit the financial institution to participate in the dispute resolution process so long as the parties consent.

Case experience shows that financial institutions can play a constructive role in dispute resolution processes. By observing or participating in dispute resolution processes, financial institutions can better understand the issues related to their projects, exercise leverage over clients, contribute to enabling remedial actions, and learn lessons for future projects.

GOOD POLICY (WB AM PROCEDURES, PARA. 22.1)

“If the Parties agree, Bank Management may be present as an observer in the dispute resolution process.”

65. The mechanism should share lessons from dispute resolution processes with the financial institution.

There is a misconception that dispute resolution is only about redress and compliance review is only about policy change. As mentioned earlier, both functions should provide redress for complainants, where warranted, and result in changes to policy and practice to prevent similar instances from occurring in the future. When it is not appropriate or possible for the financial institution to participate directly in the DR, the mechanism can support institutional learning from the case.

GOOD POLICY (EBRD'S IPAM POLICY PARA. 2.4(E)(IV))

“...while considering confidentiality constraints, IPAM will share institutional learnings and associated recommendations with Bank management and/or the Board, derived from the Request, the Problem Solving initiative or its outcomes.”

66. The mechanism should monitor the implementation of agreements reached and commitments made through the DR process.

A monitoring role is essential to the effectiveness of the DR process in bringing about material redress. The mechanism should consult with the parties as part of its monitoring role and raise any implementation issues with the Board.

GOOD POLICY (EBRD'S IPAM POLICY PARA. 2.5 A-D)

- a. “IPAM will monitor the implementation of any agreements reached by the Parties through Problem Solving.
- b. Problem Solving agreements will be considered implemented if they fulfil the following criteria: i. the commitments made by the Parties in such agreements are being effectively carried out; and ii. implementation timetables are being met.
- c. In its monitoring activities, IPAM will: i. consult with the Requesters, the Client, Bank management and other relevant stakeholders;
- d. IPAM will submit draft Monitoring Reports to the Parties for comment, and consider any such comments in the finalisation of its Monitoring Reports. ... If deemed necessary, IPAM will report any issues with the implementation of Problem Solving agreements to the Board as part of its quarterly reporting or on an as-needed basis.”

67. The IAM should set disclosure of dispute resolution agreements as a default, permit parties to object, and at a minimum publish summaries of the process and outcomes.

Transparency of a dispute resolution process and its outcomes makes it easier to evaluate its effectiveness and ensure implementation of agreements. Too often, agreements are not implemented without advocacy from community complainants and civil society organizations; this is especially difficult when IAMs do not publicly disclose information about the dispute resolution process or its outcomes. While parties should have the right to request confidentiality of an agreement's terms, the default position should be disclosure. Further, even when an agreement's terms are kept confidential, the IAM should publish a summary of the process and its outcomes.

GOOD POLICY MICI, PARA. 34: "CONFIDENTIALITY. THE TERMS OF THE AGREEMENT WILL BE PUBLISHED IN THE PUBLIC REGISTRY UNLESS ALL OF THE SIGNING PARTIES AGREE ON CONFIDENTIALITY, IN WHICH CASE THE MICI WILL RECORD THE RESULT AND PUBLISH A SUMMARY."

IPAM 2.4(d) "Reporting. Upon completion of the Problem Solving stage, IPAM will:

- i. prepare a draft Problem Solving Report, presenting the outcomes of the initiative and circulate it for information to all Parties. If deemed necessary by the Parties due to confidentiality constraints, a Problem Solving Summary will be produced for disclosure purposes; [...]
- iv. publish the Problem Solving Report (or Summary, if confidentiality constraints would prevent the publication of a full Problem Solving Report) on the Case Registry."

Advisory

If systematically captured and utilized, the IAM's experiences through both compliance review and dispute resolution can provide a valuable source of learning to improve the financial institution's performance and outcomes for project-affected communities. As described earlier, the advisory function not only improves the performance of the Bank but meets a common goal of complainants to prevent similar harms from impacting other communities in the future. The IAM's advisory function should authorize the mechanism to provide pragmatic, evidence-based recommendations gleaned from the mechanism's dispute resolution and compliance casework, to shed light on gaps in the financial institution's policies and their implementation. The IAM's advice should not be project specific, as that would blur the boundaries between the role of environmental and social specialists at the financial institution and the accountability mechanism, resulting in a potential conflict of interest for the mechanism should a complaint be filed on a project on which the advisory function earlier gave advice.

Additionally, the advisory function helps to embed an institutional culture of continuous learning and improvement of policy and practices.

While IAMs are increasingly taking on an advisory function, the policies of many IAMs do not clearly define the expectations for the IAM's work, and the responsibilities sometimes overlap with those of other departments in the Bank. Ideally, the IAM should monitor and issue public reports on the financial institution's compliance with the advisory recommendations the mechanism gives.

68. The mechanism should undertake and publish independent analysis on trends and systemic issues arising from its cases.

Such publications should identify tools to help project-affected communities and clients overcome common challenges.

GOOD POLICY (GCF'S IRM PROCEDURES PARA. 107)

“The IRM will report to the Board, through the Board Committee, on lessons learned and insights gained from handling cases and from good international practices, and may recommend reconsideration of relevant GCF operational policies and procedures, guidelines and systems. Such a report will be published on the IRM website within five (5) calendar days of it being submitted to the Board.”

GOOD POLICY (GCF'S IDB MICI POLICY PARA. 61)

“The MICI Director will prepare an annual report describing the Mechanism’s activities during the previous year, including a description of Requests received and the outcome of the Requests, and follow-up of the MICI process. The annual report may also discuss lessons learned, trends, and systemic issues, and provide recommendations on preventing noncompliance and other advice that stems directly from MICI cases. The annual report will be sent to the Board for information. The MICI will also maintain an interactive website, on which it will disseminate the annual report and other publications relevant to its work such as brochures, case studies, and best practices.”

69. The mechanism should not, as part of its advisory function, provide project-specific advice.

Financial institutions have environmental and social specialists on staff to provide advice to clients and investment staff on the implementation of financial policies. Providing project-specific advice blurs the boundaries between the roles of those specialists and the mechanism and could pose a potential conflict of interest for the mechanism should a complaint be filed on the project. The mechanism would then be in a position to assess the adequacy of the advice it provided for the project.

GOOD POLICY (IFC'S CAO POLICY PARAS. 148, 151)

“CAO’s advisory function is guided by the following principles:

- a. CAO preserves its independence and impartiality by not giving advice on specific Projects.
- b. CAO provides advice on broader IFC/MIGA environmental and social policies, processes and approaches, guidance documents, strategic issues, trends, and systemic concerns.
- c. CAO advice draws from experience gained through its dispute resolution and compliance work.
- d. CAO seeks to carry out its advisory work in a collaborative manner with IFC/MIGA and other actors as appropriate. ...”

“CAO delivers advisory work through various formats, including written reports, interactive tools, and in-person learning. CAO will not provide Project-specific advice.”

GOOD POLICY (GCF'S IRM PROCEDURES, PARA. 108)

“In its [advisory] report to the Board, the IRM will focus on providing systemic advice on GCF operational policies, procedures, guidelines and systems, rather than project-specific advice.”

70. The mechanism should provide input on the development and revision of the financial institution’s policies and guidelines.

Drawing on the lessons from its cases, the mechanism has valuable recommendations to contribute to development and revision of the institution’s policies and practices.

GOOD POLICY (GCF'S IRM PROCEDURES PARA. 2(E))

"[T]he IRM is mandated to carry out the following functions...recommend to the Board the reconsideration of existing policies, procedures, guidelines and systems of the GCF based on lessons learned or good international practices."

71. The mechanism should provide its advice to the financial institution's Board and management transparently and monitor the institution's implementation of its advice.

To maintain the transparency and accountability of the advice provided, the mechanism should provide advice in writing and disclose it publicly. Just as with the dispute resolution and compliance review functions, the mechanism should monitor the actions taken to implement its advice under its advisory function.²⁰

GOOD POLICY (AFDB'S IRM OPERATING RULES AND PROCEDURES PARA. 81)

"The IRM shall carry out its advisory function in a transparent manner and ensure the disclosure of Advisory Notes on the IRM website are subject to the provisions of the Bank Group Policy on Disclosure and Access to Information."

20. 2013 [IFC CAO Policy paras. 5.1.2, 5.3.1 and 5.3.3.](#)

Next Steps for IAMs and Financial Institutions

Next Steps for IAMs

The creation and development of IAMs over the last 30 years has contributed significant innovations in the field of complaint resolution, with increasing attention to ensuring meaningful outcomes for complainants. The good policies identified above help ensure that the primary stakeholders of an IAM complaint process – project-affected complainants – can effectively access and use IAMs as a tool for justice. We make the following recommendations to IAMs to improve outcomes for communities:

Adopt the Good Policies Identified in this Paper

Given the strengths of the above-described policies, **a primary recommendation of this paper is that IAMs endeavor, at a minimum, to bring their policies in alignment with the good policy provisions shared here.**

Moreover, strong policies must be fully implemented to ensure their effectiveness. **IAMs should ensure that their practices implement the good policy provisions so that they are administering effective community-centered accountability processes.**

Innovate Beyond Good Policies and Practices

As stated in the introduction, the good policies identified in this paper reflect only existing policies, and thus do not necessarily represent *best practice* in ensuring rights-compatible outcomes for complainants and the prevention of future harm. As highlighted in the 2016 report *Glass Half Full: The State of Accountability in Development Finance*,²¹ co-authored by several of the authors of this report, IAMs could adopt many other policy commitments to improve their effectiveness.

21. <https://www.somo.nl/glass-half-full-2/>.

Next Steps for Financial Institutions

The success of an IAM depends to a large degree on the commitment of the financial institution in which it sits to enable access to information, acknowledge error or harmful practice, and take steps to address impacts. Financial institutions have significant steps to take to ensure that their accountability frameworks are completely fit for purpose.

As financial institutions and IAMs seek to improve their accountability frameworks, the following areas *not yet reflected* in the current policies of IAMs (and thus not identified above), should be addressed:

Develop Guidelines for Management Participation in Grievance Mechanism Processes

Although most IAM policies have some guidelines on management engagement with IAM processes, including on initial responses and access to project documents, more policy guidance is needed from the management of financial institutions that requires and sets out how management is expected to constructively engage throughout all stages of the accountability mechanism's processes.

Financial institutions should develop publicly available policies for management's constructive engagement with IAMs. Such guidance should cover topics including management's participation in dispute resolution processes and in consultations on management action plans. Such policies should require management to accept the fact-finding in, and outcomes of, the complaint process. Additionally, these policies should include guidance on encouraging clients' constructive engagement in the accountability process, including through contractual requirements. As with IAM policies, such management policies should be developed through public consultation.

Develop Remedy Funds to Ensure Resources for Remedial Actions

Although communities have been able to use IAMs to raise grievances about the impacts of internationally financed projects and have received confirmation of the harms they have suffered, often meaningful remediation has not been achieved. This can be devastating for the communities whose lives have been disrupted by negative project impacts and who have invested so much

into the IAM process. Financial institutions' failure to effectively remedy harm in a timely manner is not only an injustice to communities impacted by projects but also undermines the credibility of the IAMs and financial institutions themselves. Unfortunately, a major challenge to complete remediation of the harm and the prevention of future harms has been institutional resistance, namely from management, to corrective action. In February 2022, the United Nations raised attention to this remedy gap and how it undermines development banks' missions in its report, *Remedy in Development Finance*.

For any accountability framework to operate effectively, there has to be commitment from the top to accept the fact-finding and outcomes of the complaint process – whether compliance review or dispute resolution – and to implement remedial actions.

Another challenge to remediation is the lack of readily available resources for remedying the harm. The UN Report calls on **institutions to ensure resources are available for implementing remedial actions recommended or agreed following compliance review investigations and/or dispute resolution processes**. Various options for ensuring resources for remedy exist, such as common revolving funds, project-specific bonds, or a combination of different models. The structure for the resource vehicle and mechanism should be developed through a robust, transparent, and public consultation process with a broad range of stakeholders, including affected communities and civil society.

Good Policy Paper

Guiding Practice from the Policies of Independent Accountability Mechanisms

January 2024

Accountability Counsel | Bank Information Center (BIC) | Center for International
Environmental Law (CIEL) | Centre for Research on Multinational Corporations (SOMO)
| Community Empowerment and Social Justice Network (CEMSOJ) | Gender Action
| Green Advocates International (Liberia) | Inclusive Development International
| International Accountability Project | Jamaa Resource Initiatives | Urgewald e.V.