SECOND REVIEW OF THE INDEPENDENT REVIEW MECHANISM (IRM) OF THE AFRICAN DEVELOPMENT BANK GROUP

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REPORT OF THE CONSULTANT

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<th>Acronym</th>
<th>Description</th>
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<tr>
<td>AfDB</td>
<td>African Development Bank Group</td>
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<tr>
<td>CRMU</td>
<td>Compliance Review and Mediation Unit</td>
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<td>CSOs</td>
<td>Civil Society Organizations</td>
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<td>CSR</td>
<td>Corporate Social Responsibility</td>
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<td>EDs</td>
<td>Executive Directors</td>
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<td>ESAPs</td>
<td>Environmental and Social Assessment Procedures</td>
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<td>IAMs</td>
<td>Independent Accountability Mechanisms</td>
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<td>IESIA</td>
<td>Integrated Environmental and Social Impact Assessment</td>
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<td>IFC</td>
<td>International Finance Corporation</td>
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<td>IFIs</td>
<td>International Financial Institutions</td>
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<td>ILO</td>
<td>International Labour Organisation</td>
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<td>IRM</td>
<td>Independent Review Mechanism</td>
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<tr>
<td>ISS</td>
<td>Integrated Safeguards System</td>
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<tr>
<td>GCI</td>
<td>General Capital Increase</td>
</tr>
<tr>
<td>MAP</td>
<td>Mediation Action Plan</td>
</tr>
<tr>
<td>NGOs</td>
<td>Non-Governmental Organisations</td>
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<td>OSs</td>
<td>Operational Safeguards</td>
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<td>PAPs</td>
<td>Project Affected People</td>
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<td>PIUs</td>
<td>Project Implementation Units</td>
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<td>RMCs</td>
<td>Regional Member Countries</td>
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<td>WB</td>
<td>World Bank</td>
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1. INTRODUCTION

1.1 OVERVIEW

During the past 25 years there has been a lot of agitation from civil society organizations (CSOs) that International Financial Institutions (IFIs) have not been following their own rules and policies during the implementation of projects in communities where their projects impact on the livelihood of the people. During this period, the world has witnessed a rapid growth of activist non-governmental organisations (NGOs)/CSOs and the objectives or missions of many of them have been to call on national governments and international organizations, especially the major IFIs, to be accountable for their actions and policies during the implementation of projects that they finance.

The voices of the exceedingly vocal NGOs became increasingly audible when they focused their attention on the world’s premier financial institution, the World Bank (WB) to exhibit a high level of transparency and accountability. During the early 1990s the WB was heavily criticized and was under attack from civil society and many institutions in the developed world over a number of its projects particularly the Sarder Sarover Dam and Canal projects on the Narmada River in India. This resulted in the commissioning of Brad Morse and Thomas Berger (Morse Commission) to investigate the allegations by the then President of the Bank, Lewis T. Preston in March 1991. The commission’s findings and reports revealed serious failures by the WB to comply with its own policies and the report documented devastating human and environmental consequences of those violations and recommended that the WB should reconsider the projects. International NGOs and the WB member countries then called for measures to improve transparency and accountability which would ensure, that public funds were spent consistently with the objectives of the Bank’s mandate for sustainable development and poverty alleviation. In response, the Bank’s President established an interim task force to review the Bank’s projects. The task-force report criticised the Bank’s approval culture with reference to the promotion of incentive structure that encouraged staff members to be more concerned about getting as many projects as possible approved by the Boards without paying adequate attention to the social and environmental implications. In effect, the relevant policies about such matters were largely ignored.

Thus, the creation of an Inspection Panel by the Board of Directors of the World Bank in 1993 was as a result of the outcome of a felt need, and of civil society pressures for greater transparency and accountability of Bank operations, with particular reference to people who are most likely to be affected by bank-financed projects. This transparency, including the need for greater consultations, should have been assured by the Banks’ own applicable policies and operational directives. For various reasons, the policies and directives of the Bank were often
times not achieved simply because the policies were not properly followed, were overlooked or were misinterpreted.

This was the first Independent Accountability Mechanism (IAM) and since then there has been remarkable improvement with respect to compliance and adherence to relevant policies.

The achievements of the WB-IP encouraged the establishment of similar accountability mechanisms by other IFIs such as Independent Review Mechanism of the African Development Bank Group, Independent Consultation and Investigation Mechanism of the Inter-American Development Bank, the Complaints Mechanism of the European Investment Bank and the Special Project Facilitator of the Asian Development Bank.

Learning from the experience of the Inspection Panel and based on development with IAMs, the IRM was established with an inspection function as well as a problem-solving function.

A matrix comparing the problem-solving and advisory role, and compliance review functions of the IAMs of various IFIs are attached in Annex 1 and Annex 2 respectively.
2. RELEVANT BANK GROUP POLICIES

2.1 AFRICAN DEVELOPMENT BANK’S TEN YEAR STRATEGY (2013-2022)

In charting a vision for the African continent a path for the Organisation, the African Development Bank Group (AfDB) assembled a group of eminent persons to help the AfDB come up with its future strategic plan for 2013-2022. In the preceding Strategic plan for the AfDB - Investing in Africa’s Future - The African Development Bank in the 21st Century (2008 to 2012), the President of the Bank Group observed that Africa is now the second fastest growing continent. With its huge natural resource base and its rapidly growing human capacity, the continent is poised to unlock its fortunes in the foreseeable future.

The introduction of the Ten-Year Strategy serves as an overarching instrument to ensure that all the policies of the Bank Group are operationalised. The existence of the Independent Review Mechanism (IRM) should ensure Management’s continuing adherence to Bank Group policies.

The Boards of Directors adopted the Strategy on 10th April 2013. The achievement of the objectives of this Strategy would be enhanced by the set of relevant policies developed by the Bank to strengthen its operations and procedures. Some of the key new policies include the Integrated Safeguards System, the Disclosure and Access to Information, the Engagement Framework with CSOs, Energy and the Private Sector Development.

2.2 BANK’S INTEGRATED SAFEGUARDS SYSTEM (ISS)

The importance of the recent adoption of the Integrated Safeguard System (ISS), which resulted in the adoption of the amendment to the Establishing Resolution and the Operating Rules and Procedures of IRM, led to the accommodation of issues such as human rights, indigenous people and child labour. These amendments have highlighted the need for CRMU to work closely with Management to ensure that the ISS is well disseminated amongst the client countries/project affected people especially within the context of public consultation within the project-affected communities. However, there is no clear policy on how ISS should be interpreted by the IRM. The consultant wishes to suggest that, since the IRM is on a learning curve, the Boards and Management should allow the Compliance Review and Mediation Unit (CRMU) and IRM Experts ample room to use informed judgement in interpreting these new issues.
The ISS consists of four inter-related components:

a. The Banks’ Safeguards Policies establish the guiding principles of integrated safeguards system that consolidate and revamp the AfDB’s existing environmental and social procedures. This Policy statement describes common objectives of the Banks’ safeguards and lays out policy principle. It is designed to be applied to current and future lending programs, and it takes into account the various capacities and needs of regional member countries (RMCs) in both the public and private sectors.

b. Operational Safeguards (OSs) are a set of five safeguards requirement that Bank clients are expected to meet when addressing social and environmental impacts and risks. Bank staff use due diligence, review and supervision to ensure, that clients comply with these requirements during project preparation and implementation. Overtime, the Bank may adopt additional safeguard requirements or update existing requirements to enhance effectiveness, respond to changing needs, and reflect current best practices.

c. Environmental and Social Assessment Procedures (ESAPs) provide guidance on the specific procedures that the Bank and its borrowers or clients should follow to ensure that Bank operations meet the requirements of the OSs at each stage of the Bank’s project cycle.

d. Integrated Environmental and Social Impact Assessment (IESIA) Guidance Notes provide technical guidance to the Bank’s borrowers or clients on standards on sector issues, such as roads and railways, hydropower, or fisheries, or on methodological approaches clients or borrowers are expected to adopt to meet OS standards.

2.3 BANK’S POLICY ON DISCLOSURE AND ACCESS TO INFORMATION

The African Development Bank Group decided as a matter of priority to revise its 2005 Policy on disclosure of information to further re-affirm its commitment to the principles of good governance, particularly transparency, accountability and sharing of information in its operations. The revision of this policy is also part of the institutional reform commitments made to shareholders during negotiations of the Sixth General Capital Increase (GCI) of the African Development Bank and the Twelfth Replenishment of the African Development Fund in 2010. The revised Policy, approved by the Board of Directors on 2nd May 2012, constitutes a major shift in the information that the Bank Group may disclose - from a policy that listed which information would be made available, to one that allows disclosure of any information in the Bank Group’s possession as long as it is not on a list of exceptions.
Under the revised Policy, information will be made accessible to the widest external audiences possible and provide opportunity to increase public exposure to and understanding of the Bank Group’s activities. In providing for transparency and maximized disclosure, the policy seeks to balance between the benefit of openness with the need to safeguard the following: deliberative processes; communications involving Executive Directors; legal, disciplinary or investigative matters; information provided in confidence; selected corporate administrative and financial information; security and personal information. The policy also provides stakeholders with an appeals mechanism for any legitimate complaints about the Bank’s level of disclosure. In this regard, the policy provides for the creation of an Information Disclosure Committee and further recourse through an Appeals Panel.

2.3.1 Challenges Facing IRM With Respect to Full Disclosure of Information

In view of the fact that IRM is required to assess both public and private projects within the Bank, the burden is on how the mechanism can clearly delineate information that should be in the public domain and those that should be kept confidential because of private sector project requirements as has been explained in some details under Section 7.3.

2.4 BANK’S PRIVATE SECTOR DEVELOPMENT POLICY

In 2013, the Bank Group proclaimed its full support for private sector development as the principal means of fulfilling its mandate to “contribute to the sustainable economic development and social progress of its regional members individually and jointly”.

The principal operational tools for the policy’s implementation will be:

a. Non-sovereign financing operations, including project and programme financing,

b. Knowledge-intensive activities-analytical and diagnostic studies, policy dialogue, advisory services, and knowledge dissemination; and

c. Private sector and other non-sovereign financing operations, accompanied by technical assistance and advisory services as needed. In order to maximise the Bank Group’s impact, a One-Bank approach will be followed. Under this approach, all operational strategies of the Bank Group will mainstream private sector development as a core objective. Furthermore, all organisational units of the Bank will support private sector development.
2.5 FRAMEWORK FOR ENHANCED ENGAGEMENT WITH CIVIL SOCIETY ORGANISATIONS

Since 1990, the AfDB has formally engaged civil society in various AfDB/NGOs consultative meetings. The Bank revised its policy in 2000 to reflect its enhanced commitment through a set of procedures, mechanism and guidelines, which reorient its co-operation with NGOs. As a result of the Bank’s interaction with CSOs it has become more transparent and accountable to its member countries. Section 6.7 provides more details of CRMU engagement with NGOs and CSOs.
3. ESTABLISHMENT OF THE IRM OF THE AfDB

In tune with the spirit of responding to similar criticism levelled against the WB group, the African Development Bank Group (AfDB) took the initiative to adopt a somewhat similar mechanism to address the concerns of civil society and project-affected people. The primary purpose for establishing the Independent Review Mechanism (IRM) is to address the concerns of people who might be affected by AfDB projects and to ensure that the Bank adheres to its operational policies and procedures in the design, preparation and implementation of projects.

On 30th June 2004, the Boards of Directors of the African Development Bank Group under Resolution B/BD/2004/9 – F/BD/2004/7 (with subsequent amendments - 2010 and 2013) elected to establish an Independent Review Mechanism, which comprises a Roster of three Experts who form a Panel to conduct compliance reviews, and a problem-solving mechanism facilitated by the Compliance Review and Mediation Unit (CRMU).

The CRMU, according to the Resolution of the Boards of Directors, shall be the focal unit of the IRM, headed by a Director appointed by the President in consultation with the Boards of Directors of the Bank Group. The Roster of Experts comprising three individuals are appointed by the Boards on the recommendation of the President and in accordance with the Bank’s procurement rules and regulations.

The powers, functions and the procedures of the IRM are clearly spelt out by the Boards.

3.1 DEVELOPMENTS AT THE INDEPENDENT REVIEW MECHANISM

Amendments to the Resolution and Rules and Procedures

In keeping with the spirit of the establishment of the IRM by the Boards, it was envisaged that as the mechanism progressed, essential amendments and clarifications to the IRM establishing resolution, operational rules and procedures would be required. Such amendments are reflected in Bank Resolution No. B/BD/2010/10 -F/BD/2010/04 of 16th June 2010 and Resolution No. B/BD/2013/20 - F/BD/2013/08 of 17th December, 2013.

The IRM started its operation in mid-June 2006 on the basis of the Boards’ Enabling Resolution of 30th June, 2004 and its Operating Rules and Procedures were adopted in July 2006. The reviews are generally undertaken to take stock of the best experience gained from the mechanism, draw on the experience of similar IAMs and examine how to improve the scope and functions of the accountability mechanism.
In accordance with the Enabling Resolution of 30\textsuperscript{th} June, 2004, the first review of the IRM performance was undertaken in 2009. The objective was to provide the Boards of Directors, which oversee the IRM, with an analysis of the experience gained and lessons learned after three years of the mechanism’s operations and to provide, if found necessary, a proposal to amend the IRM Operational Rules and Procedures.

It is noteworthy that apart from setting up the mechanism, the first three years constituted, largely, a steep learning curve for the Bank in dealing with such accountability instrument. However, at that time four requests had formally been received from affected people, their representatives and national and international civil society organizations. One of these requests had gone through a complete compliance review cycle. Another request was registered for compliance review while the other two had been registered for problem-solving. Therefore, though still in its infancy, the IRM had slowly started to operate; and a review of its experiences within the ensuing three years of its establishment was therefore opportune. Also, the major aim of the first review in 2009 was not to fundamentally change the functions of IRM since its Rules were yet to be tested. Nevertheless, the first review provided an opportunity to re-examine the mechanism with the expectation of improving what existed.

The First Review resulted in three main outcomes:

a. Amendments of the terms of appointment of the Director of CRMU as well as excluding the Director from participating in conducting compliance reviews which is now exclusively assigned to the IRM Experts. The amendments were intended to strengthen the independence of the IRM vis-à-vis Management, and to remove any potential conflict of interest by the Director;

b. Facilitation of means by which requestors can submit their complaints and CRMU can conduct outreach. This was to improve the IRM accessibility and visibility; and

c. Requirement introduced for Management to prepare a response and action plan in relation to IRM compliance review reports and to jointly, with CRMU/IRM Experts, present these documents to the Boards. These changes were designed to strengthen the effectiveness of the IRM compliance review process vis-à-vis the development effectiveness of the Bank.

The review concluded with several changes to the IRM Rules and Procedures and the Enabling Resolution Establishing IRM. These amendments were adopted by the Boards on 16\textsuperscript{th} June 2010. It is important to note that a number of revisions were made in 2013 to the establishing resolution and the operating rules outside the review process. These were done in the context of the adoption of the ISS, having been agreed to by the Executive Directors in order to synchronise the IRM operating rules with that of the ISS. These amendments are reflected in Annex 3 of this Report.
4. OBJECTIVES AND SCOPE OF THE SECOND IRM REVIEW

4.1 THE OBJECTIVES OF THE SECOND IRM REVIEW

The objectives of the second review are as follows:

a. By its status, the IRM Enabling Resolution requires that upon approval of the Boards, the IRM performance should undergo a review every four years. The first review was completed in June 2010. The second review is therefore due before the end of this year.

b. Undertake a thorough assessment of the extent to which the IRM has been an effective recourse mechanism for people adversely affected by projects financed by the Bank and a useful accountability instrument to the Bank. This analysis will consider how effective the CRMU could be in administering the IRM.

c. In the light of the IRM’s 10-year existence of operations, the consultant is required to identify possible gaps or amendments to existing operating procedures and establishing resolution, and to propose relevant refinement.

4.2 THE SCOPE OF THE SECOND IRM REVIEW

The Consultant's understanding of the scope of the assignment is to:

a. Conduct an in-depth assessment of the experience gained by the IRM based on the eight (8) requests it has handled;

b. Determine effectiveness of addressing the concerns of the project-affected people; and

c. Assess the usefulness of the accountability instrument to the Bank.

The ultimate goal is to ensure that the IRM is an effective support of the Boards' oversight responsibilities, particularly in view of the Bank's current Ten-Year Strategic Plan (2013-2022).

The Consultant is required to:

a. Identify, if necessary, the need to modify the IRM Operating Rules and Procedures.

b. Review the roles and functions of the CRMU.

Several issues, which should be taken into account in the review, include:
a. Assessment of the complaints handled;

b. The extent of the IRM independence, autonomy and integrity vis-à-vis Management;

c. Opportunities for CRMU to have advisory and project facilitation roles similar to some other Independent Accountability Mechanisms;

d. The implications of IRM’s oversight role in the context of a new set of Bank's operational landscape and policies covering private sector development, the integrated safeguards systems, engagement framework with civil society organizations, and disclosure and access to information;

e. How best the IRM can contribute to the Bank’s learning and knowledge development during its Ten-Year Strategic Plan (2013-2022); and

f. Finally, the Consultant's understanding of the assignment is to use his vast experience in this area to help revise the IRM Operating Rules and Procedures and to remove any ambiguities and help fine-tune the structure and roles of the CRMU/IRM.
5. METHODOLOGY

The methodology involved desk audit, consultations and interviews.

5.1 DESK AUDIT

The Consultant conducted an initial comprehensive desk audit to address the issues raised above. The desk audit included compilation and review of relevant documents from the Bank Group website such as IRM Operational Rules and Procedures, Integrated Safeguards System, AfDB 10-Year Strategic Plan, Bank Group Policy on Disclosure and Access to Information, the 2010 IRM Establishing Resolution and IRM Operating Rules and Procedures, Complaints Handling methods, and IRM Annual Reports amongst others.

The Consultant also reviewed all the requests that have been handled by the CRMU/IRM and has summarised them per country (see Table 1 below).

5.2 CONSULTATIONS AND INTERVIEWS

The Consultant had the opportunity to meet and talk with most of the Boards members and/or their Alternates, many Senior Management and operations staff members, the Director and Staff of the CRMU and the Chairperson and the other members of the IRM Roster of Experts. On 23rd April, 2014, the Consultant made a presentation to the Executive Directors at an informal Boards meeting in Tunis. The comments and question raised by the Executive Directors are presented in Annex 4.

The Consultant undertook field missions to Morocco (May 2014) and Tanzania (May 2014) for consultations with Civil Society Organizations, Project Affected People (PAPs), Project Implementation Units (PIUs) and Government Officials in these countries.

The Consultant’s draft report was posted for public comment on the African Development Bank website for a period of 45 days (01 July-30 August, 2014). From all these consultations, the Consultant solicited the views and perspectives of multiple stakeholders on the current Review Mechanism of the African Development Bank Group. The outcomes of these discussions served as inputs into the broad based review of the IRM under the guidance of the Director of CRMU. The Consultant also met with the AfDB President and consulted further with CRMU staff and Senior Management.

The comments and observations made, especially by the Boards, the project affected people consulted and the President have been duly reflected in the recommendations made by the Consultant.
6. OBSERVATIONS AND PRELIMINARY RECOMMENDATIONS

INTRODUCTORY REMARK

Before presenting his observations and preliminary recommendations, the Consultant observed that a number of difficulties had been encountered among the Boards, Management and CRMU/IRM with respect to the interpretation and conduct of IRM’s Expert Panel’s jurisdiction over certain issues concerning especially the assessment of two request cases: the Uganda Bujagali Hydropower and Interconnection Projects and the South Africa Medupi Power Project.

It is the Consultant’s view that such varying degree of dissatisfaction and negative perceptions notwithstanding, should not be allowed to undermine the integrity of the Independent Review Mechanism. All stakeholders are still on the learning curve and indeed adjustments in the conduct of certain individuals should be addressed. Therefore, the few frustrating encounters that had been experienced should not be allowed to colour a mechanism that even in its short history has proved quite positive.

The Consultant's preliminary observations are as follows:

6.1 BOARD/CRMU INTERACTION

The bulk of the documents transmitted to the Boards are sent for information purposes only. As such, the key issues that the CRMU wants to bring to the attention of the Boards never get discussed, not even in an informal setting. Although the Director of CRMU does visit Board members individually on occasion, this should not be framed as a substitute for a "formal" or "informal" meeting with the Boards. It is obvious that since the CRMU was created by the Boards, it is only natural that “formal” or informal meetings with the Boards take place from time to time to exchange ideas and also to allow the Director of CRMU to seek guidance from the Boards. These discussions should take place before official Boards’ meetings with the CRMU and with Management. The essence of the Boards’ engagement with CRMU with requisite frequency and intensity will make Management more accountable to its own rules and procedures, improve the quality of projects and make AfDB more responsive to the needs of the PAPs.

In addition to the above, it would be prudent for the Boards to consider that CRMU/IRM has regular scheduled meetings through a Board’s Committee to ensure that the Mechanism’s issues are systematically given priority status they deserve.
6.2 MANAGEMENT/CRMU INTERACTION

The relationship often becomes somewhat strained when there are discrepancies between Management and CRMU with respect to the determination of facts. Management feels that CRMU interprets its rule in a very stringent fashion. Hence, the tendency of Management to view CRMU’s role as one that slows down their projects in the pipeline.

During the desk audit, the Consultant observed that Management had difficulty in meeting its mandatory obligations particularly with respect to submitting a response to Requests registered by CRMU. In the cause of the Consultant's probing, it became obvious that a critical mass of staff in the Operations Department was in short supply. For example, it seems physically impossible for even a competent 8-member department to handle more than 70% of the projects in the Bank's pipeline. The Consultant also observed that the dialogue between Management and the CRMU is set in an atmosphere that does not reflect the fact that the CRMU was set up to assist Management to carry out its mandate of ensuring that very few mistakes are made so that few complaints are submitted by PAPs. Management and staff should therefore see CRMU not as an instrument that has a policing authority over them.

More structured relationship between Management and CRMU should be instituted. The idea for calling for such a relationship is to enhance the quality of Bank’s project portfolios. Management should appreciate the assistance that CRMU can provide in view of the fact that CRMU’s major preoccupation is to ensure that they provide Management with information that otherwise would allude Management. CRMU is to assist Management to follow its policies and procedures in the conduct of Bank operations.

In consultation with Management, CRMU should systematically select a few high risk (environmentally and socially) projects and conduct spot checks on Bank’s compliance with its policies and procedures. This will allow CRMU to provide Management with critical information on projects’ performance so as to meet the needs of the client countries and projects’ beneficiaries without compromising the CRMU independence and operating rules.

In all these suggested activities recommended by the Consultant, it must be clearly understood that CRMU/IRM’s independence is not compromised under any circumstances. While on the issue of CRMU/IRM’s independence from Management, it must be equally clear that the IRM Experts are totally accountable to the Boards.
6.3 PROACTIVE CRMU STAFF ACTIVITIES

The Consultant observed during this period of consultations that the CRMU staff, while being highly motivated, needed more proactive interaction with Management and staff without sacrificing their independence. There are a few practical options which are considered under the appropriate sections of this Report.

The Consultant had the opportunity to discuss its mandate with the Chairman and other members of the IRM Panel of Experts and exchanged ideas on a whole range of issues. There is need for engagement of IRM experts in policy dialogue with Management.

6.4 ASSESSMENT OF REQUESTS

The following tables represent a summary of the requests received by IRM since its inception. It is instructive to note that of the 14 requests, 8 were registered and the rest were either resolved by Management or rejected since they did not meet the registration requirements. Furthermore, of the 8 registered requests, 3 went for compliance review and 5 went for problem-solving.

Table 1 is a list of the requests received and registered. Table 2 is a list of 6 requests received but not registered.
<table>
<thead>
<tr>
<th>No.</th>
<th>Date Registered</th>
<th>Country</th>
<th>Project</th>
<th>Registered for</th>
<th>Issues</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>07 March 2014</td>
<td>Uganda</td>
<td>Improvement of health service delivery at Mulago Hospital and in the City of Kampala</td>
<td>Problem-Solving and compliance review</td>
<td>(1) Compensation (2) inadequate due diligence in project approval procedures</td>
<td>Initial fact-finding mission undertaken, discussions underway with the parties for problem solving and further information and data gathering for potential investigation.</td>
</tr>
<tr>
<td>2</td>
<td>25 June 2012</td>
<td>Tanzania</td>
<td>Road Support Project II</td>
<td>Problem-solving</td>
<td>(1) Resettlement (2) Compensation</td>
<td>As at 31 July, 2014, implementation of agreed action plan was under monitoring by CRMU.</td>
</tr>
<tr>
<td>3</td>
<td>26 July 2011</td>
<td>Senegal</td>
<td>Dakar-Diamniadio Highway Project</td>
<td>Problem-solving</td>
<td>(1) Resettlement (2) Compensation</td>
<td>Request successfully closed in December 2012.</td>
</tr>
<tr>
<td>5</td>
<td>29 July 2010</td>
<td>Morocco</td>
<td>Construction of the Marrakech-Agadir Motorway Project</td>
<td>Problem-solving and Compliance Review</td>
<td>Constrained access to water, social amenities, damages to houses due to blasting, degradation of agricultural land, limited number of overpasses</td>
<td>Problem-solving exercise successful (complaint resolved to the satisfaction of Requestors). IRM Experts deemed compliance review unnecessary and Experts’ assessment submitted to the Board and the President in January 2012.</td>
</tr>
<tr>
<td>6</td>
<td>22 July 2009</td>
<td>Ethiopia</td>
<td>Gibe III Hydroelectric Power Project</td>
<td>Compliance Review</td>
<td>(1) Inadequate consultation (2) Loss of livelihood (3) Negative impact on environment (4) Negative transnational impact on Lake Turkana</td>
<td>Closed - Request deemed ineligible for compliance review as AfDB will not finance this project.</td>
</tr>
<tr>
<td>8</td>
<td>26 March 2009</td>
<td>Ethiopia</td>
<td>Gibe III Hydroelectric Power Project</td>
<td>Problem-solving and Compliance Review</td>
<td>(1) Inadequate consultation (2) Loss of livelihood (3) Negative impact on environment (4) Negative transnational impact on Lake Turkana</td>
<td>Closed (AfDB will not finance project) - Mediation exercise discontinued and problem-solving report submitted to the President and the Boards in November 2010.</td>
</tr>
<tr>
<td>9</td>
<td>04 June 2007</td>
<td>Uganda</td>
<td>Bujagali Hydropower and Interconnection Projects</td>
<td>Compliance Review</td>
<td>(1) Resettlement (2) Compensation (3)Environmental damage (4) cultural and Spiritual issues (4)Dam safety (5) Inadequate Economic analysis</td>
<td>The 4th IRM Monitoring Report submitted to the Boards and the President in October 2012 required Management to include an assessment of the compensation and resettlement outcomes in project completion reports.</td>
</tr>
</tbody>
</table>
### TABLE 2 - REQUESTS RECEIVED BUT NOT REGISTERED

<table>
<thead>
<tr>
<th>No.</th>
<th>Complaint Received</th>
<th>Country</th>
<th>Project</th>
<th>Issues</th>
<th>Reason for Non-Registration</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2014</td>
<td>Kenya</td>
<td>Outer Ring Road Project</td>
<td>Resettlement and compensation</td>
<td>Complaint is being handled by East Africa Regional Resource Centre (EARC).</td>
</tr>
<tr>
<td>2</td>
<td>2012</td>
<td>Senegal</td>
<td>Public Road Project</td>
<td>N/A</td>
<td>Complaint successfully handled by Senegal Field Office (SNFO).</td>
</tr>
<tr>
<td>3</td>
<td>2012</td>
<td>Kenya</td>
<td>Public Road Project</td>
<td>N/A</td>
<td>Complaint successfully handled by EARC.</td>
</tr>
<tr>
<td>4</td>
<td>2012</td>
<td>Madagascar</td>
<td>Mining Project</td>
<td>N/A</td>
<td>Request made by only 1 (one) individual and therefore rejected.</td>
</tr>
<tr>
<td>5</td>
<td>2010</td>
<td>South Africa</td>
<td>Power Project</td>
<td>N/A</td>
<td>Complaint relating to corruption referred by CRMU to Integrity and Anti-Corruption Department (IACD).</td>
</tr>
<tr>
<td>6</td>
<td>2009</td>
<td>Tanzania</td>
<td>Public Road Project</td>
<td>N/A</td>
<td>Complaint successfully handled by Tanzania Field Office (TZFO).</td>
</tr>
<tr>
<td>7</td>
<td>2009</td>
<td>Kenya</td>
<td>Public Road Project</td>
<td>N/A</td>
<td>Complaint successfully handled by Kenya Field Office (KEFO).</td>
</tr>
</tbody>
</table>

#### 6.5 CONSULTATIONS

The Consultant has observed that, of the cases that IRM has handled since its inception, consultation between Management on the one hand, and the project affected people (PAPs) on the other, is a major problem which has been raised as an issue in all eight complaints handled by CRMU/IRM. Since the consultation between Management and PAPs is a critical step in the preparation and implementation of the project, it is essential that Management listen to PAPs so that it can incorporate their concerns for maximum responsiveness to the potential complainants, thereby minimising the number of requests that are likely to be filed. The consultation process places quite a lot of responsibility on Management and PAPs to act as partners in the ultimate completion of a project.

With regard to consultation between Management and Requestors, the Consultant observed that action plans prepared under problem-solving (mediation) and compliance review also request Management to consult with all PAPs and not only Requestors and to continuously supervise the quality of public consultations in projects that underwent investigation or compliance review.

Quite often, Management and Staff as well as Project Implementation Unit have the tendency to “tell” PAPs the projects that are going to take place in their communities. The project sponsors do not engage in a meaningful dialogue that will allow PAPs to air their sentiment so that they can indicate the extent
to which such projects will affect their livelihood. Meaningful consultation may often influence the final design or implementation of project in a positive way, thus obtaining a buy-in of the PAPs.

6.5.1 Consultations with PAPs, Project Promoters and PIUs

In order to assess the status of problem-solving activities and also to get a better understanding of the consultation process amongst the PAPs, CRMU, Project Promoters/PIUs and AfDB Management, the Consultant undertook field visits to two project areas in Marrakech, Morocco and Babati-Dodoma Road section in Tanzania, where two of the requests filed with CRMU originated. Below are details of the two field visits.

- **FIELD MISSION TO MARRAKECH-AGADIR MOTORWAY (RQ 2010/01), MOROCCO, 7th -9th May, 2014**

After various discussions in Marrakech, with the PAPs and CDRT\(^1\) (the CSO that represented some of the Requesters), the Consultant observed that the problem-solving exercise conducted by CRMU, though successful, left some of the PAPs still not entirely satisfied with the implementation and monitoring of the agreed Mediation Action Plan (MAP).

The representative of project affected peoples (CDRT), said that the Motorway was welcome, but that it had produced many problems, six of which have been satisfactorily resolved. The two problems that remain under monitoring, the issue of the diversion of the course of the river and the dumping of stones in the fields normally used for agricultural purposes have yet to be resolved fully.

Some of the PAPs were disappointed because they had placed their trust in the promoter’s representation that all the problems arising from the construction of the motorway would be resolved. They claimed they had signed the procès verbal sent to CRMU, on the basis of this trust.

- **FIELD MISSION TO TANZANIA, ROAD SECTOR SUPPORT PROJECT II, 17th- 21st May, 2014**

With the Principal Requestor, the consultant visited Bereko Village along Babati-Dodoma Road Section, to make field observations and to hold consultations with other PAPs.

Specifically, PAPs raised concerns that not all the properties were considered for compensation and that some structures were compensated with less amounts of money compared to their neighbour’s

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1 Centre for the Development of Tensift Region
structures although they appeared be of similar sizes and worth. A few complained that the amount of money they received as compensation was not adequate. The Project Implementation Unit was also blamed for not following through on the promises.

- **RECOMMENDATIONS**

In reviewing the two cases as detailed above, the Consultant recommends the following:

i. In general, there is a need to improve the level of the Bank’s consultations with communities in areas where Bank funded projects are implemented.

ii. The Bank should create an atmosphere that makes it possible for communities that have been impacted by Bank funded projects to air their true concerns without any hesitation or fear.

iii. Based on the feedback, CRMU should remain engaged fully in monitoring the implementation of actions agreed by the parties in a problem-solving exercise in order to confirm the complete and successful implementation of mediation action plan items before signing off on a mediation exercise. CRMU should not rely solely on *procès verbal* and mediation action plan completion reports signed by the PAPs and project promoter. CRMU should hold Project Implementation Units accountable regarding the implementation of Mediation Action Plans.

iv. AfDB Management must take steps to ensure that contractors and project promoters fully discharge their responsibilities under a contract. This calls for regular and stringent monitoring of project implementation, as well as that of the mediation action plan, where applicable.

v. Management should make sure that the Bank’s Involuntary Resettlement Policy is fully adhered to.

vi. The experience with Project Grievance Redress Mechanisms is encouraging and effort should be made to strengthen them.

6.6 **ISSUES RELATED TO RESETTLEMENT**

It is the Consultant’s view that the implementation of the Bank’s policy on Involuntary Resettlement be clearly defined. Management often does not pay enough attention to options for avoiding or minimising displacement while exploring resettlement options with PAPs. Furthermore, there are inadequate consultations with PAPs during the preparation of a resettlement package as required by
Bank policy. Quite often, not enough socio-economic baseline information is gathered on which to base the resettlement plan for the people who are going to be displaced.

The Consultant therefore recommends that, in addition to the above, Management should take adequate steps to ensure that income or livelihood restorations are taken into account during the preparations of resettlement packages.

6.7 OUTREACH

CRMU outreach activities have focused on the “strategic dissemination of IRM information to local communities, project affected people and other key project stakeholders, and on enhancing IRM visibility at local, national, regional and international levels.” Particular attention has always been drawn to ensure meaningful engagement with Civil Society Organizations (CSOs), Project Implementation Units (PIUs) and Government ministries and agencies in Regional Member Countries (RMCs). This action will better serve and reach out to local communities affected by Bank-financed projects.

Since 2006 to August 2014, CRMU has organised 55 external outreach activities, reaching out to more than two thousand participants from CSOs, NGOs, Government and PIUs, Local Community representatives, and representatives from other sister organisations.

CRMU’s internal outreach activities have resulted in sensitizing all levels of Bank Management, Bank staff, and Executive Directors (EDs).

Since 2006, 18 internal outreach activities have been successfully organised. These have helped to train and sensitize all levels of Bank staff and Management, including Executive Directors and Field Office staff on the mandate of the IRM, its importance and functions. To date, about 92 staff, mainly from operations units, resource centres, and field offices, have been trained in problem-solving functions. They are therefore equipped to deal with and resolve issues as soon as they arise in the course of their work.

Workshops and sensitisation sessions have been held to discuss pertinent issues such as sharing of experiences gained in the handling of requests in previous years, the IRM rules and procedures as well as issues of effective collaboration between IRM Experts and Bank staff in conducting compliance review cases.

Despite this, the IRM remains unknown and effort should continue to reinforce the ongoing initiatives.

6.7.1 Internal Outreach

It is imperative that the CRMU and Management jointly undertake a sensitisation programme of the staff, about the Bank's IRM and the objectives of IRM at the headquarters and in country offices. In
this respect, Management should be encouraged to spread the word of the existence and utility of the IRM and CRMU as instruments of the Bank.

The CRMU should organise regular Bank-wide consultations for example, once every quarter. The consultations will result in sensitising Senior Managers, relevant Bank staff and newly elected Executive Directors (EDs) on the mandate of the IRM, its importance and functions. These sessions will help to share and take stock of experiences gained in the handling of requests.

**Bank Management should** reflect on lessons learnt by the IRM as reported by the IRM on its annual reports and the enriched new policies that have been developed.

**Outcome:** The philosophy behind these initiatives is to build a consensus around the independence of the IRM and its mandate to deliver its functions effectively; to develop a constructive relationship of IRM with Management; and to identify a need for learning and for acquiring knowledge so as to enhance the quality of Bank project delivery by thus strengthening the CRMU’s advisory role, especially within the realms of private sector.

### 6.7.2 External Outreach

CRMU is fully aware that there is lack of knowledge of the existence of the IRM and its availability as a resource mechanism among project-affected communities. There is therefore a major need to take appropriate actions to build awareness about IRM and CRMU.

It is imperative that the Boards request Management, in coordination with CRMU, to redouble its efforts to raise awareness of the IRM in RMCs.

Outreach activities, information sharing and dissemination are considered essential; as is the encouragement of a more proactive approach by the CRMU towards project affected people, local communities, Bank Management and staff, borrowers, CSOs and RMCs, etc. In addition, Project Implementation Units and Government entities should be equally sensitised. Outreach and information to the borrowers, project beneficiaries and the CSOs should be considered crucial and CRMU must be encouraged to work with these stakeholders in a more strategic manner.

The Consultant would like to recommend that, the Bank should make concerted efforts to use the Bank’s national offices to create awareness in likely project affected areas that the Boards have instituted a mechanism for PAPs to address their grievances with ultimate aim of having a redress to their complaints/requests. This can only be achieved if Management takes the leadership role to promote IRM.
Outcome: The ultimate aim is to enhance capacity building within the context of project implementation. It is the considered opinion of the Consultant that, IRM rules should mandate Bank’s Management to include information on IRM in project documents.
7. PROPOSED AMENDMENTS TO THE IRM RESOLUTION AND OPERATING RULES AND PROCEDURES

Since the inception of the IRM, two amendments (June 2010 and December 2013) have been introduced to improve the performance of the mechanism. The following suggestions provide further clarification that has become necessary in the light of the experiences of the last several years.

7.1 SUBJECT MATTER OF REQUESTS AND PREPARATION OF A REQUEST

7.1.1 Eligibility of the Request and the Eligibility of the Requestors/Complainants

The current operating rules and procedures are not explicit as to what constitute the eligibility of the request on the one hand and the eligibility of the requestors/complainants on the other hand. There is therefore a need for clarification.

The eligibility process starts with the registration of the request. This phase is essentially an administrative step that should be stipulated in the mechanism’s operating procedures. The request should not necessarily refer to any Bank policy or specific Bank policies. A simple letter from the Requesters to CRMU should be taken as providing a formal basis for informing the Boards and Bank Management.

Registration is however not an automatic procedure. The CRMU does not register requests that are obviously outside its mandate, that are anonymous, or that are manifestly frivolous or purely political. The CRMU is requested to determine all the needed facts at the registration stage to avoid asking Bank Management to expend time and resources in responding to inadmissible requests/complaints. When the CRMU receives a request, it should have 14 working days to determine the appropriateness of registering the request.

Under the resolution, the CRMU needs to establish whether the requesters are who they say they are, live in the project area in the borrower’s territory and are a community of people sharing common interest and concerns. The CRMU also needs to establish whether a local representative is bona fide and should be reasonably satisfied that the complainants have suffered, or are likely to suffer, a possible harm through a possible act, or omission, by the Bank as alleged.
As for the eligibility of the requests, the CRMU has to decide whether it is likely to be based on alleged failure by the Bank, relates to its own policies and procedures, and whether any complaint about alleged consequent harm appears material enough to warrant an investigation.

Once a request is registered, CRMU sends a copy of the notice of registration of request to the President of the Bank who represents Management to enable Management to prepare a response to the complaint because the complainants have alleged violation of Bank's policies. Bank Management is given the opportunity to respond within 21 working days, by providing evidence to the CRMU that it has complied, or that it intends to comply, with relevant applicable policies and procedures. A notice of registration is also sent to the requesters and the Executive Directors. The CRMU also makes the notice public by posting it on the website.

Finally, the CRMU must examine Management’s response and make a judgement as to whether the staff members have addressed and remedied, or intend to remedy, any problems so that there is no need for an investigation or problem-solving exercise.

When the CRMU recommends an investigation, only the Boards can authorise the review panel (Panel of Experts) to go ahead.

7.1.2 Limitations in the IRM Operating Rules and Procedures

The limitation provisions of the Operating Rules and Procedures were amended by Boards Resolution N° B/BD/2013/20 - F/BD/2013/08 on 17th December 2013 to address the issue of human rights in concurrence with the adoption of the Integrated Safeguards System as follows: “The CRMU shall not receive Complaints regarding Human Rights violations, other than those of social and economic rights involving any action or omission on the part of a Bank Group entity.”

a. Human Rights

People who often approach mechanisms such as IRM tend to be poor or vulnerable and lack a voice or influence in the political process in their countries. They fear that countries will view their submission of a complaint to the AfDB as a challenge to their authority and thereby put them at risk of retaliation. In the Consultant's personal experience as former Chairman of the World Bank Inspection Panel, in some cases PAPs have felt pressured not to submit a Request for Investigation. Such actions clearly affect the integrity of the entire process and may have long term ramifications on the project's quality, and on the willingness of affected people to assert claims to protect their rights. Certainly it is clearly an abuse of affected people's human right when they are being interviewed in the presence of security forces -- a situation that is clearly incompatible with Bank policy requirements. In a situation like this,
CRMU/IRM may be justified in concluding that a full and informed consultation would be impossible, especially since those consulted perceive that they could be penalised for expressing their opposition to, or honest opinion about, a Bank financed project. Therefore, it the Consultant’s view that such human rights cases outlined above are implicit in the language adopted in the context of the Integrated Safeguards System and should be considered by the IRM.

b. Indigenous People

It is the consultant’s experience that there is a great discrepancy between who can be described as indigenous people and those that represent vulnerable groups of people. Hence, there is lack of clarity and specificity as to who should be classified as indigenous. This ambiguity has undermined any attempts to focus on specific elements in community development plans that may cover any groups of people that may be considered vulnerable. Field experience has shown that any indigenous people’s policy should be replaced with a policy that covers any groups of vulnerable people. This means that specific remedies may still be needed for any community-based approach to seek redress for project affected people (PAPs).

c. Child Labour

It is absolutely mandatory that all projects should be screened against child labour policies. However, it should be noted that in a number of Bank’s client countries, there is some resistance to aspects of child labour policies. In the area of agribusiness for example, there is the tendency of project promoters to argue that child labour was not exploitative when children help to bring harvested crops from farms. In fact, project promoters consider such practice as part of the social norms in many countries in Africa. Since Child Labour Policy relates to agreed international norms and standards set by the International Labour Organisations (ILO), it is absolutely necessary that greater clarity on what constitutes harmful practices be defined by the Bank.

7.2 COMPLIANCE REVIEW AND PROBLEM-SOLVING SEQUENCING

Apart from the WB, most of the IFIs have opted for problem-solving and a compliance review or investigation in the same office. The merits/demerits can be well judged from the performance of the Bank’s Management and Staff. However, there is no clarity about the criteria a request should meet or satisfy in order for it to be considered for a Problem-Solving exercise as against that of a Compliance Review. That is, no clear distinction exists between what triggers a problem-solving exercise and what triggers a compliance review.
Ideally, the mediation component or problem-solving (CRMU) should be separated from the compliance review (review panel) since the former favours Management and Staff. However if there is a clear indication of a quick fix, CRMU could take an advantage of that opportunity. However, if there is serious bone of contention between Bank Management and project affected people, the Boards should recommend that IRM should undertake a full investigation. If the Boards feel that both should be there, then the roles of CRMU and the Review Panel should also be clearly delineated.

The IRM's traditional role is to carry out an independent investigation into whether the Bank has complied with its own policies and any related finding of harm. The core objective of this role is to improve the conditions affecting people in the country while at the same time assessing whether Management is in full compliance with its own policies and procedures.

The CRMU's process explicitly includes a formal mechanism or "problem-solving" in the sense that a mandate to facilitate or conduct mediation to help resolve problems among the affected people, Management and the borrower can be undertaken. This "problem-solving" has proved useful in many instances especially where the requests do not concern projects in Categories 1, 2 and possibly 3. The Consultant's discussions with the Director of CRMU show that the problem-solving process proved useful in a few cases that the Unit has engaged in without undermining the integrity of the accountability mechanism. The rationale behind this approach is that once a Request has been filed and the eligibility phase has been completed, Management has the opportunity to explore if problems can be addressed promptly by avoiding a full investigation. Management could take advantage of the additional time required for problem-solving to avoid costly investigations.

It is very likely that in the process of problem-solving the general vulnerability of the PAPs are likely to influence their acceptance of conditions and compensations that may actually fall short of the Bank’s policies and procedures. In such a case, IRM should call for compliance review/investigations.

By following this approach of problem-solving, it must be very clearly understood by Management that, the extra time needed will not be detrimental to the interest of the Requestors and that both Management and the Requestors are happy with the course of action taken. It is only in this spirit that the Boards should authorise any deferment of an investigation. If on the other hand Management does not adequately address the key issues of the Request after the problem-solving period, CRMU must recommend a full investigation to the Boards.
7.3 CRMU’s ROLE REGARDING PRIVATE SECTOR INVESTMENTS

Many client countries of the AfDB have been calling for Private Sector involvement as a key engine of growth in their development process. As a result of this call, many private sector establishments have been calling on the Bank to assist them in financing their projects.

Unlike public financing projects where full disclosure of information is enshrined in the Bank’s operations and procedures, it is important to note that private sector projects require substantial confidentiality provisions. Private sector projects are very often packaged within Confidentiality Agreements to assist them to maintain their competitive advantage.

It must be noted that many private sector projects require tremendous amount of funding, hence many internationally supported projects receive financing from more than one major financing institution. For example, a project may receive financial support from the AfDB, the World Bank, the European Investment Bank, the International Finance Corporation (IFC), bilateral aid agencies and other sources. This raises the possibility of an affected community submitting a request for an investigation to more than one accountability mechanism. This in fact occurred with the Bujagali Hydropower Project, where complaints were logged both with the World Bank and the African Development Bank. This cooperative approach requires that a certain level of sensitivity should be exercised by the cooperating financial institutions in the handling of private sector projects with respect to their confidentiality agreements.

However, the confidentiality provisions should not be deemed by project sponsors as a free license to disregard Bank safeguards and other policies that affect the livelihood security of PAPs. Currently CRMU involvement in Bank private sector project is restricted under the current Rules and Procedures as follows: “Complaints relating to private sector or other non-sovereign guaranteed projects except in instances of an alleged breach of the agricultural, education, health, gender, good governance or environmental policies of the Bank Group.”

It is instructive to note that major private sector establishments are currently reviewing their obligations to the communities where they operate. The concept of Corporate Social Responsibility (CSR) is assuming new prominence in the overall execution of projects. In fact, private companies are putting in the public domain their CSR programs for the communities in which they operate.

In the light of this new transparent exercise, the Consultant recommends that, it is incumbent upon the CRMU to handle cases involving the private sector from two perspectives: (a) the sections of a private sector project that have confidentiality clauses should be respected in consultation with Management
and (b) the sections that deal with CSR fall in the public domain and therefore need to be treated just like public sector projects.

7.4 ADMINISTRATION OF CRMU

Paragraph 75 of the current IRM operating rules and procedures states that “The Director and/or a Panel shall be entitled to seek additional expertise to assist with an inquiry, assessment, review or exercise, if this is necessary for the successful performance of their duties and responsibilities. They shall first determine whether the relevant expertise is available from within the Bank Group without compromising the independence of the process. If such expertise cannot be made available due to a conflict of interest, or an appearance of a conflict of interest, the expertise may be sought externally…….”

This rule undermines the independency and transparency of IRM. To seek additional expertise, the Panel should always go outside the Bank because any use of Bank staff will be viewed as a conflict of interest.

A summary of the above issues and their respective recommendations for amendment are presented in Annex 5 and are compared with the practice in other IAMs.

Hence, the Consultant recommends that the following changes under their respective headings should be considered in the framing of the IRM Operational Rules and Procedures:

7.4.1. Introduction


b. Functions

The role of the IRM is to perform compliance review, problem-solving and advisory functions.
The **first two functions of the IRM** will be triggered when the CRMU receives a request for compliance review and/or, problem solving. CRMU will make a preliminary review of the complaint and determine whether the case is more appropriate for problem-solving or compliance review with consideration of the requestor(s) preference. The CRMU will facilitate and undertake problem-solving exercises while compliance reviews will be conducted by a Panel of IRM Experts. The Compliance review process will be initiated with a joint determination of the eligibility of the request by the Director CRMU and the IRM Experts. In case of a deadlock in determining the eligibility of the request, the Director of CRMU shall have the casting vote.

Through its compliance review function, **described below in Section VII**, the IRM will, in the case of Bank Group-financed sovereign guaranteed projects, focus on issues of non-compliance by an institution within the Bank Group with any of its operational policies and procedures in respect of the design, implementation or supervision of such project, and, in the case of private and/or non-sovereign guaranteed Bank Group-financed projects, **on compliance with Bank-Group’s agricultural, education, health, gender, good governance or environmental policies.**

The problem-solving function, **described below in Section VI**, will be used where complaints or grievances can also, or alternatively, benefit from problem-solving techniques to assist in trying to resolve the underlying issues. These techniques will include independent fact-finding, mediation, conciliation, dialogue facilitation taking into consideration best customary practices for handling complaints.

The CRMU will make recommendations to the Boards of Directors of the Bank and Fund (collectively the Boards) on approved projects or the President of the Bank Group (the President), on projects under consideration for financing by the Bank. **(as the case may be, on remedial action that may be taken following a problem-solving exercise and/or on the initiation of a compliance review exercise with respect to any particular complaint.)** **(The bolded part of this paragraph should be deleted)**

The CRMU may monitor the implementation of agreements **reached by the parties in a problem-solving exercise and action plans prepared by Management based on recommendations of Review Panels in line with Para 52 (c) (iii) of the IRM Rules** and approved by either the Boards or the President, as the case may be, following the completion of a compliance review exercise.

The advisory function will be carried out to provide independent opinion on non-project related systemic issues, to provide technical advice on any non-operational program of the Bank Group, and to support efforts of staff and Management to strengthen the social and environmental impact of Bank Group’s funded projects. The function will be triggered:

(i) Upon receipt by CRMU of a request for advice or technical opinion from the President and/or the Boards; or

(ii) Upon approval by the President and/or the Boards of a proposal submitted by the Director of CRMU for such advisory service.
The Advisory function will consist of advisory services by CRMU and Spot-check advisory reviews of project compliance by the IRM Experts.

The Director of CRMU will submit reports on advices and technical opinions provided to the President and/or the Boards.

c. Composition

The Director assisted by compliance officers and support staff heads the CRMU. The CRMU will maintain a roster of three (3) experts (‘Roster’) appointed by the Boards on fixed, non-renewable 5 year terms. The CRMU shall provide administrative and technical support to compliance review panels when undertaking compliance reviews.

d. Participants

During the preliminary review period – from the receipt of a complaint and request for an independent review and/or a problem-solving exercise up to the time a decision is made on whether to register the request – the CRMU will accept statements or evidence from (i) the Requestors or their representative; (ii) the Bank’s Management; and (iii) any other individual or group of individuals invited by the Director to present evidence or comments.

During a problem-solving exercise or substantive compliance review, the following shall be entitled to submit information or evidence relevant to the complaint: (i) any person who is either a party to the problem-solving exercise or review; and (ii) the authorized representative of a party or parties that satisfies the Director or a compliance review panel (‘Panel’), as the case may be, that he has or they have a direct interest in the subject matter of the complaint, apart from the general public interest (collectively ‘interested person(s)’).

These two paragraphs in the Rules should be deleted because CRMU must accept information from any source even if it is later discarded as inaccurate.

7.4.2. Subject Matter of Requests

b. Limitations

2. CRMU is not authorised to receive Requests relating to:
i. Procurements (such cases should be refer to competent department within the bank handling procurement);

ii. Fraud or corruption (should also be handled by the relevant department);

iii. Matters before the Administrative Tribunal of the Bank;

iv. Matters before other judicial review or similar bodies;

v. Frivolous or……

vi. Complaints motivated by……

vii. Matters over…. 

eii. Complaints filed…

ix. Actions that are the sole responsibility of other parties ……………

x. The Adequacy…

xi. Private sector….

xii. Alleged Human Rights violations other than those of social and economic rights involving any action or omission on the part of the Bank Group.

7.4.3. Preparation of a Request

3. The CRMU’s operational proceedings begin when a Request is received. This section of the Rules is primarily designed to give further guidance to potential Requestors on what facts and explanations they should provide. The CRMU should provide to potential Requestors simplified descriptions of the procedures in order to facilitate accessibility to the IRM.

b. Contents of a Request

5. In accordance with the Enabling Resolution, Requests should contain the following information:

(a) ……

(b) ……

(c) When requesting a compliance review, an explanation of how Bank Group policies, procedures or contractual documents were seriously violated; (The word “seriously” should be deleted)

(d) Where possible, a description of how the act or omission on the part of the Bank Group has led or may lead to a violation of the specific provision; (This paragraph should be deleted since it puts much burden on affected people to provide such information)
(e) A description of the steps taken by the affected parties to resolve the problem with Bank Group staff, and an explanation of how the Bank Group’s response was inadequate unless the Requestor(s) has requested confidential treatment pursuant to paragraph 8 of the IRM Rules.

(f) ……

(g) If some of the above information cannot be provided, an explanation should be included.

c. Forms of Request

Format
6. No specific format is necessary. The requirements of submission of requests will be interpreted with flexibility with the view to allowing affected people and communities to use the means at their disposal to submit complaints.

Representatives
11. Where the Requestors are affected persons, or entities, representing affected people, Requestors or their representative shall attach to the Request proof that they have authority to act on behalf of the affected people.

12. If a non-affected representative submits the Request, he or she must provide evidence of representational authority, the names and contact address of the affected parties. **Proof of representational authority, which shall consist of the original signed copy of the affected parties explicit instructions and authorization, must be attached.** *(This part should be deleted to make the process less legalistic).*

Documents
14. The following documents should be attached:

(a) **Relevant** correspondence with Bank Group staff;
(b) Notes of meetings with Bank Group staff;
(c) A map or diagram if relevant showing the location of the affected parties or area affected by the projects *(This should be deleted).*
(d) Any other evidence supporting the Request.
7.4.4. Procedures on Receipt of a Request

When the CRMU receives a Request, the Director, on the basis of the information contained in the Request, shall, within fourteen (14) working days of receipt of….

a. Register

20. If a Request contains a bona fide allegation of harm arising from a Bank Group-financed operation, and it appears to contain sufficient required information, the Director, with due consideration of the preference of the Requestors, shall register the request, notify Bank Management and the Boards of Registration, and request for Management response. Once he receives the Management response, he can then determine whether to handle the request through problem-solving or compliance review or both. Once he makes this determination, he informs the requestors, the Bank Management and the Boards of his decision.

Contents of Notice

21. The notice of registration shall:

(a) Record the date of registration of the Request;

(b) The notice will include the name of the project, the country or countries where the project is located, the names of the Requestors unless confidentiality is requested, and a brief description of the Request;

(c) Notify the Requestors that all communications in connection with the Request will be sent to the address stated in the Request, until another address is indicated to the CRMU;

(d) Request the Bank’s Management to provide the CRMU, within twenty-one (21) working days after Registration with written evidence whether it has complied, or intends to comply with the Bank Group’s relevant policies and procedures.

b. Request Additional Information

22. If the Director finds…. 
23. **The Director shall, within five (5) working days** of receipt of a Request, send a written acknowledgment to the Requestors, and will specify if additional information is required.

24. The Director may decline to register a Request until sufficient information and documentation is filed.

c. **Outside Scope**

25. If the Director…

(a) ……..

(b) ……..

(c) are correspondence, including but not limited to letters, memoranda, opinions, submissions or requests on any matter within the IRM’s mandate which are not requests for a review (**This should be deleted it seem obvious**)

d. **Need for Review**

27. Where additional information is required, or where it is not clear whether a Request is manifestly outside the IRM’s mandate, the Director **may request** an IRM Expert to review the Request and advice on whether it meets the requirements for registration.

e. **Revised Request**

28. If the Requestors receive significant new evidence or information at any time after the initial Request was submitted, they may consider whether or not it is **significant** enough to justify the submission of a revised Request.

f. **Extension of Time Periods**

30. Any time period referred to in these Rules may be extended by the Director for as long as is strictly necessary to ensure full and proper investigation, assessment, review and initiative. Any such extension shall be promptly notified to the Requestors and **posted on the Register.** (**The rest of Paragraph 30 should be deleted**).
7.4.5. Management's Response

31. Within twenty-one (21) **working** days after being notified of a Request, Management shall provide the CRMU with evidence that it has **complied** or intends to comply with......

32. If there is no response from Management within twenty-one (21) **working** days, the CRMU shall notify the Boards and the President accordingly and send a copy to the Requestors.

7.4.6. Problem-Solving

b. Problem-Solving Report

38. The Director shall prepare a problem-solving exercise report (‘Problem-Solving Report’) within thirty (30) working days of the conclusion of the problem-solving exercise and shall include:

(a) ..... 

(b) ..... 

(c) ..... 

(d) **If necessary, any issues to be referred for compliance review.**

The Director may also decide to provide interim reports to the Boards and the President on the progress of a problem-solving exercise for information.

**Successful Problem-solving Exercise**

39. If the problem-solving exercise is successful, the Director will include in the Problem-Solving Report the solution agreed upon by the Requestors, Management and any interested person. The Problem-Solving Report shall be provided to all parties in the problem-solving exercise, and to **the President and the Boards, for their consideration.**

**Unsuccessful Problem-Solving Exercise**

41. .......The Problem-Solving Report should be submitted to the parties in the problem-solving exercise, and to **the President and the Boards for consideration.**
42. ………. A summary of the decision and the Problem-Solving Report shall, subject to the Bank Group’s Disclosure and Access to Information Policy and any requests for confidentiality, be published on the Bank Group’s website.

### 7.4.7. Compliance Review

#### b. Denial by Director of a Compliance Review

48. ………. The Request shall be referred to the IRM Experts who shall determine the eligibility or otherwise of the Request for compliance review within twenty-one (21) working days of the Director’s determination.

If the IRM Experts agree that the Request is not eligible for a compliance review, the Director of CRMU shall inform the Boards or the President (where the project in issue has not been approved by the Boards) of the ineligibility. If the ….

#### d. Panel Deliberations

51. The members of the Review Panel shall each have one (1) vote and decisions of the Panel should be taken by consensus, but where a division of views exist, the decisions shall be taken by simple majority.

#### e. Compliance Review Report

**Contents**

52. Within thirty (30) working days of the completion of its investigations, the Panel shall:

i. Prepare a draft compliance review report containing the Panel’s findings and recommendations and circulate it to the Bank’s Management for review and comments on factual matters only. The Bank’s Management shall submit its comments to CRMU/IRM within 20 working days from the date of submission and receipt of the draft report from the CRMU/IRM; and

ii. Upon receipt of comments from Bank’s Management, finalize the Compliance Review Report, which shall:
(a) Include a summary of discussion……
(b) Set out the findings….
(c) If the Panel concludes…. 
(d) Have attached thereto…..

Communication of the Compliance Review Report

56. Subject to the provisions of the Bank Group’s Disclosure and Access to Information Policy (in particular those relating to the disclosure of confidential information and/or documents), the Compliance Review Report shall be made available to the Requestors at the same time as it is submitted for consideration and decision in accordance with paragraph 55.

Management Response and Action Plan

57. After the President and the Boards receive the Compliance Review Report, the Bank’s Management shall be required to:

(a) Prepare a Response to the findings and an Action Plan based on the recommendations in the Compliance Review Report…..

(b) Consult with CRMU to agree on a date for a joint presentation of the Compliance Review Report….

(c) Consult with CRMU no later than three (3) months from the date of the Boards’ consideration of the Management Action Plan, and agree on the preparation and submission to the Boards for information, of reports on the progress of implementations of recommendations of the compliance review report as approved by the Boards, and of the approved Management Action Plan; and

(d) Submit to CRMU copies of reports on the progress of implementation of the Management Action Plan submitted to the Boards. The IRM Panel and CRMU (the IRM monitoring team) will review these reports and provide, if necessary, an assessment of the progress achieved in the implementation of the Management Action Plan and submit a report to the Boards for consideration. The IRM monitoring team will share its findings with Management and the Requestors for clarification of issues before submitting its report to the Boards for consideration.
Contents of Decision

58. The Boards or the President, as the case may be, shall decide whether or not to accept the recommendations in the…

Monitoring of changes

60. The persons in charge of monitoring the implementation of the changes referred to in sub-paragraph 52(c), and the Management Action plan approved by the Boards or the President, as the case may be, shall submit monitoring reports to the Boards or the President, as the case may be, for consideration, as often as required and in any event not less than once a year. Any report to the President shall be immediately copied to the Boards. The final monitoring report will conclude the compliance review process.

A New Section is introduced as follows:

7.4.8 ADVISORY FUNCTION

Under this function, the Advisory service will be carried out by CRMU and Spot-check advisory reviews of project compliance by the IRM Experts.

a. Advisory Services by CRMU

The Advisory service of CRMU will be triggered:

i. Upon receipt by CRMU of a request for advice or technical opinion from the President and/or the Boards; or
ii. Upon approval by the President and/or the Boards of a proposal submitted by the Director of CRMU for such advisory service.

The scope of the advisory service will be:

(i) Requests for advice must be consistent with the mandate of the CRMU and not be project-specific.
(ii) Upon the initiation or request for advice, the CRMU will prepare a Terms of Reference that clearly outlines the scope of advice. This Terms of Reference will be attached to the Advisory Note to be sent to the President and/or the Boards.

The specific objectives of the advisory work of CRMU will depend on the nature of the request, but will typically include:
(i) Bringing about systemic improvements in environmental and social policies, procedures, strategies and/or guidelines of the Bank Group by addressing deficiencies in systems, policies, procedures, strategies or guidelines.

(ii) Improving on the social and environmental impact of projects funded by the Bank Group by advising the Bank Management on emerging, strategic, or systemic issues or processes based on lessons learnt and trends identified by CRMU during the handling requests through problem-solving exercises, compliance reviews or outreach activities.

(iii) Helping the Bank Group to understand how the environmental and/or social obligations contained in Bank policies and procedures may be met more effectively by the Regional Member Countries to safeguard development impacts.

(iv) Providing information and recommendations on emerging trends arising from the experience of the CRMU.

The Principles that underpin the advisory service of CRMU:

(i) The role must fall within the mandate as defined in the Rules and Procedures of the IRM
(ii) Only non-project related systemic issues will be considered
(iii) The sole purpose if for institutional learning
(iv) The advice is given formally in writing
(v) The independence of the IRM will not be compromised.

b) Spot Check Advisory Reviews by IRM Experts

The Spot-check advisory reviews of project compliance will be undertaken following the procedure below:

i. At the beginning of each calendar year, CRMU shall, in consultation with the Bank Management, select at least two (2) high-risk (environmentally and socially) projects for which the Review Panel will conduct spot-check on Bank Group’s compliance with its policies and procedures.

ii. Once the projects have been selected, CRMU will recommend the names of the projects to the Boards for approval on a no-objection basis, for an advisory review of each project. Such recommendation shall include simplified Terms of Reference for the Review Panel, a time frame of not more than 12 months, and the estimated budget for the advisory reviews.

Transparency and information Disclosure: The IRM will strive to carry out its advisory function in a transparent manner and ensuring disclosure of finalized Advisory Notes, subject to the provisions of the Bank Group’s Disclosure and Access to Information Policy. In particular, where the advice is requested by the President and/or the Boards as part of an internal Bank Group
deliberative process, the IRM will not disclose the advisory note. The IRM’s Advisory role will not disclose any confidential information acquired by the IRM’s problem-solving and Compliance review functions.

7.4.9. Administration of the CRMU

a. Term of Director

61. The Director shall be appointed by the President with the concurrence of the Boards, for a five (5) year term that may be renewed only once for a successive five (5) year period. The Director shall not have worked for the Bank Group in any capacity whatsoever for the period of at least five (5) years prior to his or her appointment and shall not be entitled to work for the Bank Group in any capacity whatsoever for a period of three (3) years after the expiry of his or her term (5 years or 10 years as the case may be). The Director may only be removed from his/her position through the same process as was followed for his/her appointment.

d. Appointment of Experts to Roster

Roster

64. (b) On the President’s recommendation, after consultation with the IRM Experts, the Boards of Directors shall appoint one of the members of the Roster of Experts as the Chairperson of the Roster each time a new member of the Roster is appointed. The Chairperson of the Roster will coordinate the work of the other two Experts.

Selection Criteria

65. The Experts shall be nationals of regional and non-regional member countries of the Bank Group and shall be selected on the basis of their knowledge of and exposure to developmental issues in Africa, their experience, expertise, integrity and ability to act independently. In making these appointments, the Boards and the President shall pay due regard to maintaining a reasonable degree of diversity of expertise, nationality and gender, and also experience particularly in economic, legal, social, environmental and related fields.
Term of Experts

66. The Experts shall be appointed to the Roster for a non-renewable term of five (5) years. If an Expert is engaged in a compliance review at the time the Expert's term expires, the term shall be extended for such period as may be necessary to enable the Expert to complete writing the compliance review report, unless the Boards remove the Expert in accordance with paragraph 73.

7.4.10. Conduct of IRM Proceedings

b. Additional expertise

75. The Director and/or a Panel shall be entitled to seek additional expertise to assist with an inquiry, assessment, review or exercise, if this is necessary for the successful performance of their duties and responsibilities. To avoid a conflict of interest, or an appearance of a conflict of interest, the expertise must be sought externally, provided....
REFERENCES

African Development Bank Group’s Integrated Safeguards System Policy Statement and Operational Safeguards

AfDB’s At the Center of Africa’s Transformation Strategy for 2013–2022

Citizen Driven Accountability for Sustainable Development (Giving Affected People a Greater Voice -20 Years On) June, 2012

CRMU Short Term Strategy, 2013

Framework for Enhanced Engagement with Civil Society Organisations

IRM Establishing Resolution of 16 June, 2010

IRM Operating Rules and Procedures of 16 June, 2010

2012 IRM Annual Report

2011 IRM Annual Report

2010 IRM Annual Report

2009 IRM Annual Report

2008 IRM Annual Report

2007 IRM Annual Report

2006 IRM Annual Report

Private Sector Development Policy of the African Development Bank Group

The African Development Bank Group Policy on Disclosure and Access to Information
ANNEXES
Annex 1: Comparison of Problem-Solving and Advisory Functions of Independent Accountability Mechanisms of International Financial Institutions

1. Problem-Solving (PS) Function – Comparative Matrix

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<tbody>
<tr>
<td>IAM</td>
<td>Special Project Facilitator (SPF)</td>
<td>The Compliance Advisor Ombudsman (CAO)</td>
<td>Independent Consultation and Investigation Mechanism (ICIM)</td>
<td>Complaint Mechanism (CM)</td>
<td>Independent Review Mechanism (IRM)</td>
<td>Project Complaint Mechanism (PCM)</td>
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**Note**
- **PS is independent process and does not supplant the PS of ADB’s operations departments**
- **PS is referred to as dispute resolution**
- **PS is referred to as consultation phase**
- **CM undertakes Prior assessment of registered requests, including meetings and fact findings to determine eligibility of request for PS**
- **IRM registers a request for PS taking into account the demand of the requestors but without an eligibility report for PS**
- **PCM prepares eligibility report for approval by the President prior to undertaking the PS**

**Who handles PS**
- The Special Project Facilitator
- CAO Vice President and CAO Problem-Solving staff
- Executive secretary in charge of registering requests and Project Ombudsman conducts PS.
- One CM staff (Mediation Officer) under the supervision of the Head of EIB-CM. External mediators are commissioned when needed. The terms of reference of consultants are shared with operations before recruitment of consultants.
- Director of Compliance Review and Mediation Unit (CRMU). CRMU can recruit external mediators or consultants to support PS exercise.
- One of the external members of Roster of Problem solving experts.

**Techniques used during PS**
- Consultative dialogue
- Information sharing
- Joint fact finding
- Mediation
- Consultative dialogue
- Facilitation (helping the complainants to obtain information that may resolve the complaint from
- Mediation
- Mediation: including facilitation of information sharing, ensures that complainants have enough
- Independent fact finding
- Mediation
- Conciliation
- Independent fact finding
- Mediation
- Conciliation
- PS expert determines the methods for dispute resolution.
<table>
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<tr>
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<tr>
<td>IAM</td>
<td>-Other specific methods such as convening meetings, organizing and facilitating problem-solving process or fact finding review of situation. The perspective of complainants) -Joint fact finding to agree on issues to be examined and dispute resolution process -Dialogue and negotiation–where communication among parties is disrupted, CAO may offer training or expertise to assist the parties -Mediation and conciliation–engage a third neutral party to assist the parties to reach agreement. In conciliation, the third party make recommendations to the parties in the conciliation process.</td>
<td>IAM</td>
<td>-Information to engage in mediation -Dialogue/negotiation to achieve mutually accepted solution -Joint fact finding where CM facilitates the parties to agree on issues for mediation and to proceed with joint fact finding -Formal mediation where distract and confrontation have led to deterioration of the relationship between parties, CM facilitate more formal conciliation with a view of problem-solving. If solutions are agreed within defined time line the process will be considered successful.</td>
<td>IAM</td>
<td>-Dialogue facilitation including use of customary practices.</td>
<td>IAM</td>
<td>-Dialogue facilitation including use of customary practices.</td>
<td>IAM</td>
<td>-Dialogue facilitation including use of customary practices.</td>
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| Timelines | -Duration of PS depends on nature and complexity of request No specific timelines, the parties agree on specific timelines when they engage in dispute resolution | Timelines | The request is registered for PS within 15 business days. Then, there is a 45 days pause to allow management solve issue with the requestors. If no solution, then assessment will be conducted to determine the amenability of the parties to initiate a dialogue and enter in formal consultation | Timelines | The parties engaged in PS agree on time lines. | Timelines | The Director of CRMU should issue a problem-solving report within 30 working days of conclusion of exercise. The parties also agree on time line for resolution of request. However, if the problem-solving efforts are not successful within 3 months from the start | Timelines | Parties agree on time lines and PS completion report will be circulated to parties, President and the Board for comments within 5 days. |
|-----|-----------------------------|------------------------------------------|----------------------------------------|-------------------------------|-------------------------------|------------------------------------------------------|
| IAM | Special Project Facilitator (SPF) | The Compliance Advisor and Investigation Mechanism (ICIM) | Independent Consultation and Investigation Mechanism (ICIM) | Complaint Mechanism (CM) | Independent Review Mechanism (IRM) | Project Complaint Mechanism (PCM) |

process. This assessment should be completed within 120 calendar days from the date of declaring the eligibility of the request.

| Reporting | President of ADB | President of the World Bank | Board of Directors | Every two months, the CM will provide the Management Committee and the Chairman of the Audit with progress report for approval. Annually, CM reports to the Boards of Directors. | The Director of CRMU reports to the President of the AfDB for project under consideration for financing and to the Boards of Directors for approved projects. | President and the Boards of Directors |

| Monitoring | Monitoring should be completed within 24 months of conclusion of problem solving exercise | Duration of monitoring is provided for in settlement agreements. | Depending on terms and timelines agreed upon by parties. | Monitoring should be completed within 24 months of conclusion of a problem solving exercise. | Duration of implementation of settlement agreement and number of monitoring mission is determined in settlement agreements and problem solving reports. | Monitors biannually until the implementation of settlement agreement is completed. |
## 2. Advisory Function – Comparative Matrix

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<tbody>
<tr>
<td>Has Advisory role</td>
<td>NO</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>NO</td>
<td>NO</td>
</tr>
<tr>
<td>Objective/nature of advisory role</td>
<td>CAO advise the President of the World Bank on IFC/MIGA broader environmental and social issues related to policies, standards, guidelines, procedures, resources and systems to improve systematically the performance of IFC/MIGA projects. <strong>CAO does not give advice on specific projects to preserve its independence, the advice is derived from experience gained through compliant handling either through dispute resolution or compliance.</strong> Project Ombudsperson provides advice to IADB’s senior management and technical team about systemic issues observed during management of cases. While CM has no clear cut advisory role, by implication, it does so by providing recommendations for improvement of internal procedures as part of problem solving reports. The Director of CRMU and IRM Experts in IRM annual reports provide information about trends relating to the activities of the Bank Group, challenges in the implementation of Bank Group’s polices and lessons learned from handling the complaints. Use of lessons learned to improve performance of projects in light of lessons learned from complaint handling.</td>
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<tr>
<td>Steps</td>
<td>-Each formal written request for advice is reviewed by CAO Vice President -CAO informs IFC/MIGA Senior Management when it initiates advisory role and when it responds to a request</td>
<td>No details.</td>
<td>No details since CM has no specific advisory role.</td>
<td>No details since CRMU has no specific advisory role.</td>
<td>No details; emphasis is only on problem solving and compliance.</td>
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<tr>
<td>Has Advisory role</td>
<td>NO</td>
<td>Yes</td>
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for advice. Upon initiation, CAO will produce TORs or approach paper which it will share with IFC/MIGA senior management for comments.
-Advice is produced as Advisory Notes or Memoranda.

Steps

- **Produce advice paper with TORs aiming to:**
  - Bring about systemic improvement by addressing deficiencies in the systems, policies.
  - Help IFC/MIGA understand how their environmental or social obligations may be met more effectively.
  - Advance the boundaries of environmental and socially responsible behavior in private sector, civil society and academia through lessons learned.

- No details.
- No details since CM has specific advisory role.
- No details since CRMU has no specific advisory role.
- No details emphasis only on problem solving and compliance.
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<tr>
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<td>Yes</td>
<td>Yes</td>
<td>No</td>
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</table>
| Screening Criteria      | CAO assess request for advice to ensure that:  
- The advice will be consistent with CAO’s mandate to address environment and social issues.  
- The advice will address strategic issues, trends, systemic issues and guidelines of IFC.  
- The advice will address matters that are not adequately dealt with by existing forms of IFC guidance or advice  
- The advice will not be project-specific. | No details. | No details since CM has no specific advisory role. | No details since CRMU has no specific advisory role. | No details; emphasis is only on problem solving and compliance. |
| Approach                | - Ensure transparency.  
- Disclosure of all advisory notes unless it relates to internal World Bank Group’s deliberative process or include confidential information.  
- Where the advice stems from complaints handled by CAO and the concerned | | | | | |

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<tr>
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<td>Yes</td>
<td>Yes</td>
<td>No</td>
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<td>projects have already been subjected to some level of external disclosure by CAO, the specific project that triggered the advice may be referred to in publicly disclosed documents. If the advice is publicly disclosed and is based on lessons learned from a number of IFC/MIGA projects, the individual projects may not be identified in Advisory Note.</td>
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<tr>
<td>Monitoring</td>
<td>Advice will be integrated into CAO monitoring and evaluation activities. CAO monitors IFC/MIGA implementation of advice and reports CAO findings to the President of the World Bank Group.</td>
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</table>
1. All IAMs’ problem-solving exercise is triggered by registration of request.

2. IAMs’ project facilitation is not identified as a **specific function** but referred to as one of the techniques of problem-solving and is mainly used to **provide complainants with information** to effectively engage in a problem solving exercise.

3. The term “problem-solving” is used interchangeably, CAO refers to it as” dispute resolution” and ICIM of inter-American Bank uses the term “consultation phase”.

4. All IAMs have no specific time lines for problem-solving exercise and largely depend on agreement of the parties.

5. While IRM only undertakes desk review and information gathering in making a decision to register a request for problem-solving, some IAMs conduct full eligibility assessment including site visits prior to registration of request for problem-solving.

6. Except for the IRM, all other IAMs have two different offices; one is headed by a ‘manager’ or for example, a project facilitator or ombudsman to manage problem-solving function and another separate office headed by the compliance review panel for compliance review function.

7. Advisory role tends to highly serve the interest of institutions for learning lessons from complaints and recommendations relating to systemic issues. The CAO and ICIM are the only IAMs who have explicit mandate to undertake advisory role.

8. It is only the Project Complaint Mechanism of the EBRD that has roster of experts for conducting problem-solving exercises.

9. It is commendable that the IRM problem-solving techniques be detailed as to definitions of each method and how it will be used. IRM approach to registration of requests for problem-solving is more flexible that from experience, it has proved to be effective in enabling the parties involved gain confidence on the process from the beginning.

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<tr>
<th>International Financial Institution (IFI)</th>
<th>Independent Accountability Mechanism (IAM)</th>
<th>Issues under Compliance Review (CR) Function</th>
<th>No.</th>
<th>Scope of compliance review</th>
<th>Public sector projects:</th>
<th>Private sector or other non-sovereign guaranteed projects:</th>
<th>Maladministration or impact of EIB projects</th>
<th>Public sector projects:</th>
<th>Private sector or other non-sovereign guaranteed projects:</th>
<th>Maladministration or impact of EIB projects</th>
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<tr>
<td>African Development Bank Group (AFDB)</td>
<td><a href="http://www.afdb.org/irm">www.afdb.org/irm</a></td>
<td>IRM Operational Rules and Procedures 16 June, 2010</td>
<td>1.</td>
<td>Both Public and Private Sector Projects:</td>
<td>To investigate alleged breach of all Bank Group’s operational policies and procedures with respect to the design, appraisal and/or implementation of a project that directly, materially, and adversely affects local people.</td>
<td>Alleged breach of Bank Group’s agricultural, education, health, gender, good governance or environmental policies (Para. 2 of IRM Rules)</td>
<td>Covers alleged breach of all operational policies applicable to operations financed by the EIB or by the Multilateral Investment Fund (MIF) from design to implementation.</td>
<td>Covers alleged breach of all operational policies applicable to operations financed by the EIB or by the Multilateral Investment Fund (MIF) from design to implementation.</td>
<td>Covenants, loan agreements, or impact of EIB projects, or in a lending operation (Para 3)</td>
<td></td>
</tr>
<tr>
<td>International Bank for Reconstruction and Development (IBRD)</td>
<td><a href="http://www.inspectionpanel.org">www.inspectionpanel.org</a></td>
<td>Revised Accountability Mechanism Policy, 2012</td>
<td></td>
<td>Both Public and Private Sector Projects:</td>
<td>To investigate alleged non-compliance by ADB with its operational policies and procedures in any ADB-assisted project in the course of the formulation, processing, or implementation of the project that directly, materially, and adversely affects local people.</td>
<td>None</td>
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<td>Asian Development Bank (ADB)</td>
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<td>Both Public and Private Sector Projects:</td>
<td>To investigate alleged non-compliance by ADB with its operational policies and procedures in any ADB-assisted project in the course of the formulation, processing, or implementation of the project that directly, materially, and adversely affects local people.</td>
<td>None</td>
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<td>European Bank for Reconstruction and Development (EBRD)</td>
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<td>Both Public and Private Sector Projects:</td>
<td>To investigate alleged non-compliance by EBRD with its relevant policies applicable to a project in question.</td>
<td>None</td>
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<td>International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA)- World Bank Group</td>
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<td>Both Public and Private Sector Projects:</td>
<td>Covers alleged breach of environmental and social policies, performance standards, guidelines and procedures of IFC/MIGA at the project level (private sector projects) (Para. A.4 of CAO Operational Guidelines)</td>
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<td>European Investment Bank (EIB)</td>
<td><a href="http://www.iadb.org/icim">www.iadb.org/icim</a></td>
<td>Policy establishing the Independent Consultation and Investigation Mechanism 4 February, 2010</td>
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<td>Internationa l Financial Institution (IFI)</td>
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<td>Independent Review Mechanism (IRM)</td>
<td><a href="http://www.inspectionpanel.org">www.inspectionpanel.org</a></td>
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<td>Project Complaint Mechanism (PCM)</td>
<td>Compliance Advisor Ombudsman (CAO)</td>
<td><a href="http://www.cao-obudsman.org">www.cao-obudsman.org</a></td>
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2. **Who can request for a CRM**

- **Requestors**
  - Boards of Directors (Para. 4)
  - Boards of Directors (Para. 12-1993 Resolution)

3. **Who conducts Eligibility Assessment**

- **Director of CRMU and the 3 IRM Experts** (Para. 44)
- **The 3 Panel Members** (Para. 19)
- **The 3 Panel Members** (Para. 179)
- **PMC Officer and one PMC Expert** (Rule 22)

4. **Who can recommend CRM to the Boards or the President**

- **Director of CRMU and the 3 IRM Experts** (Para. 44)
- **The 3 Panel Members**
- **N/A**
  - Compliance Review is commenced without Boards approval, if the Eligibility Assessor finds a
  - **The Compliance Review Panel consisting of the Chairperson of the Panel and two other members**
  - **The Compliance Review Panel consisting of the Chairperson of the Panel and two other members**
  - **The Compliance Review Panel consisting of the Chairperson of the Panel and two other members**

5. **Complainants**

- **One or more Requestors (Para 30)**

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To an assessment of ADB’s compliance with its operational policies and procedures.

(Para 130 of the Revised Accountability Mechanism Policy, 2012)
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<td>5. Who conducts compliance review</td>
<td>The 3 IRM Experts (Para. 45)</td>
<td>One or more Panel Members (Para. 20-1993 Resolution)</td>
<td>The 3 Panel Members</td>
<td>PMC Expert (and not the Eligibility Assessor) acts as a Compliance Review Expert (Rule 40)</td>
<td>CAO team assisted by Hired external panelists (Para. 4.4.4)</td>
<td>The Chairperson of the Panel</td>
<td>CM Compliance Officer and external Experts</td>
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<td>6. Composition of the Compliance Review Panel (CR Panel)</td>
<td>The 3 IRM Experts including the Chairperson (Para. 45) And with administrative and technical support from CRMU</td>
<td>The 3 Members including the Chairperson (NB: Chairperson works full-time at World Bank Headquarters, 2 members work part-time and are called as required)</td>
<td>The 3 Members including the Chairperson (NB: Chairperson works full-time, 2 members work part-time and are called as required)</td>
<td>PMC Expert (and not the Eligibility Assessor) acts as a Compliance Review Expert (Rule 40)</td>
<td>CAO team &amp; hired external panelists with required expertise (Para. 4.4.4)</td>
<td>The Chairperson of the Panel and two other members selected by the Chairperson from the Panel of five (5) members. (Para. 59)</td>
<td>Complaints Mechanism Compliance Officer and external Experts</td>
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<td>International Bank for Reconstruction and Development (IBRD) and International Development Agency (IDA)-World Bank Group</td>
<td>and recommends investigation</td>
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<td>3. Management submits response within 21 days</td>
<td>4. PMC Officer appoints a PCM Expert to jointly carry out Eligibility Assessment and CR Report.</td>
<td>senior management for factual review and comments. IFC/MIGA submits written comments to CAO within 20 working days upon receipt of the draft report from CAO.</td>
<td>3. Eligibility Assessment for Compliance Review by Chairperson of the Panel.</td>
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<td>Asian Development Bank (AsDB)</td>
<td>5. Boards’ authorization of investigation</td>
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<td>5. Panel conducts Eligibility Assessment within 21 days of receiving Management response.</td>
<td>5. IFC/MIGA submits a written response to CAO within 20 working days upon receipt of the draft report from CAO.</td>
<td>5. CAO Compliance finalizes the Investigation Report and submits it to the IFC/MIGA senior management for official response.</td>
<td>4. Preparation of ToRs by Compliance Review Panel in consultation with Management.</td>
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<td>European Bank for Reconstruction and Development (EBRD)</td>
<td>6. Conducting Investigation.</td>
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<td>6. IFC/MIGA submits a written response to CAO within 20 working days.</td>
<td>6. IFC/MIGA submits a written response to CAO within 20 working days.</td>
<td>6. Conducting Compliance review.</td>
<td>5. Boards’ authorization of compliance review</td>
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<tr>
<td>International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA)- World Bank Group</td>
<td>7. Compliance Review Report submitted to Boards and President.</td>
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<td>7. CR Report submitted to PCM Officer.</td>
<td>7. CAO forwards the Investigation Report and IFC/MIGA Response to the President for clearance.</td>
<td>7. CR Panel sends draft CR Report to Management and Requestors for comments which they should submit within 45 calendar days from the date of receipt of the draft report.</td>
<td>4. Based on the initial Assessment Report, the Director General(s) concerned prepares a Service Response containing their position and comments within</td>
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<td>prepared by the Panel within 14 days of receipt of comments and response is submitted to Boards.</td>
<td>7. If CR Expert finds the Bank was not in compliance, the PCM sends Compliance Review Report to Bank Management to prepare a Management Action Plan responding to the recommendations considered appropriate, and A Management Response to the Finding of the CR Report, if deemed necessary by Management.</td>
<td>8. Management submits the Action Plan and Response to the PCM Officer within 30 working days of receipt of CR Report.</td>
<td>Boards for consideration.</td>
<td>9. Monitoring and conclusion of CR process (Para. 4.4.5 &amp; 4.4.6)</td>
<td>8. CR Penal finalizes the CR Report and annexes written comments received from Management, Requestors and other interested stakeholders and submits it to the Boards or the President, as the case may be.</td>
<td>(Rule 68)</td>
<td>9. Boards or the President, as the case may be, makes decision on the CR report and instructs Management to prepare an action plan, if necessary.</td>
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<td>9. Boards considers the CR Report</td>
<td>10. Management prepares draft remedial actions for non-compliance items and shares it with the CRP for comments within 5 days. Final proposed remedial actions are submitted to the Boards, attaching the CRP comments.</td>
<td>8. Management submits the Action Plan and Response to the PCM Officer within 30 working days of receipt of CR Report.</td>
<td>9. PMC sends CR Report to the Complainants for comments on recommendations</td>
<td>10. Management Action Plan for remedial actions</td>
<td>(Para 5.5)</td>
<td>6. Conducting Compliance review and Preparation of Draft Conclusions Report. (Para 4.6)</td>
<td>7. Consultation: Draft Conclusions Report sent to EIB operational services depart and other relevant parties</td>
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1. Complainants should submit for comments which should be submitted to Complaints Mechanism (CM) within 5-10 working days. (Para 4.7)

2. CM prepares final Conclusions Report.

3. The Inspector General sends the Conclusions Report to the Directors General concerned to prepare a Service Response within 10 working days. (Para 4.8)

4. Head of CM sends the Conclusions Report and the Service Response to the relevant members of the Management Committee for

5. Monitoring and conclusion of CR process. (Rule 47)
|-----------------------------------------|---------------------------------------|-------------------------------------------------|------------------|-------------------------------------------------|-------------------------------------------------|------------------|------------------|

8. **Contents of a**  
   - The CR Panel prepares a CR Report containing all relevant facts, Panel’s findings and IP Panel prepares an Investigation Report containing facts, Panel’s findings on whether the CRP prepares a CR Report containing all relevant facts, Panel’s finding concerning any The CR Expert prepares a CR Report with recommendations to address findings of non-CAO prepares an Investigation Report with facts and findings CR Panel prepares a Report containing:  
     - Panel’s findings as to comments which should be submitted within 10 working days.

11. If appropriate and based on comments received from members of the Management Committee, the Inspector General may request the CM to review the Conclusions Report.

12. Inspector General submits the Conclusions Report and the Service Response to the Management Committee for decision. (Para 4.9 & Para 5.6.5)
|---|---|---|---|---|---|---|---|

**Compliance Review Report**

- recommendations and submits it to the Boards or the President, as the case may be. (Para. 52)
- Bank has complied with all relevant Bank policies and procedures submits it to the Boards and the President. (Para. 22 -1993 Resolution)
- noncompliance, and alleged direct and material harm. (Para. 186)
- compliance at the level of EBRD systems or procedures, findings of non-compliance in the scope or implementation of the Project, monitor and report on the implementation of any recommended changes.
- of the investigation with respect to non-compliance and any adverse environmental and/or social outcomes, including the extent to which these are verifiable. (Para. 4.4.5)

- whether (and if so, how and why) any Bank action or omission in respect of a Bank-Financed Operation has resulted in non-compliance with a Relevant Operational Policy and direct, material adverse effects (potential or actual) to the Requester.
  - Methodology used by the Panel to arrive at the findings
  - Recommendations

9. **To whom is the CR Report submitted**

- a). The Boards, with copy to the President, for approved project.
- b). The President, with copy to the Boards, for a project not yet approved by the Boards. (Report is also shared with the Complainant

- The Boards and the President

- (Report is also shared with the Complainant after Boards’ consideration)

- The Boards

- Report is also released to the Complainants and the Borrower country within 7 days after the Boards’ consideration of the Report

- The Boards and the President, as the case may be.

- The Boards and the President for information.

- a). The President for clearance or report for submission to the Boards.
- b). The Boards of Directors of the World Bank Group (Report is also shared with the complainant, after Boards’ consideration). The Boards (or the Donor Committee in the case of the Multilateral Investment Fund (MIF)-funded operation), or the President, as the case may be. (Para 69)

- Inspector General submits the Conclusions Report to the Management Committee for decision.
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10 Monitoring Function for non-compliance issues

- Director of CRMU and one of the IRM Experts monitor the implementation of Management Action Plan and prepare monitoring reports to the Board. (Paras. 52 (c) (iii))
- Monitoring is done at least once a year. (Para. 60)
- Generally, no restriction on monitoring time-frame
- The Chairperson and a Boards’ Committee determine which Panel Member(s) will conduct the monitoring exercise each year.
- CR Panel monitors implementation of Management Action plan and prepares annual monitoring reports to the Board.
- The monitoring time-frame is project-specific depending on the implementation of the remedial actions.
- Generally, monitoring time-frame will not exceed 3 years.
- The final monitoring report concludes the compliance review process.
- The PCM Officer monitors the implementation of Management Action Plan.
- PCM Officer submits Compliance Report Monitoring Reports to the Boards or the President as the case may be, at least biannually or until the PCM Officer determines that the implementation issues are concluded.
- The CR Monitoring Report is submitted to the Boards and President for information, and within 5 working days thereafter; it is posted on PCM website. (Rule 40)
- CAO Compliance Officer monitors the actions implemented by IFC/MIGA until the non-compliance issues are fully addressed to the satisfaction of CAO. (Para. 4.4.6)
- The CR Panel monitors implementation of the Management action plan upon being requested by the Boards or the President as the case may be.
- CR Panel submits Monitoring report at least biannual to the Board/ President.
- Monitoring continues as long as the CR panel deems it necessary or appropriate. (Rule 72)
- The CM in collaboration with the relevant EIB services will ensure follow-up on further developments and implementation of proposed corrective actions and recommendations, accepted by the EIB, regarding the subject under complaint whenever appropriate and in any case no later than 12 and 24 months after the date of the Conclusions Report. (Para 6)
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<tr>
<td>11 Composition of Panel Members</td>
<td>3 Member Panel.</td>
<td>3 Member Panel.</td>
<td>3 Member Panel.</td>
<td>CR Panel consists of the PCM Officer and one of the PCM Experts.</td>
<td>CR Panel consists of the hired External Experts with the required expertise.</td>
<td>5 Member Panel</td>
<td>CM Compliance Officer and external Experts</td>
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<td>Appointed by the Boards on the recommendation of the President. (Para 64)</td>
<td>Appointed by the Executive Directors after nomination by the President, which is done by the President, after consultation with the Executive Directors (Para 2)</td>
<td>Appointed by the Board upon the recommendation of the Board Compliance Review Committee in consultation with the President. (Para 111)</td>
<td>Up to 10 PMC Experts are in the Roster of Experts.</td>
<td>When hiring external panelists for compliance investigations, CAO takes into account their expertise, independence, and impartiality. (Para 4.4.4)</td>
<td>Appointed by the Board. (Para 77)</td>
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<td>Each Member has a 5-year non-renewable term, except for the first three (3) Experts, who are appointed by lot for non-renewable terms of three (3), four (4) and five (5) years respectively. (Para 66)</td>
<td>Each Member has a 5-year non-renewable term, except for the first three (3) Experts, who are appointed by lot for non-renewable terms of three (3), four (4) and five (5) years respectively. (Para 3)</td>
<td>Each Panel Member has a 5-year, non-renewable term.</td>
<td>Each Panel Member has a 5-year, non-renewable term.</td>
<td>CAO is responsible for managing the compliance investigation process, determining the knowledge and skills required to undertake the compliance investigation, and hiring specialists with appropriate expertise to form a compliance panel. (Para 4.4.4)</td>
<td>Each Member has a 5-year non-renewable term, except for the first three (3) Experts, who are appointed by lot for non-renewable terms of three (3), four (4) and five (5) years respectively. (Para 50)</td>
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<td>The Experts shall be nationals of members of the Bank or State participants in the Fund (Para 65)</td>
<td>Panel Members are of different nationalities from Bank Member countries. (Para 2)</td>
<td>Panel Members are of different nationalities from Bank Member countries. (Para 2)</td>
<td>Two Panel Members will be from regional member countries, with at least one from a developing member country. The third Panel Member shall be from a non-regional member country.</td>
<td>Selection criteria for Panel Members include: (i) Their experience, particularly in economic, legal, social, environmental, and related fields; (ii) Proven ability to interpret and apply rules and resolve disputes thoroughly and fairly; (iii) Demonstrated integrity and independence;</td>
<td>Two Panel Members will be from regional member countries, with at least one from a developing member country. The third Panel Member shall be from a non-regional member country.</td>
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<td>Selection criteria for Panel Members include: (i) Their knowledge of Africa, (ii) Their experience, expertise, integrity and ability to act independently.</td>
<td>Selection criteria for Panel Members include: (i) Their ability to deal thoroughly and fairly with the requests brought to them; (ii) integrity and independence from Management; (iii) exposure to developmental and living conditions in developing</td>
<td>Selection criteria for Panel Members include: (i) Their experience, particularly in economic, legal, social, environmental, and related fields; (ii) Proven ability to interpret and apply rules and resolve disputes thoroughly and fairly; (iii) Demonstrated integrity and independence;</td>
<td>Selection criteria for Panel Members include: (i) Their knowledge of Africa, (ii) Their experience, expertise, integrity and ability to act independently.</td>
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(iii) In making these appointments, the Boards and the President shall pay due regard to maintaining a reasonable degree of diversity of expertise, experience, nationality and gender. (Para 65)
(Paras. 64-66 IRM Rules)

(ii) Their integrity and independence from the Bank’s Management,
(iii) Their exposure to developmental issues and to living conditions in developing countries,
(iv) Knowledge and experience of the Bank’s operations is also desirable.
Paras. 2-4 of the 1993 Resolution

(iv) Ability to interact effectively with Relevant Parties and civil society; and
(v) Experience with operations of the Bank or similar institutions.
(Para 50)
(Paras. 50-53 of the Draft Rules, 2014)

(i) Their recognized technical competence,
(ii) Their integrity and independent judgment, and
(iii) Knowledge of economic, social and sustainable development, preferably in Latin America and the Caribbean.
(Para 78)
(Para 77-78 of the 2010 Policy)
Recommendations on the amendment of the IRM Operating Rules and Procedures concerning registration of request and compliance review procedure

1. **Registration of request**: Proposal how it should proceed- 1. Preliminary review to determine whether or not to register the request to be done by the Director within 14 working days; notification of all relevant parties; noting the complaint in the IRM Register of Requests; posting the notice of Registration and the complaint in the IRM Website. Then upon receipt of Management Response, the Director should, within 5 working days, conduct an assessment whether to conduct problem-solving, compliance review or both. (*See Rule 20 & 29 of proposed Draft Rules of PMC-EBRD*)

2. **Consultation with Management when preparing Eligibility Report and Compliance Review Report**: Compliance Review Panel to share Draft Compliance Review Report with Management for factual review and comments. The Management should submit written comments on factual matters within 20 working days upon receipt of the draft report from IRM. The IRM will then finalize the Compliance Review Report and submits it to the Boards and the President for Management to prepare and submit official Response and Action Plan. (*See Para 4.4.5 of CAO Operational Guidelines*)

AFRICAN DEVELOPMENT BANK AFRICAN DEVELOPMENT FUND

BOARDS OF DIRECTORS

Resolution No. B/BD/2013/20 - F/BD/2013/08

Adopted by the Boards of Directors of the Bank and the Fund on a Lapse-of-Time Basis on December 17, 2013

Amendment of Resolution B/BD/2010/10-F/BD/2010/04 concerning the Independent Review Mechanism

THE BOARDS OF DIRECTORS,

HAVING REGARD to the:
(i) Agreement Establishing the African Development Bank (the "Bank"), in particular Articles 1 (Purpose), 2 (Functions), 4 (Structure), 8 (Special Fund), 13 (Ordinary and Special Operations), 32 (Board of Directors: Powers), 52 (Judicial Proceedings) and 53 (Immunity of Assets and Archives);
(ii) Agreement Establishing the African Development Fund (the "Fund") in particular Articles 2 (Purpose), 14 (Use of Resources), 26 (Board of Directors: Functions), 31 (Relationship with the Bank), 43 (Legal Process), 44 (Immunity of Assets) and 45 (Immunity of Archives);
(iii) Agreement Establishing the Nigeria Trust Fund (the "NTF") in particular Articles I (Establishment and Purpose), II (Utilization of Resources), III (Administration of the Fund); IV (Operating Principles); XV and (Immunities, Exemptions and Privileges); and
(iv) The Operating Rules and Procedures (the "Operating Rules and Procedures") of the Independent Review Mechanism (IRM);

RECALLING:
(i) Resolution B/BD/2004/09-F/BD/2004/07 adopted by the Boards of Directors of the Bank and the Fund on 30 June 2004, establishing the IRM and providing rules governing the establishment, procedures and administration of the IRM (the "IRM Resolution"); and
(ii) Resolution B/BD/2010/10-F/BD/2010/04 adopted by the Boards of Directors of the Bank and the Fund on 16 June 2010, amending the above-mentioned IRM Resolution (the "Amended IRM Resolution");

CONSIDERING the need to provide clarity regarding the scope of the function of the IRM, in connection with human rights violations, and having reviewed the Advisory Legal Opinion of the General Counsel, dated December 13, 2013, contained in Document ADB/BD/2012/184/Rev.2/Add.4-F/BD/2012/135/Rev.2/Add.4;

HEREBY DECIDES AS FOLLOWS:
1. To amend Paragraph 14 of the Amended IRM Resolution to include additional two (2) exclusions to ensure consistency between the Amended IRM Resolution and the Operating Rules and Procedures, as well as to clarify the role of the IRM with respect to human rights violations (inserted text in bold):

"14. The IRM shall be activated when the CRMU accepts the complaint ("Request") after it is satisfied that all requisite criteria have been fulfilled. In considering the Requests under paragraph 11 above, the CRMU shall not receive:

(i) Complaints relating to actions which are within the responsibility of other parties, including the borrower or potential borrower, and which do not involve any action or omission on the part of the relevant Bank Group entity;

(ii) Complaints against procurement decisions by the Bank Group or a borrower of a Bank Group entity from suppliers of good and services financed by or expected to be financed by a Bank Group entity under a financing agreement, or from losing tenders for the supply of any such goods and services, which shall continue to be addressed under existing procedures;

(iii) Complaints about fraud and corruption;

(iv) Complaints about matters before the Administrative Tribunal of the Bank;

(v) Complaints about matters before other judicial review or similar bodies;

(vi) Frivolous or malicious complaints, or complaints motivated by an intention to gain competitive advantage;

(vii) Requests related to matters over which the CRMU, a Panel, the President or the Boards has/have already made a recommendation or reached a decision after having received and reviewed a Request, unless justified by clear and compelling new evidence or circumstances not known at the time of the prior request;

(viii) Complaints related to the adequacy or unsuitability of Bank group policies or procedures;

(ix) Complaints relating to private sector or other non-sovereign guaranteed projects except in instances of an alleged breach of the agricultural, education, health, gender, good governance or environmental policies of the Bank Group;

(x) Complaints filed more than 12 months after the physical completion of the project concerned or more than 12 months after the final disbursement under the loan or grant agreement or the date of cancellation of the disbursement amount; and

(xi) Complaints regarding Human Rights violations, other than those of social and economic rights involving any action or omission on the part of a Bank Group entity."

2. To amend Section II (b) 2 of the Operating Rules and Procedures to include the additional exclusion below to ensure consistency with the Amended IRM Resolution:

"(xii) Alleged Human Rights violations, other than those of social and economic rights involving any action or omission on the part of the Bank Group.""

3. That all other provisions of Amended IRM Resolution and the Operating Rules and Procedures shall remain unchanged.

4. The President shall take such administrative measures as may be necessary or expedient for the timely implementation of this Resolution.
<table>
<thead>
<tr>
<th>Issue</th>
<th>Comments/Questions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mandate of the IRM</td>
<td>• Can a time bound element be introduced in the mandate of the IRM?</td>
</tr>
<tr>
<td>Timing of the IRM review</td>
<td>• Opportune. Alignment possible with set of related key policies adopted recently by the Boards.</td>
</tr>
<tr>
<td>Several contributions were made with respect to the relation between</td>
<td>• Relationship very critical.</td>
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<tr>
<td>the IRM and the Boards</td>
<td>• Review should assess whether the relationship is sufficient, does Boards members take IRM issues as a priority? Is the relationship well defined and clearly understood?</td>
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<tr>
<td></td>
<td>• It should be void of any conflict of interest.</td>
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<tr>
<td>Deliberation on the independence of the IRM</td>
<td>• IRM is independent from Management, but accountable to the Boards</td>
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<td></td>
<td>• IRM independence does not mean it is not accountable. It must be accountable to the Boards, including the IRM Experts, Clarification must be provided in the Rules on the accountable of the IRM experts to the Boards</td>
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<tr>
<td></td>
<td>• IRM must be independent and must be perceived as being independent and also it must have the reputation of being independent</td>
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<td></td>
<td>• IRM must be neutral, working on the basis of what is right. It should not be in favour of project affected people, nor Management or the Boards</td>
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<tr>
<td>Human Rights, indigenous people, child labour</td>
<td>• The articulation of these issues should be left untouched. The Boards arrived at those in the context of extensive deliberation on the ISS. The IRM language was crafted because of the linkages between the work of the IRM and safeguards issues.</td>
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<tr>
<td></td>
<td>• Trying to always come up with definitions may not give answers. Lots of judgment may have to come into play when making determination</td>
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<tr>
<td>CRMU/IRM reporting to the Boards</td>
<td>• Overwhelming support for reporting through a Boards Committee</td>
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<td></td>
<td>• Two obvious subcommittees are AUFI and CODE</td>
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<td></td>
<td>• There is a need for much stronger engagement of Boards in IRM matters</td>
</tr>
<tr>
<td>Problem-solving and compliance review</td>
<td>• The sequencing of problem-solving and compliance review is a good idea</td>
</tr>
<tr>
<td>Lessons learnt in the context of the IRM to be taken on board in the</td>
<td>• Lessons must be harnessed and used to improve the IRM</td>
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<td>second review</td>
<td>• Noted that the Request in an instance was politically motivated</td>
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<td></td>
<td>• The Request in the instance was too broad with wide net of issues, irrespective of their relevance and the mandate of the IRM</td>
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<td></td>
<td>• Anonymity clause was abused in the handling of a recent case</td>
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<tr>
<td>Issue</td>
<td>Comments/Questions</td>
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<td></td>
<td>• Risk/fear that the decision of the Boards plays into political hands</td>
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<td></td>
<td>• Address specifically the issue of accountability of IRM Experts. They must be accountable to the Boards</td>
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<td></td>
<td>• Cost saving means should be looked at in the investigation in relationship with activities undertaken by Management (cost neutral)</td>
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<td></td>
<td>• It is important to make quite clear what is being investigated</td>
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<td></td>
<td>• Care should be taken for the selection of the investigation team. Avoid conflict of interest. i.e. investigator should not be a national of the country where investigation is being undertaken</td>
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<td></td>
<td>• The IRM rules must spell out the responsibilities of the Director and the responsibilities of the IRM Experts</td>
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<td></td>
<td>• Evaluation report nomenclature should be revised to include matter of interest about performance of IRM</td>
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<td></td>
<td>• Can categorization be done of project in relation with financial matter as it is done for safeguards issues?</td>
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<tr>
<td>Outreach/Consultations</td>
<td>• These are very important. We must innovate and pursue them vigorously</td>
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<td></td>
<td>• Outreach/Consultations must go together</td>
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<td></td>
<td>• Make sure to spell out what is meant by meaningful consultation</td>
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<td></td>
<td>• Preventive actions need to be encouraged</td>
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<tr>
<td>Management/IRM/CRMU relationship</td>
<td>• Management must see IRM as a useful tool</td>
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<td></td>
<td>• Management must see IRM as a learning tool, not a punitive instrument</td>
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<td></td>
<td>• Relationship ok in terms of approaches for learning purpose, but we must maintain healthy distance and independence must be respected</td>
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<tr>
<td>Spot check</td>
<td>• Overwhelming support</td>
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<td></td>
<td>• More information to be provided on the idea of spot check</td>
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<tr>
<td>Communication</td>
<td>• Communication must be improved</td>
</tr>
<tr>
<td>CRMU administration</td>
<td>• Who recruits, evaluates the CRMU Director</td>
</tr>
<tr>
<td>Private sector</td>
<td>• Guidance to be explicitly developed on private sector operations</td>
</tr>
</tbody>
</table>
## Annex 5: Summary of Issues Identified during the Review and Recommendations:
### Comparison of the Practice with other Independent Accountability Mechanisms

<table>
<thead>
<tr>
<th>Category</th>
<th>Recommendations</th>
<th>Comparison with other IAMs</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>BOARD/CRMU INTERACTION</strong></td>
<td>CRMU should interact with the Boards through formal and informal meetings</td>
<td>This practice occurs at the other IAMs.</td>
</tr>
<tr>
<td></td>
<td>Also, CRMU could report through a Boards’ Committee</td>
<td></td>
</tr>
<tr>
<td><strong>MANAGEMENT/CRMU INTERACTION</strong></td>
<td>Consultation on high profile project to conduct spot checks to evaluate Bank’s compliance with its policies and procedures.</td>
<td>The objective is to optimise the use of IRM as a tool for the Boards.</td>
</tr>
<tr>
<td></td>
<td>Conduct one/two high profile compliance review spot checks a year.</td>
<td></td>
</tr>
<tr>
<td><strong>PROACTIVE CRMU STAFF ACTIVITIES</strong></td>
<td>CRMU staff, while being highly motivated, needed more proactive interaction with Management and staff.</td>
<td>Common feature of other IAMs.</td>
</tr>
<tr>
<td></td>
<td>CRMU Staff to develop data and information for learning and optimization of IRM.</td>
<td></td>
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<tr>
<td></td>
<td>IRM Roster of Experts to strengthen knowledge and experience sharing with other IAMs.</td>
<td></td>
</tr>
<tr>
<td><strong>CONSULTATIONS</strong></td>
<td>Management takes the leadership role in ensuring that “meaningful consultations” is done.</td>
<td>The objective is to encourage Management to consult to minimize any objection that may arise from the project affected people. This objective is sought by all IAMs.</td>
</tr>
<tr>
<td><strong>ISSUES RELATED TO RESETTLEMENT</strong></td>
<td>Management should take adequate actions to ensure that income or livelihood restorations are taken into account during the preparation of resettlement packages.</td>
<td>This recommendation is practiced by all IAMs.</td>
</tr>
<tr>
<td><strong>OUTREACH</strong></td>
<td>Continue effort to reinforce Ongoing initiatives:</td>
<td>Practices similar to those in other IAMs.</td>
</tr>
</tbody>
</table>
Target affected communities where Bank projects are being implemented.
Engage closely with CSOs in Africa.
Use innovative means of communication.
Bank project documents to be required to present information on IRM.

<table>
<thead>
<tr>
<th>ELIGIBILITY OF REQUEST/REQUESTORS</th>
<th>Recommendations</th>
</tr>
</thead>
<tbody>
<tr>
<td>✔ Assessment of eligibility of the request.</td>
<td>CRMU needs to assess the eligibility of the Request and the eligibility of the Requestors/complainants to ensure that only the interests of the project-affected people are represented.</td>
</tr>
<tr>
<td>✔ Assessment of eligibility of the requestor(s)</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>LIMITATIONS IN THE IRM OPERATING RULES AND PROCEDURES</th>
<th>Recommendations</th>
</tr>
</thead>
<tbody>
<tr>
<td>✔ Human Rights: in specific cases, the Boards and Management should invoke human rights.</td>
<td>Some of these issues are under consideration or being implemented by other IAMs.</td>
</tr>
<tr>
<td>✔ Indigenous Peoples: No Bank Policy exists. Notion introduced in Preamble section of ISS.</td>
<td></td>
</tr>
<tr>
<td>✔ Child Labour: Mandatory that all projects should be screened against child labour.</td>
<td></td>
</tr>
<tr>
<td>✔ Since Child Labour Policy relates to agreed international norms and standards set by the International Labour Organisations (ILO), it is necessary that greater clarity on what constitutes harmful practices be defined by IRM.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>COMPLIANCE REVIEW AND PROBLEM-SOLVING SEQUENCING</th>
<th>Recommendations</th>
</tr>
</thead>
<tbody>
<tr>
<td>✔ By following problem-solving approach, Management should understand that the extra time needed will not be detrimental to the interest of the Requestors and that both Management and the Requestors are happy with the course of action taken.</td>
<td>Sequencing of problem-solving and compliance review is a common feature within some of the other IAMs.</td>
</tr>
<tr>
<td>✔ It is only in this spirit that the Boards should authorise any deferment of an investigation.</td>
<td></td>
</tr>
<tr>
<td>✔ If on the other hand Management does not adequately address the key</td>
<td></td>
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</tbody>
</table>


issues of the Requestors after the problem-solving period, CRMU must recommend a full investigation to the Boards.

<table>
<thead>
<tr>
<th>Question</th>
<th>Recommendations</th>
<th>Other IAMs do have various means of involving private sector.</th>
</tr>
</thead>
<tbody>
<tr>
<td>IRM’S ROLE REGARDING PRIVATE SECTOR INVESTMENTS</td>
<td>✓ CRMU to handle cases involving private sector from two perspectives: ✓ The sections of a private sector project that have confidentiality clauses should be respected in consultation with Management; and ✓ The sections that deal with CSR fall in the public domain and therefore need to be treated just like public sector projects.</td>
<td>Other IAMs do have various means of involving private sector.</td>
</tr>
<tr>
<td>ADMINISTRATION OF CRMU</td>
<td>✓ Provisions of Paragraph 75 of IRM Rules undermines the independency and transparency of IRM. To seek additional expertise, the Panel should always go outside the Bank because any use of Bank staff will be viewed as a conflict of interest.</td>
<td>Other IAMs seek additional expertise from outside their institutions.</td>
</tr>
</tbody>
</table>