

OPERATIONS MANUAL BANK POLICIES (BP)

These policies were prepared for use by ADB staff and are not necessarily a complete treatment of the subject.

ACCOUNTABILITY MECHANISM

A. Objectives

1. The Accountability Mechanism policy (Accountability Mechanism) of the Asian Development Bank (ADB) has two functions: problem-solving and compliance review. The Accountability Mechanism provides an independent and effective forum for people adversely affected by ADB-assisted projects to (i) voice their concerns and seek solutions to their problems, and (ii) request a review of the alleged ADB's noncompliance with its operational policies and procedures that may have caused them, or is likely to cause them, direct and material harm.

B. Definitions

2. The following terms, as used in this section (Bank Policies and Operational Procedures), have the following meaning:

“ADB-assisted project”	A project financed or to be financed, or administered or to be administered, by ADB, and covers both sovereign and nonsovereign operations.
“Board”	ADB's Board of Directors.
“borrower”	When applied to a sovereign operation, means the borrower of an ADB loan or the recipient of an ADB grant; and when applied to a nonsovereign operation, means the borrower, guarantee beneficiary, fund manager, investee, or similar entity to which ADB lends or guarantees, or in which it invests.
“borrowing country”	The country in which the ADB-assisted project is located.
“days”	Unless specified otherwise, refers to working days in ADB.
“operations department”	Any department that handles the formulation, processing, or implementation of an ADB-assisted project. The operations departments include the regional departments and the Private Sector Operations Department.

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C. Guiding Principles

3. The Accountability Mechanism is designed to (i) increase ADB's development effectiveness and project quality; (ii) be responsive to the concerns of project-affected people and fair to all stakeholders; (iii) reflect the highest professional and technical standards in its staffing and operations; (iv) be as independent and transparent as possible; (v) be cost-effective and efficient; and (vi) be complementary to the other supervision, audit, quality control, and evaluation systems at ADB.

4. The Accountability Mechanism is a "last resort" mechanism. ADB must continue to strengthen its project design, implementation, and learning mechanisms to prevent problems and ensure compliance from the outset, and to deal with the legitimate concerns of project-affected people at the project and operational levels wherever possible.

D. Structure

5. The Accountability Mechanism has two functions. The problem solving function is led by the Special Project Facilitator (SPF), who responds to problems of local people affected by ADB-assisted projects through a range of informal and flexible methods. The compliance review function is led by the Compliance Review Panel (CRP), which investigates alleged ADB's noncompliance with its operational policies and procedures that has caused, or is likely to cause, direct and material harm to project-affected people.

6. To provide an easily accessible single entry point for project-affected people, this two-pronged structure is supported by a Complaint Receiving Officer (CRO), who receives all complaints from people seeking access to the Accountability Mechanism.

E. Scope of Problem Solving

7. The problem solving function assists people directly, materially, and adversely affected by specific problems caused by ADB-assisted projects through informal, flexible, and consensus-based methods with the consent and participation of all parties concerned. The problem solving function is outcome-driven. It does not focus on the identification and allocation of blame, but on finding ways to address the problems of the project-affected people. The SPF problem solving function also aims to strengthen the internal problem solving processes of the operations departments.

8. The scope of the problem solving function is broader than the compliance review function. People who believe they have been or will be directly, materially, and adversely affected by an ADB-assisted project can use the problem solving function regardless of whether ADB operational policies and procedures have been complied with. However, the problem solving function is limited to ADB-related issues concerning ADB-assisted projects.

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F. Scope of Compliance Review

9. **Compliance Review Panel.** The CRP is a fact-finding body on behalf of the Board. The CRP investigates alleged ADB's noncompliance 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.

10. The scope of compliance review is ADB's operational policies and procedures as they relate to formulating, processing, or implementing an ADB-assisted project. The scope excludes matters relating to the procurement of goods and services (including consulting services), corruption, and non-operational administrative matters, such as finance and administration. In cases where operational policies have been approved by the Board and have become effective but have not been incorporated into the Operations Manual in a timely manner, or in cases where there is a conflict between a Board-approved policy and an Operations Manual section, the Board-approved policies will be used for the purpose of the Accountability Mechanism. In cases where an Operations Manual section refers to another section that has been superseded, the section that has superseded the cross-referenced section will prevail.¹

11. A compliance review does not investigate the borrowing country, the executing agency, or the private sector client. The conduct of these other parties is considered only to the extent that they are directly relevant to an assessment of ADB's compliance with its operational policies and procedures. The compliance review does not provide judicial-type remedies, such as injunctions or monetary damages. Relative to a request for problem solving with the SPF, a request for compliance review is not an appeal to a higher authority. The SPF and CRP are of equal standing in the hierarchy of the Accountability Mechanism.

12. The CRP does not consider the policies and procedures of other institutions except to the extent that ADB's policies and procedures have explicitly incorporated those of the other institutions.

¹ Sometimes an Operations Manual section has been updated or replaced, but other sections still refer to the old section. Such references should be deemed to be references to the new Operations Manual section.

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Basis: This OM section is based on:

ADB. 2012. *Review of the Accountability Mechanism Policy*. Manila.

This OM section is to be read with OM Section L1/OP.

For other background information and references, see:

ADB. 1995. *Establishment of an Inspection Function*. Manila.

ADB. 2003. *Review of the Inspection Function: Establishment of a New ADB Accountability Mechanism*. Manila.

ADB. 2011. *Public Communications Policy 2011: Disclosure and Exchange of Information*. Manila.

Compliance: This OM section is subject to compliance review.

For inquiries: Questions may be directed to the Office of the Special Project Facilitator or the Office of the Compliance Review Panel.

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These procedures were prepared for use by ADB staff and are not necessarily a complete treatment of the subject.

ACCOUNTABILITY MECHANISM PROCEDURES

A. Introduction

1. This Operations Manual section describes the operational procedures of the Accountability Mechanism policy (Accountability Mechanism) of the Asian Development Bank (ADB) and the roles of the parties involved in its implementation.

B. Appointment and Administrative Matters

2. **Problem Solving.** The Special Project Facilitator (SPF) is appointed by the President after consultation with the Board, and reports directly to the President. The SPF's term is for 3 years and may be renewed for another 2 years. The SPF must not have worked in any ADB operations department for at least 5 years before the appointment. The SPF must disclose immediately to the President any personal interest or significant prior involvement in a project that is subject to problem solving procedures. The SPF has access to all ADB staff and Management, and all ADB records that the SPF deems relevant, except personal information that is typically restricted. The President evaluates the performance of the SPF.

3. The Office of the SPF (OSPF) supports the work of the SPF. The OSPF may engage technical experts as consultants to assist OSPF work, including monitoring activities.

4. **Compliance Review Panel.** The Compliance Review Panel (CRP) is a fact-finding body on behalf of the Board. The CRP has three members, one of whom is the chair. The CRP chair serves full time and the other two members serve part time as and when required. CRP members are appointed by the Board upon the recommendation of the Board Compliance Review Committee (BCRC) in consultation with the President. The BCRC directs the search and selection process, which may involve the use of an executive search firm if necessary. Budget, Personnel and Management Systems Department (BPMSD), in coordination with the Office of the Secretary (OSEC), handles the administrative processes.

5. Each panel member has a 5-year, nonrenewable term. Two panel members are from regional member countries, with at least one from a developing member country (DMC). The third panel member is from a nonregional member country.

6. Directors, alternate directors, directors' advisors, Management, staff, and consultants are ineligible to serve on the CRP until at least 3 years have elapsed from their time of service with ADB. After serving on the CRP, panel members are barred from any future employment at ADB, including engagement as consultants. A panel member may be removed by the Board upon the recommendation of the BCRC and in consultation with the President on the grounds of

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inefficiency and/or misconduct. A panel member will be disqualified from participating in a compliance review if he or she has a personal interest or has had significant prior involvement in the project under review. A panel member must disclose immediately to the BCRC any personal interest or significant prior involvement in a project subject to compliance review.

7. The CRP may engage technical experts as consultants in accordance with ADB's Guidelines on the Use of Consultants (2010, as amended from time to time) and other arrangements satisfactory to ADB to assist in its work, including post-compliance review monitoring. The CRP has access to all ADB staff and Management, and all ADB records that it deems relevant, except personal information that is typically restricted.

8. **Office of the Compliance Review Panel.** The Office of the Compliance Review Panel (OCRP) supports the CRP. OCRP staff are ADB staff but report to the CRP chair. The terms and conditions of their employment are determined the same way as for other ADB staff. OCRP staff can be transferred to and from other parts of ADB. BPMSD handles the administrative processes in relation to OCRP staff in accordance with ADB guidelines.

9. The CRP chair is responsible for preparing the combined annual work plan and budget of the CRP and OCRP, with due regard to principles of efficiency and cost effectiveness. The annual work plan and budget is endorsed by the BCRC in consultation with the President and reviewed by the Board's Budget Review Committee. The work plan and budget proposal is then presented to the Board for approval, separately from ADB's overall administrative budget. The BCRC chair, in consultation with other BCRC members, provides written feedback annually on the performance of the CRP members.

10. **Complaint Receiving Officer.** The OSPF and OCRP jointly engage a Complaint Receiving Officer (CRO) from outside ADB, in a way similar to the engagement of the executive secretary of ADB's Administrative Tribunal. The CRO is engaged on a full-time basis to respond promptly to complainants. The CRO reports to the SPF and the CRP chair. The CRO has access to the OSPF, OCRP, and operations departments regarding the status and processing of complaints.

11. **Board Compliance Review Committee.** The BCRC consists of six Board members, including four regional members (at least three of whom must be from borrowing countries) and two nonregional members. The BCRC members are appointed in accordance with the Board's Rules of Procedure. OSEC provides support to the BCRC.

C. Roles and Activities

1. Complaint Receiving Officer

12. The CRO
- (i) receives all complaints from people seeking access to the Accountability Mechanism and promptly acknowledges them;
 - (ii) registers the complaints;
 - (iii) informs the complainants about whom to contact after complaints have been registered;
 - (iv) forwards complaints to either the SPF or the CRP chair, as requested by the

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- (v) complainants; or forwards complaints that are beyond the scope of the Accountability Mechanism, such as those relating to procurement or corruption, to other relevant departments and offices;
 - (v) copies the SPF, CRP, and operations department concerned if the complaints are not forwarded to them, ensuring the complainants' identities are not revealed to parties other than the SPF and the CRP;
 - (vi) provides information to complainants;
 - (vii) maintains the landing page of the Accountability Mechanism website within ADB's public website, as directed by the OSPF and OCRP, and working with the Department of External Relations (DER); and
 - (viii) undertakes other work as assigned by the SPF and CRP chair.
13. The CRO carries out all functions with objectivity and neutrality.

2. Office of the Special Project Facilitator

14. The OSPF¹
- (i) processes complaints requesting problem solving;
 - (ii) obtains from the operations departments all materials relating to the complaints;
 - (iii) engages with all relevant parties, including the complainants, the borrower, the Board member representing the borrowing country, Management, and staff to gain a thorough understanding of the issues to be examined during problem solving;
 - (iv) facilitates consultative dialogue, promotes information sharing, undertakes joint fact-finding,² and/or facilitates the establishment of a mediation mechanism;
 - (v) informs the Board and other stakeholders about the results of problem solving activities;
 - (vi) monitors the implementation of the remedial actions agreed upon during the problem solving process;
 - (vii) collates and integrates internal and external experiences with problem solving to be fed back into ADB's operations, including the formulation, processing, and implementation of projects;
 - (viii) provides generic support and advice to operations departments in their problem prevention and problem solving activities, but not for specific problems that the operations departments are working to resolve;
 - (ix) works with the OCRP to produce a clear, simple, informative, and succinct information packet about the Accountability Mechanism, highlighting the different processes and remedies available under the two functions;
 - (x) prepares and publishes Accountability Mechanism annual reports jointly with the OCRP;

¹ In carrying out the problem solving and other related functions, the SPF, as the head of the OSPF, decides which activities will be performed by the SPF and which by the OSPF staff.

² Joint fact-finding can be undertaken with parties that the SPF deems relevant, including the complainants, the operations department concerned, and the borrower.

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- (xi) produces a learning report every 3 years through joint efforts with the OCRP, the Independent Evaluation Department (IED), and the Regional and Sustainable Development Department (RSDD);
- (xii) raises awareness within ADB and through outreach activities with the public that include a holistic introduction to the Accountability Mechanism while focusing on specific subjects;
- (xiii) works with the CRO, OCRP, and DER to maintain a common ADB Accountability Mechanism website within ADB's public website to provide information on both the problem solving and compliance review functions;
- (xiv) conducts other activities required to carry out the problem solving function effectively and efficiently; and
- (xv) liaises with accountability mechanisms at other institutions.

15. The OSPF problem solving function does not replace the project administration and problem solving functions of the operations departments, which are an inherent part of their work. Operations departments have the initial responsibility for responding to the concerns of affected people. However, the OSPF, in consultation with the operations departments, carries out activities designed to improve the internal problem solving capacity of ADB.³

16. The SPF's role is confined to ADB-related issues on ADB-assisted projects. The SPF does not interfere in the internal matters of any DMC and does not mediate between the complainants and local authorities.

3. Compliance Review Bodies

17. The CRP
- (i) processes complaints requesting compliance review;
 - (ii) engages with all relevant parties and stakeholders, including the complainants, the borrower, the Board member representing the borrowing country, Management, and staff to gain a thorough understanding of the issues to be examined during the compliance review;
 - (iii) coordinates its activities, to the extent appropriate, with those of the compliance review mechanism of any other cofinancing institution that is conducting a separate compliance review of the same project;
 - (iv) conducts thorough and objective reviews of compliance by ADB with its operational policies and procedures;
 - (v) engages all stakeholders concerned throughout the compliance review process;
 - (vi) consults with the complainants, the borrower, the Board member representing the borrowing country, Management, and staff on its preliminary findings; and addresses any resulting comments;
 - (vii) issues draft reports which will be sent to the complainants, the borrower, the BCRC, Management, and the operations department concerned;
 - (viii) completes the compliance review even if the borrowing country refuses to grant a site visit;

³ Since 2004, the OSPF has been proactive in improving the internal problem solving capacity of ADB. The OSPF has provided training to staff, designed complaint tracking systems, developed and disseminated problem solving good practices, and carried out other related activities.

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- (ix) issues its final compliance review report to the Board;
 - (x) provides comments on Management's proposed remedial actions to bring a project into compliance;
 - (xi) monitors the implementation of decisions made by the Board and produces annual monitoring reports;
 - (xii) prepares and publishes Accountability Mechanism annual reports jointly with the OSPF;
 - (xiii) produces a learning report every 3 years through joint efforts with the OSPF, IED, and RSDD;
 - (xiv) develops a roster of independent technical experts who can assist the CRP in carrying out its work; and
 - (xv) liaises with accountability mechanisms at other institutions.
18. The CRP chair
- (i) ensures all the functions listed for the CRP are carried out;
 - (ii) serves as the head of the OCRP and has full responsibility for running the OCRP;
 - (iii) manages the OCRP as an effective, efficient, and independent office, including managing the OCRP's personnel, budget, and work program under the oversight of the BCRC, and in accordance with ADB rules and procedures;
 - (iv) assigns member(s) of the CRP to conduct compliance review and monitoring tasks in consultation with the BCRC;
 - (v) provides regular (e.g., quarterly) briefings to the BCRC, one of which may be combined with the briefing on the Accountability Mechanism annual report;
 - (vi) prepares the annual work program and budget for the CRP and OCRP;
 - (vii) engages stakeholders in the compliance review process and ensures that compliance review results are communicated to them and the public;
 - (viii) ensures high-quality professional work and sets quality standards for OCRP outputs;
 - (ix) formulates and implements the OCRP's work program as approved by the Board, and reports to the Board through the BCRC on the activities of the CRP and OCRP; and
 - (x) provides input to the BCRC's annual performance feedback on the other CRP members.
19. The OCRP
- (i) supports the work of the CRP;
 - (ii) works with the OSPF to produce a clear, simple, informative, and succinct information packet about the Accountability Mechanism, highlighting the different processes and remedies available under the two functions;
 - (iii) raises awareness in ADB and through public outreach activities that include a holistic introduction to the Accountability Mechanism while focusing on specific subjects;
 - (iv) in coordination with the OSPF, operations departments, the NGO and Civil Society Center, and DER, ensures that such information dissemination and

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- (v) public outreach is integrated with ADB's activities to promote interaction with project beneficiaries and stakeholders, including civil society organizations;
 - (v) works with the CRO, OSPF, and DER to maintain a common ADB Accountability Mechanism website within ADB's public website to provide information on both the problem solving and compliance review functions; and
 - (vi) facilitates the CRP's communication and coordination with the Board, Management, the OSPF, and staff.
20. The BCRC
- (i) clears the CRP's proposed terms of reference (TOR) for compliance review before it is released by the CRP;
 - (ii) reviews the CRP's draft compliance review reports;
 - (iii) reviews the CRP's draft reports on monitoring implementation of remedial actions approved by the Board as a result of a compliance review before the CRP finalizes them;
 - (iv) decides and adjusts the CRP monitoring time frames;
 - (v) reviews and endorses the combined CRP and OCRP annual work plan and budget;
 - (vi) searches for CRP members in consultation with the President;
 - (vii) provides annual written feedback to all CRP members on their performance;
 - (viii) in case of a borrowing country's rejection of a CRP site visit, dialogues with Management on the reasons for the borrowing country's refusal; and
 - (ix) serves as the focal point for the CRP's communication and dialogue with the Board on the Accountability Mechanism.
21. The BCRC's function in clearing the proposed TOR and reviewing the draft compliance review reports is to ensure that the CRP operates within the scope of the compliance review function as set out in the Accountability Mechanism. The BCRC reviews the CRP's monitoring reports to ensure that the CRP has carried out a satisfactory process in monitoring the implementation of any remedial actions approved by the Board following the compliance review.

D. Roles and Functions of Others

22. The Board of Directors with regard to the CRP
- (i) oversees the CRP's work through the BCRC;
 - (ii) appoints and removes CRP members on the recommendation of the BCRC in consultation with the President;⁴
 - (iii) authorizes compliance reviews;
 - (iv) considers CRP final compliance review reports;
 - (v) considers and decides on Management's proposed remedial actions in response to the CRP's findings; and
 - (vi) approves the combined annual work plan and budget of the CRP and OCRP.

⁴ The process to identify suitable candidates will be transparent and may involve engaging an executive search firm and advertising in international publications. Relevant information on appointments and removals will be posted on the ADB website.

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23. ADB Management and staff
- (i) ensure that the SPF and CRP have full access to project-related information in carrying out their functions;
 - (ii) provide assistance as required by the OSPF in problem solving;
 - (iii) coordinate with the CRP on compliance review;
 - (iv) propose remedial actions to bring a project into compliance in response to CRP's findings, in consultation with the borrower;
 - (v) assist in mission arrangements for the OSPF, CRP, and OCRP; and provide other assistance to them as needed;⁵
 - (vi) track the ineligible complaints that were forwarded to the operations departments because of the complainants' lack of prior good faith efforts to solve the problems and issues with the operations departments; and
 - (vii) engage in problem prevention and problem solving, and seek to ensure compliance with ADB operational policies and procedures.
24. Operations departments play an essential role in problem prevention, problem solving, and ensuring compliance, as follows:
- (i) As a part of project design and implementation, operations departments engage in day-to-day problem prevention, problem solving, and prevention of noncompliance with ADB's operational policies and procedures.
 - (ii) Operations departments handle complaints which were filed under the Accountability Mechanism but were found ineligible by the SPF or CRP for lack of prior good faith efforts by the complainants to solve the problems or issues with the relevant operations department; after handling such a complaint, the operations departments file a report with the CRO for posting on the Accountability Mechanism website.
 - (iii) During the Accountability Mechanism processes, operations departments contribute to smooth problem solving and provide necessary cooperation for the effective compliance review.
 - (iv) Operations departments are a key party in ensuring the implementation of the remedial actions as a result of the Accountability Mechanism processes.
25. The Office of the General Counsel (OGC) advises the OSPF, SPF, OCRP, CRP, BCRC, and Board on matters concerning ADB's legal status, rights, and obligations under the Agreement Establishing the Asian Development Bank (the Charter)⁶ and any agreement to which ADB is a party, and on any other matters relating to ADB's rights and obligations with respect to any complaint requesting problem solving or compliance review under the Accountability Mechanism. Consistent with the practice since 2003, the OGC facilitates the CRP's access to specialist legal advice on the laws and regulations of the borrowing countries concerned as necessary.

⁵ For example, assistance may include setting up meetings or providing the use of facilities in resident missions.

⁶ ADB. 1966. *Agreement Establishing the Asian Development Bank*. Manila.

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E. Eligibility

1. Who Can File Complaints

26. For both the problem solving and compliance review functions, complaints may be filed by (i) any group of two or more people in a borrowing country where the ADB-assisted project is located or in a member country adjacent to the borrowing country who are directly, materially, and adversely affected; (ii) a local representative of the affected persons; or (iii) a nonlocal representative of the affected persons, in exceptional cases where local representation cannot be found and the SPF or CRP agrees. A complaint made through a representative must clearly identify the project-affected people on whose behalf the complaint is made and provide evidence of the representative's authority to represent such people.

27. For a compliance review, complaints may also be filed by any one or more ADB Board members, after first raising their concerns with Management, in special cases involving allegations of serious violations of ADB's operational policies and procedures relating to an ongoing ADB-assisted project. These alleged violations must have, or are likely to have, a direct, material, and adverse effect on a community or other group of individuals residing in the borrowing country or in a member country adjacent to the borrowing country. The conduct of the compliance review requested by a Board member does not affect or limit the existing rights of Board members to request or initiate reviews of ADB policies and procedures.

28. Compliance reviews cover only ADB-assisted projects.⁷ The filing of a complaint to either the SPF or CRP does not suspend or otherwise affect the formulation, processing, or implementation of the project unless agreed to by the borrower concerned and ADB.

2. Scope

29. **Problem Solving Function.** The problem solving function is outcome-driven, focusing not on the identification and allocation of blame, but on finding ways to address the problems of the people affected by ADB-assisted projects. The scope of the problem solving function is broader than the compliance review function. People who believe they have been or will be directly, materially, and adversely affected by an ADB-assisted project can use the problem solving function regardless of whether ADB operational policies and procedures have been complied with. However, the problem solving function is limited to ADB-related issues concerning ADB-assisted projects.

30. **Compliance Review Function.** The CRP examines whether the direct and material harm alleged by the complainants is the result of ADB's failure to follow its operational policies and procedures in the course of formulating, processing, or implementing an ADB-assisted project. The scope of compliance review is ADB's operational policies and procedures as they relate to formulating, processing, or implementing an ADB-assisted project. The applicable operational policies and procedures depend on whether the complaint concerns a proposed or

⁷ Since ADB cannot control the actions of third parties with respect to associated facilities which are not funded by ADB, such associated facilities are not covered by the Accountability Mechanism.

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an ongoing project.⁸ For a proposed project, the applicable policies and procedures are those in effect when the complaint is filed with the CRP. For an ongoing project, the applicable policies and procedures are those in effect at the time of the Board or President's approval of the project, unless otherwise specified in the relevant policies, procedures, or project documents.

31. The Board decides whether a policy is an operational policy subject to compliance review,⁹ and the CRP determines which part, if any, of the operational policies and procedures was or is not complied with after carrying out a compliance review. ADB's operational policies and procedures subject to compliance review do not include guidelines and/or similar documents or statements. The CRP does not consider the policies and procedures of other institutions except to the extent that ADB's policies and procedures have explicitly incorporated those of the other institutions.

32. To determine noncompliance, the CRP must be satisfied that there is evidence of (i) direct and material harm that has been caused by the ADB-assisted project; (ii) noncompliance of ADB with its operational policies and procedures; and (iii) the noncompliance as a cause for such harm.

3. Exclusions

33. Complaints are excluded from both problem solving and compliance review functions if they are

- (i) about actions that are not related to ADB's actions or omissions in the course of formulating, processing, or implementing ADB-assisted projects;
- (ii) about matters that complainants have not made good faith efforts to address with the operations department concerned;
- (iii) about an ADB-assisted project for which 2 years or more have passed since the loan or grant closing date;¹⁰
- (iv) frivolous, malicious, trivial, or generated to gain competitive advantage;
- (v) about decisions made by ADB, the borrower or executing agency, or the private sector client on the procurement of goods and services, including consulting services;
- (vi) about allegations of fraud or corruption in ADB-assisted projects and/or misconduct by ADB staff;
- (vii) about the adequacy or suitability of ADB's existing policies and procedures;

⁸ A proposed project is a project that is being prepared and has not yet been approved by the Board or the President (as delegated by the Board). An ongoing project is a project that has been approved by the Board or the President.

⁹ Whether a policy is subject to the Accountability Mechanism is generally indicated in the policy when it is submitted to the Board for its consideration. The *Operations Manual* clearly indicates whether a specific section is subject to compliance review.

¹⁰ For programmatic operations, such as multitranche financing facilities, additional financing, and single-tranche policy loans under one program, the cutoff is tranche- (or its equivalent) based. For projects whose loan or grant closing dates are extended after project completion for purposes such as capitalizing interest payments and liquidation or for which the loan or grant closing date is not relevant, the cutoff date is 2 years after the project completion date. In the case of nonsovereign projects for which the loan or grant closing date is not relevant, the cutoff date is 2 years after the project is physically completed or, where physical completion is waived or is not relevant (e.g., financial intermediation projects), 1 year after the date of the final disbursement or termination of ADB's involvement in the project, whichever occurs earlier.

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- (viii) within the jurisdiction of ADB's Appeals Committee or ADB's Administrative Tribunal, or relate to ADB personnel matters; and/or
 - (ix) about ADB's non-operational administrative matters, such as finance and administration.
34. The problem solving function also excludes
- (i) matters already considered by the OSPF, unless the complainants have new evidence previously not available to them or the subsequent complaint can be readily consolidated with the earlier complaint; in such cases, any resubmission or consolidation of a complaint, as the case may be, should occur within 2 years after the loan or grant closing date; and/or
 - (ii) matters that are being dealt with, or have already been dealt with, by the CRP (including those that have completed the compliance review process), except those complaints considered ineligible for compliance review by the CRP. The request for problem solving after the CRP has found the complaint ineligible for compliance review must take place within 2 years after the loan or grant closing date.¹¹
35. The compliance review function also excludes complaints that
- (i) relate to actions that are the responsibility of other parties, such as a borrower, executing agency, or potential borrower, unless the conduct of these other parties is directly relevant to an assessment of ADB's compliance with its operational policies and procedures;
 - (ii) do not involve ADB's noncompliance with its operational policies and procedures;
 - (iii) are being dealt with by the OSPF up to the completion of step 3 under the problem solving function;
 - (iv) relate to the laws, policies, and regulations of the borrowing country, unless they directly relate to ADB's compliance with its operational policies and procedures; and/or
 - (v) are about matters already considered by the CRP, unless the complainants have new evidence previously not available to them and the subsequent complaint can be readily consolidated with the earlier complaint. In such cases, any resubmission or consolidation of a complaint, as the case may be, should occur within 2 years after the loan or grant closing date.
36. Complainants are encouraged to first address their problems using project-level grievance redress mechanisms to facilitate prompt problem solving on the ground. However, this is not a precondition for their access to the Accountability Mechanism.

F. How to File a Complaint

37. Complaints from people seeking access to the Accountability Mechanism must be in writing and preferably addressed to the CRO. Complaints may be submitted by mail, facsimile, e-mail, or hand delivery to the CRO at ADB headquarters. Complaints are also accepted by any ADB office, such as a resident mission or representative office, which will forward them to the CRO. The working language of the Accountability Mechanism is English, but complaints may be

¹¹ All complaints to the SPF or CRP must be filed within 2 years after the loan or grant closing date..

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submitted in any of the official or national languages of ADB's DMCs. In cases where the complaints are submitted in languages other than English, additional time is required for translation. The identities of complainants are kept confidential unless the complainants agree to disclose their identities, but anonymous complaints are not accepted. The identities of representatives who are not at the same time complainants are not kept confidential, but are disclosed to ensure transparency.

38. The complaint must specify the following:
- (i) names, addresses, and contact information of the complainants and their representative(s);
 - (ii) if a complaint is made through a representative, the names of the project-affected people on whose behalf the complaint is made and evidence of the authority to represent them;
 - (iii) whether the complainants choose to keep their identities confidential;
 - (iv) whether the complainants choose to undergo problem solving with the OSPF or compliance review with the CRP;
 - (v) a brief description of the ADB-assisted project, including its name and location;
 - (vi) a description of the direct and material harm that has been, or is likely to be, caused to the complainants by the ADB-assisted project;
 - (vii) a description of the complainants' good faith efforts to address the problems first with the operations department concerned, and the results of these efforts; and
 - (viii) if applicable, a description of the complainants' efforts to address the complaint with the OSPF, and the results of these efforts.
39. Complaints may also include the following information:
- (i) an explanation of the complainants' claim that the direct and material harm alleged is, or will be, caused by the alleged failure by ADB to follow its operational policies and procedures in the course of formulating, processing, or implementing the ADB-assisted project;
 - (ii) a description of the operational policies and procedures that have not been complied with by ADB in the course of formulating, processing, or implementing the ADB-assisted project;
 - (iii) a description of the complainants' efforts to address the problems with the project-level grievance redress mechanisms concerned, and the results of these efforts;
 - (iv) the desired outcome or remedies that complainants believe ADB should provide through the Accountability Mechanism; and
 - (v) any other relevant matters or facts with supporting documents.
40. A template for filing complaints will be posted on the ADB website.

G. Processing Complaints

41. The complainants decide and indicate in the complaint whether they want to initiate problem solving or compliance review. They can exit or disengage from the problem solving

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process at any time, which will terminate the process.¹² After exiting or disengaging from the problem solving process, the complainants may request the CRO to forward the complaint to the CRP for compliance review. To meet the cutoff date for compliance review, such a request must be made within 2 years of the loan or grant closing date.

42. Complainants can also request compliance review upon completion of step 3 of the problem solving process if they have serious concerns about compliance issues. In that case, compliance review of the complaint, if found eligible, is carried out in parallel with step 4 of the problem solving process.

43. Complainants can also exit or disengage from the compliance review process at any time, which will terminate the process. However, unless the complaint is found ineligible by the CRP, they cannot switch from compliance review to problem solving regardless of whether the compliance review was completed. Complainants can provide additional information or evidence on the complaint during the problem solving or compliance review processes. However, complaints about different issues are considered new complaints.

44. The SPF and CRP determine independently whether the complaint meets their respective eligibility criteria. The SPF and CRP fully share information and analysis with each other on the complaint.

45. The complaint processes are described in paras. 46–87.

1. Receiving Complaints

46. **Step 1: Receiving and registering a complaint.** The complainants or their representative(s) file a complaint with the CRO. Complaints received by any other ADB departments or offices from people seeking to access the Accountability Mechanism are forwarded to the CRO. The CRO informs the SPF, the CRP chair, and the operations department concerned about the complaint within 2 days of receiving it, attaching a copy of the complaint letter. Unless the complainants have clearly indicated that confidentiality is not required, the CRO takes necessary measures when copying or forwarding the information to ensure the confidentiality of the complainants' identities (for example, by masking the names of the complainants). The CRO also stresses to all parties concerned within ADB the importance of ensuring the confidentiality requested by complainants. The CRO registers the complaint on the Accountability Mechanism website within 2 days of receiving it. This is an administrative step and does not mean the complaint is eligible for problem solving or compliance review.

47. **Step 2: Acknowledging the complaint.** Within 2 days of receiving the complaint, the CRO acknowledges receipt of the complaint and sends an Accountability Mechanism information packet to the complainants. The information packet indicates that the complainants can choose to undertake either problem solving or compliance review. It highlights the differences between the two functions, explaining that the problem solving function addresses problems on the ground and facilitates their resolution, while the compliance review function reviews ADB's compliance with its operational policies and procedures. The resulting remedies

¹² Exiting from the process occurs when the complainants make it known that they do not want to pursue the process any further. Disengagement occurs when the complainants no longer respond.

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(if any) to bring a project into compliance may or may not mitigate any harm. The information packet also explains the procedural differences between the two functions.

48. If the complainants' choice for either problem solving or compliance review is clearly indicated in the complaint letter, the CRO informs them that they can change their choice within 21 calendar days from the date of the CRO's acknowledgement letter. If the complainants' choice is not clearly indicated in the complaint letter, the CRO asks them to clarify their choice within 21 calendar days from the date of the CRO's acknowledgement letter.

49. **Step 3: Forwarding the complaint.** Within 5 days after the CRO's deadline for the complainants to notify the CRO of any change in their choice, the CRO decides whether to forward the complaint to

- (i) the SPF if the complainants indicated a choice for problem solving; or
- (ii) the CRP chair if the complainants indicated a choice for compliance review; or
- (iii) other relevant departments and/or offices as appropriate if the complaint falls outside the mandate of the Accountability Mechanism, such as a complaint concerning procurement or corruption, in accordance with the relevant ADB policy or procedure.

50. The CRO informs relevant parties within ADB—including the SPF, CRP chair, the operations department, and any other departments or offices—about its decision on where to forward the complaint, explaining the basis for the decision. The CRO gives the relevant parties 3 days to raise any objections and concerns regarding his/her decision. The relevant parties may only object to the CRO's decision if they find that the complainants' choice has not been properly reflected in the decision. If there is no objection, the CRO forwards the complaint to the relevant party and copies other relevant parties.

51. If the complainants have not clearly indicated a choice for problem solving or compliance review, or if any party in ADB objects to the CRO's decision regarding where to forward the complaint, the CRO returns the complaint to the complainants and seeks their clarification. In such a case, the CRO again includes the information packet on ADB's Accountability Mechanism. The CRO gives the complainants 60 calendar days from the date of the CRO's letter to respond. If the complainants do not respond by the deadline, the Accountability Mechanism process ends, and the CRO informs the complainants accordingly.

52. **Step 4: Informing the complainants.** Within 2 days of forwarding the complaint to the relevant party, the CRO notifies the complainants and their authorized representative(s) about which party will consider the complaint and the contact person(s) for the subsequent steps.

53. Table A1.1 in Appendix 1 summarizes the complaint receiving process.

2. The Problem Solving Function

54. The problem solving process takes about 180 days from the registration of the complaint to an agreement on remedial actions. This excludes translation time, any request for extension to provide information or file documents, and the time needed by the parties to facilitate the

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resolution of their problems. The OSPF may draw on the project-level grievance redress mechanisms and/or the operations departments to resolve problems.

55. **Step 1: Determining eligibility.** The SPF screens the complaint forwarded to him or her by the CRO¹³ and determines its eligibility within 21 days of receiving the complaint. To find a complaint eligible, the SPF must (i) be satisfied that the complaint meets all eligibility criteria for problem solving; and (ii) believe, in his or her sole discretion, that the SPF's involvement could be useful.

56. In determining whether the complaint is eligible, the OSPF reviews whether the complainants made prior good faith efforts to solve the problems with the operations department concerned. The OSPF forwards the complaint to the operations department if the complainants did not make such efforts. The OSPF consults and seeks information from relevant parties, such as the complainants, the borrower, and the operations department. The OSPF also ascertains whether confidentiality has been requested by the complainants, including any representatives who are at the same time also complainants, and takes the necessary actions.

57. The SPF reports the decision on eligibility to the President, with a copy to the vice-president concerned, the operations department, and the CRO. The SPF informs the complainants upon the determination of eligibility.

58. **Step 2: Review and assessment.** If the complaint is eligible, the OSPF reviews and assesses the complaint to (i) understand the history of the complaint, (ii) confirm the stakeholders, (iii) clarify the issues of concern and the options for resolving them, (iv) explore the stakeholders' readiness for joint problem solving, and (v) recommend how the problems can best be solved.

59. The review may include site visits; interviews; and meetings with the complainants, the borrower, and any other people the OSPF believes would be helpful and beneficial. The OSPF obtains information from the operations department concerned and, if necessary, requests the operations department's advice and support. The OSPF conducts fact-finding missions on the SPF's own initiative; or participates, in consultation with the operations department, in special project administration missions of the operations department.

60. The OSPF completes the review and assessment, and the SPF reports the findings to the President, with a copy to the vice-president concerned. The OSPF also sends the findings to the complainants, the borrower, and the operations department, with a request for their comments. Based on the assessment and taking into account the comments received, the SPF, solely at his or her discretion, (i) decides whether to proceed with problem solving, or (ii) determines that no further problem solving efforts will be purposeful and concludes the process. The OSPF is expected to take about 120 days from determination of eligibility to complete the review and assessment.

61. **Step 3: Problem solving.** If problem solving proceeds, the OSPF assists the parties to engage in resolving the problems. The problem solving process depends on the circumstances.

¹³ The forwarding of the complaint by the CRO to the SPF does not constitute a determination of the eligibility of the complaint.

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The OSPF may facilitate a consultative dialogue, promote information sharing, undertake joint fact-finding, facilitate the establishment of a mediation mechanism, and/or use other approaches to problem solving. The time required for the problem solving varies depending on the nature, complexity, and scope of the problems.

62. Implementing the problem solving process requires the consent of every party involved. Except for the SPF, any party can walk away from the process if it does not consider it purposeful or if there is no consensus. This would formally close the problem solving process.

63. Remedial actions that are adopted as a result of the problem solving process are reflected in a written agreement or series of agreements among the parties. Remedial actions involving a change in the project require approval according to ADB's applicable procedures and agreement by the borrower.

64. When the problem solving process has been completed (with or without any agreement), the SPF submits a report to the President, with a copy to the vice-president and the operations department concerned, summarizing the complaint, steps to resolve the issues, decisions by the parties, and the agreement, if any, by the parties. The SPF issues this report and furnishes it to the complainants, the borrower, the CRP, and the Board for information. If there is no agreement, the problem solving process ends upon completion of this step.

65. Upon submitting the report to the President (para. 64), with or without agreement, the complainants can also request the CRO to forward the complaint to the CRP for compliance review if they have serious concerns on compliance issues, to be carried out with the implementation and monitoring of the remedial actions reached at the problem solving stage, if any (step 4). To meet the time limit for eligibility for compliance review, the request to the CRO must be made within the cutoff date of 2 years after the loan or grant closing date.

66. **Step 4: Implementation and monitoring.** The relevant parties implement the agreed remedial actions, and the OSPF monitors their implementation. As part of the monitoring process, the OSPF consults with the complainants, the borrower, and the operations department. The monitoring time frame is project specific, depending on the implementation of the remedial actions, but generally does not exceed 2 years. All stakeholders, including the public, may submit information regarding the status of implementation to the OSPF.

67. The OSPF prepares monitoring reports on the implementation of the remedial actions. These reports are sent to the complainants, the borrower, and the operations department; and submitted to the President and copied to the Board for information. If the monitoring time frame exceeds 1 year, the OSPF produces annual monitoring reports. If the monitoring time frame is about 1 year or less, the monitoring results may be included in the OSPF final report described in step 5. In monitoring the remedial actions, the OSPF produces either monitoring reports for a single complaint or combined monitoring reports for multiple complaints.¹⁴

¹⁴ In the case of combined monitoring reports, the complainants, the borrower, and the operations department will only be sent the portion of the report about the complaints relevant to them.

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68. **Step 5: Conclusion of the problem solving process.** When the monitoring has been completed, the OSPF prepares a final report and the SPF submits it to the President, the complainants, the borrower, the operations department, the CRP, the BCRC, and the Board for information. The OSPF produces either a final report for a single complaint or a combined final report for multiple complaints (footnote 14).

69. Table A1.2 in Appendix 1 summarizes the problem solving process.

3. The Compliance Review Function

70. The compliance review process is expected to take about 200 days from the registration of the complaint to the Board's consideration of the CRP final report, including about 70 days to Board authorization of the compliance review. These periods exclude time for translation, any request for extension to provide information or file documents, and the time for conducting the compliance review, which is not time-bound.

71. **Step 1: Requesting Management response.** The CRP carries out an initial assessment of the complaint forwarded by the CRO and determines within 5 days of receiving it whether it falls within the mandate of the compliance review function. Upon determining this, the CRP forwards the complaint to Management and requests a response within 21 days. In its response, Management should (i) provide evidence that ADB has complied with the relevant ADB policies and procedures; or (ii) acknowledge that there have been failures in ADB's compliance with its policies and procedures, and express its intention to take actions to ensure compliance to the extent possible. Management response may also include other information that Management deems relevant. The CRP copies the BCRC in its correspondence with Management. The CRP informs the borrower and the Board member representing the borrowing country about receipt of the complaint. The CRP should ascertain whether confidentiality is being requested by the complainants, including any representatives who are at the same time also complainants, and take the necessary actions.

72. **Step 2: Determining eligibility.** Within 21 days of receiving Management's response, the CRP determines the eligibility of the complaint.¹⁵ The CRP reviews the complaint, Management's response, and other relevant information. To find a complaint eligible, the CRP must be satisfied that the complaint meets all eligibility criteria for compliance review. The CRP must be satisfied that (i) there is evidence of noncompliance; (ii) there is evidence that the noncompliance has caused, or is likely to cause, direct and material harm to project-affected people; and (iii) the noncompliance is serious enough to warrant a compliance review. If the CRP finds that the alleged direct and material adverse effect is not totally or partially caused by ADB's noncompliance, its eligibility determination states this without analyzing the direct and material adverse effect itself or its causes.

73. As part of the eligibility determination, the CRP reviews and determines whether the complainants made prior good faith efforts to resolve issues with the operations department concerned. The CRP forwards the complaint to the operations department if there is no evidence that the complainants made such efforts.

¹⁵ The forwarding of the complaint by the CRO to the CRP does not constitute a determination of the eligibility of the complaint.

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74. The CRP informs the complainants, the borrower, the Board member representing the borrowing country, Management, and the operations department of its determination concerning eligibility.

75. **Step 3: Board authorization of compliance review.** The CRP submits its eligibility report through the BCRC to the Board, attaching the complaint and Management's response. If the CRP determines that the complaint is eligible, it recommends, that the Board authorize a compliance review. Within 21 calendar days from receipt of the CRP's recommendation, the Board decides—on a no-objection basis and without making a judgment on the merits of the complaint—whether to authorize the compliance review. Within 7 days from receipt of the Board's authorization, the OCRP informs the complainants of the Board's decision.

76. **Step 4: Conducting compliance review.** Within 10 days from the receipt of the Board's authorization to conduct the compliance review, the BCRC clears the TOR for the compliance review prepared by the CRP and the OCRP provides the TOR to the Board for information with a copy to Management. The TOR includes the scope, methodology, estimated review time frame, budget, CRP member(s), and other necessary information for the compliance review. The scope of the TOR is limited to the specific complaint. The TOR may also provide for a site visit by the CRP. In that case, the TOR clearly explains why a site visit is necessary, what will be reviewed, and how it will be conducted.

77. The CRP begins the compliance review upon receiving the Board's authorization and the BCRC's clearance of the TOR. The time required for the CRP's review varies depending on the nature, complexity, and scope of the project and the alleged noncompliance. Throughout the compliance review process, the CRP consults, as appropriate, all relevant parties, including the complainants, the borrower, the Board member representing the borrowing country, Management, and staff. These parties are given an opportunity to record their views, if any. The compliance review may include desk reviews, meetings, discussions, and a site visit.

78. **Step 5: Compliance Review Panel's draft report.** Upon completion of its compliance review, the CRP issues a draft report of its findings to the complainants, the borrower, and Management for comments within 45 days. The CRP also forwards the draft report to the BCRC for its review. Each party is free to provide comments, but only the CRP's final view on these matters is reflected in its final report.

79. The CRP compliance review report focuses on the specific complaint. It documents the CRP's findings concerning any noncompliance, and alleged direct and material harm. It includes all relevant facts needed to fully understand the context and basis for the CRP's findings and conclusions. It focuses on whether ADB failed to comply with its operational policies and procedures in formulating, processing, or implementing the project in relation to the alleged direct and material harm. In case the CRP concludes there was noncompliance, it specifies the exact provisions in the relevant operational policies or procedures with which ADB failed to comply. It also ascertains whether the alleged direct and material harm exists. If noncompliance is found and the alleged direct and material harm is confirmed, the report further focuses on establishing whether the noncompliance was a cause of the alleged harm.

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80. For assessing direct and material harm, the without-project situation is used as the base case for comparison, based on available information. Non-accomplishments and unfulfilled expectations that do not generate direct and material harm compared to the without-project situation are excluded. If the CRP finds that the alleged direct and material adverse effect is not totally or partially caused by ADB's noncompliance, its compliance review report states this without analyzing the direct and material adverse effect itself or its causes. Because the assessment of direct and material harm in the context of the complex reality of a project can be difficult, the CRP exercises careful judgment in these matters and is guided by ADB policies and procedures where relevant.

81. **Step 6: Compliance Review Panel's final report.** Within 14 days of receiving the comments on its draft report from the complainants, the borrower, and Management, the CRP considers these comments and makes changes as necessary before issuing its final report to the Board through the BCRC. The CRP's final report attaches a matrix of comments from the complainants, the borrower, and Management, and the CRP's response to such comments. The CRP's findings are reached by consensus among the panel members. In the absence of a consensus, the majority and minority views are stated.

82. **Step 7: Board consideration of the Compliance Review Panel's report.** Within 21 calendar days of receiving the CRP's final report, the Board considers the report. Within 7 days after the Board's consideration, the CRP's final report—with the responses from the complainants, the borrower, and Management attached—is released to the complainants and the borrower. If the CRP concludes that there was no noncompliance by ADB, or that any noncompliance by ADB did not cause direct and material harm to the complainants, the compliance review process ends upon completion of this step.

83. **Step 8: Management's remedial actions.** If the CRP concludes that ADB's noncompliance caused direct and material harm, Management proposes remedial actions, which may include an action plan, to bring the project into compliance with ADB policies and address related findings of harm. Because the legal ownership of the project lies with the borrower, which also has the principal responsibility for implementing the remedial actions, Management must obtain the agreement of the borrower on the remedial actions. Management may consult the CRP in developing the remedial actions. Management refers its draft remedial actions to the CRP and seeks its comments to be provided within 5 days. Upon receiving the CRP comments, Management submits a report on the proposed remedial actions to the Board, attaching the CRP comments. The report specifies the parties responsible for implementing the remedial actions, estimates of costs to implement the remedial actions, and parties to shoulder the costs. The expected period of time between the Board's consideration of the CRP final compliance review report and Management's submission of the proposed remedial actions to the Board is 60 days.

84. **Step 9: Board's decision.** The Board considers Management's proposed remedial actions within 21 calendar days of receiving them. The Board makes a decision regarding the remedial actions to bring the project into compliance and mitigate any harm, as appropriate. The Board's decision, Management's remedial actions, and the CRP comments are released to the complainants and the borrower within 7 days after the Board's decision.

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85. **Step 10: Monitoring and conclusion.** The CRP monitors implementation of remedial actions approved by the Board, if any. It reports to the Board concerning implementation of Board decisions related to remedial measures, including its determination on the progress in bringing the project into compliance.

86. Any remedial actions in relation to project scope or implementation approved by the Board are carried out in accordance with applicable ADB policies and procedures. Unless the Board specifies a different timetable, the CRP reports on the progress annually. The CRP chair, in consultation with the BCRC, determines which CRP member(s) will conduct the monitoring exercise each year. The monitoring time frame is project-specific, depending on the implementation of the remedial actions, but generally does not exceed 3 years. The final monitoring report also concludes the compliance review process.

87. The methodology for monitoring may include (i) consultations with the complainants, the borrower, the Board member concerned, Management, and staff; (ii) a review of documents; and (iii) site visits. The CRP also considers any information received from the complainants and the public regarding the status of implementation. The CRP forwards its draft monitoring reports to the BCRC for review. It finalizes the reports in consultation with the BCRC before making them available to the complainants, the borrower, the Board, Management, staff, and the public.

88. Table A1.3 in Appendix 1 summarizes the compliance review process.

4. Operations Departments' Handling and Tracking of Complaints

89. Operations departments address problems or issues relating to complaints forwarded to them by the OSPF or OCRP because the complainants did not make prior good faith efforts to solve the problems or issues with the departments. Operations departments ascertain whether confidentiality is being requested by the complainants and take the necessary actions. Operations departments track the process and results in resolving the complaints forwarded to them by the OSPF or OCRP, and they may develop a tracking system.¹⁶ Operations departments, including resident missions, are encouraged to keep records of meetings, correspondence, and other relevant information regarding complaints.

90. At the end of the process of addressing the ineligible complaints forwarded to the operations departments by the OSPF or OCRP, the operations department produces a report summarizing the complaint, issues, actions taken to address the problems or issues, decisions or agreements by parties concerned, results, and lessons. This report is posted on the Accountability Mechanism website within 14 days of its completion (para. 96).

5. Site Visits

91. Site visits should be a routine and noncontroversial aspect of the Accountability Mechanism. ADB adopts a partnership approach to help ensure that necessary site visits by the

¹⁶ The OSPF developed a tracking system in 2009 in collaboration with the Office of Information Systems and Technology and the India Resident Mission. Operations departments may draw from this and other existing systems.

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CRP take place. Goodwill and collaboration between the CRP and the borrowing countries are necessary. Site visits will take place in consultation with the borrowing country and after obtaining the borrowing country's consent, for both sovereign and nonsovereign operations. ADB expects borrowing countries to cooperate and allow site visits to take place.

92. The CRP is responsible for arranging site visits and ensuring the independence of the process. Management and staff, especially those in resident missions, will facilitate the CRP visits when required and when requested by the CRP. Resident missions may assist in obtaining the borrowing country government's consent, and may share the site visit and compliance review TOR with the borrowing country government. The CRP is encouraged to seek the assistance of the ADB Board member representing the borrowing country and share the TOR with the Board member before submitting a mission request to the DMC through the resident mission.

93. If a site visit is declined, Management will discuss with the borrowing country the reasons for not accepting the requested visit. In consultation with the BCRC and the borrowing country, Management will convey the reasons to the Board through an information paper.

94. If a site visit is declined, the CRP will complete the compliance review and deliver its findings and final views in its final report without a site visit. The CRP will use all available information, and may make appropriate assumptions and draw appropriate inferences in completing the compliance review. The CRP will present the best and most detailed analysis possible after exhausting the most cost-effective and logical alternative means to acquire the necessary information. In the absence of a necessary site visit, the CRP may give added weight to the complainants' views.

G. Transparency and Information Disclosure

95. Information disclosure to the public is consistent with the fundamentals of the Public Communications Policy (2011). A common ADB Accountability Mechanism website has been set up within the ADB website. The OSPF and OCRP have their own components within this common website. Any other information related to the Accountability Mechanism will also be posted on the common Accountability Mechanism website.¹⁷

96. The CRO registers complaints filed under the Accountability Mechanism on the Accountability Mechanism website within 2 days after the complaints are received. The registration includes the name, number, and location of the project. In cases where a complaint ineligible for the Accountability Mechanism was forwarded to an operations department by the OSPF or OCRP for handling, an end-of-process report prepared by the operations department will be posted on the Accountability Mechanism website within 14 days of completion of the report. In case a complaint is forwarded to the OSPF for problem solving or to the CRP for compliance review, the provisions in paras. 97 or 98 and 99 apply.

¹⁷ The OSPF and CRP each has distinctive logos and letterheads, which is to be placed under a common ADB Accountability Mechanism logo and letterhead.

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97. **Problem Solving Function.** The OSPF posts the following information and documents on the Accountability Mechanism website:
- (i) the complaint letter—after the SPF’s receipt of the complaint letter forwarded by the CRO and subject to the agreement of the complainants—within 7 days after SPF’s receipt of the complaint;
 - (ii) a general description of the complaint—upon the SPF’s receipt of the complaint letter if the complainants have not consented to disclosure of the complaint letter;¹⁸
 - (iii) the SPF’s determination of eligibility of the complaint—upon the SPF’s determination of the eligibility;
 - (iv) the review and assessment report prepared by the SPF—upon completion, and subject to the consent of the complainants and the borrower;
 - (v) a summary of the review and assessment report—upon completion, if the complainants or the borrower have not consented to disclosure of the full review and assessment report;
 - (vi) a problem solving completion report summarizing the complaint, the steps to resolve the issues, decisions by the parties concerned, and the agreement (if any) by the parties concerned, within 2 months upon the completion of the problem solving process (with or without an agreement), and subject to the consent of the complainants and the borrower;
 - (vii) a summary of the problem solving completion report—upon completion, if the complainants and the borrower have not consented to disclosure of the full problem solving completion report;
 - (viii) monitoring reports—upon circulation to the President and the Board for information;¹⁹ and
 - (ix) the SPF’s final report—upon circulation to the complainants and the borrower.
98. **Compliance Review Function.** The OCRP posts the following information and documents on the Accountability Mechanism website at the times specified below:
- (i) the complaint letter (or the request for compliance review)—after the CRP’s receipt of the complaint letter forwarded by the CRO and subject to the agreement of the complainants—within 7 days after OCRP’s receipt of the complaint;
 - (ii) a general description of the complaint—within 7 days after the CRP’s receipt of the complaint letter if the complainants have not consented to disclosure of the complaint letter;
 - (iii) the CRP report determining that the complaint is eligible and the Board decision to authorize the compliance review, together with Management’s response—within 7 days of the Board decision;
 - (iv) the CRP report determining that the complaint is ineligible, together with Management’s response—within 7 days of circulation of the report to the Board;
 - (v) the TOR for the compliance review within 10 days of the Board’s authorization of the compliance review;

¹⁸ “Upon” as used in paras. 97 and 98 means as soon as it is reasonably practical and generally no later than 14 calendar days.

¹⁹ This is only required if there are remedial actions. The same applies to the compliance review function.

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- (vi) the CRP's final compliance review report, attaching responses, if any, to the draft report from Management and, subject to their consent, from the complainants, and the borrower—within 7 days of the Board's consideration of the final report;
- (vii) Management's proposed remedial actions, CRP comments on the remedial actions, and the Board's decision—within 7 days of the Board's decision (footnote 19); and
- (viii) monitoring reports on implementation of any remedial actions approved by the Board (footnote 19)—upon circulation to the Board and other stakeholders.

99. The SPF and CRP post the Accountability Mechanism annual reports on the Accountability Mechanism website upon completion. The OSPF, OCRP, IED, and RSDD post the learning reports upon completion. OSEC posts the Board information paper on the reasons for a borrowing country's rejection of a CRP site visit, if applicable, on the Accountability Mechanism website within 21 days after submission to the Board.

100. The nature of problem solving and compliance review demands an appropriate degree of confidentiality. For example, general descriptions about the process and final solution can be made public, but substantive details about the discussions are kept confidential. The final agreement and resolution are also kept confidential if the parties so request. Any information submitted to the OSPF or OCRP on a confidential basis may not be released to any other parties without the consent of the party that submitted it. When requested, the SPF and CRP withhold the identities of the complainants and their representatives if they are also complainants.

101. The SPF and CRP chair have the authority to issue press releases and public communications, as appropriate. Before doing so, the SPF or CRP chair informs DER to provide ADB with an opportunity to prepare responses to queries from the media or the public.

102. The SPF and CRP, and all staff working on the Accountability Mechanism, exercise discretion and maintain a low profile while making site visits or otherwise operating in the borrowing country. The SPF and CRP do not give any media interviews at any stage of the Accountability Mechanism process.

H. Application

103. The Accountability Mechanism policy applies to all ADB-assisted sovereign and nonsovereign operations. In cases where country safeguard systems are used for ADB-assisted projects in accordance with the Safeguard Policy Statement (2009), the use of the country safeguard systems does not alter the role and function of ADB's Accountability Mechanism, including the role of the OSPF and CRP. In the event of a complaint, the CRP could examine ADB's assessment of the equivalence between ADB's policy scope, triggers, and applicable principles with the country safeguard systems (and any additional measures agreed upon to achieve equivalence) in materially achieving the objectives of the Safeguard Policy Statement, as well as ADB's project supervision in accordance with the Safeguard Policy Statement. The Accountability Mechanism policy also applies to ADB-administered cofinancing operations.

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I. Awareness and Learning

104. The OSPF and OCRP should update their joint outreach strategy regularly (for example, every 3 years). The OSPF, OCRP, and staff should undertake three kinds of outreach activities.

105. **Internal.** This outreach should improve awareness and disseminate lessons to ADB staff through workshops, training courses, and orientation sessions. The Accountability Mechanism should be included as part of regular staff training. The Accountability Mechanism should be seen as an important instrument for learning, and for ensuring project quality and development effectiveness. The SPF and OSPF, the CRP chair and OCRP, staff, Management, and the Board should all promote a culture change to eliminate the remaining perception that the Accountability Mechanism is adversarial.

106. **Country level.** The OSPF and OCRP should hold regular dissemination activities in ADB's DMCs. The OSPF and OCRP should distribute simple, pictorial-based, and user-friendly descriptions of the mechanism. In each resident mission, a staff member should be designated as a focal person for handling grievances caused by ADB-financed projects.

107. **Project level.** Improving the awareness of the Accountability Mechanism requires that ADB staff work as conduits to disseminate information. Staff, working with the borrower, disseminate information early in the project cycle about the Accountability Mechanism and its availability as a recourse in case other mechanisms for dealing with harmful project effects are not successful.²⁰ The intensity and format of this activity varies with the nature of the project. Operations departments, with support from RSDD as required, focus on projects with a high degree of safeguard risks, such as projects with significant resettlement. The Accountability Mechanism brochures in national or official languages, community notice boards, audiovisual materials, or other appropriate and effective means are used to inform people.²¹ The Safeguard Policy Statement requires that grievance redress mechanisms be set up at the project level. It also requires government staff and/or project proponents to inform affected persons about these grievance redress mechanisms. To ensure meaningful information sharing, operations departments may require the borrower to organize awareness seminars in coordination with resident missions, project teams, local government units, and executing agencies. Operations departments, working with the OSPF and OCRP, may explore the possibility of outsourcing outreach activities to suitable and credible nongovernment organizations (NGOs) or civil society organizations. Gender issues will be taken into consideration when designing the outreach strategies.

108. The joint learning reports by OSPF, OCRP, IED, and RSDD distill ADB's experience, insights, and lessons, including the Accountability Mechanism's development impacts, benefits, and costs. The Accountability Mechanism annual reports (i) outline key activities and outputs of the Accountability Mechanism; (ii) summarize the complaints; (iii) analyze the development

²⁰ Information on the Accountability Mechanism forms part of the information about the full range of options to address grievances, and may include materials prepared by the OSPF and OCRP.

²¹ The outreach materials can make clear that the Accountability Mechanism is the last resort and encourage the use of other grievance redress methods first.

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impact of the Accountability Mechanism; (iv) discuss the benefits; (v) record and monitor the direct and indirect costs on project-affected people, the borrowers, and ADB for each project; and (vi) provide other relevant information and analysis.

Basis: This OM section is based on OM Section L1/BP and the documents cited therein.

Compliance: This OM section is subject to compliance review.

For inquiries: Questions may be directed to the Office of the Special Project Facilitator or the Office of the Compliance Review Panel.

ACCOUNTABILITY MECHANISM—SUMMARY OF THE PROCESSES

Table A1.1: Process for Receiving Complaints

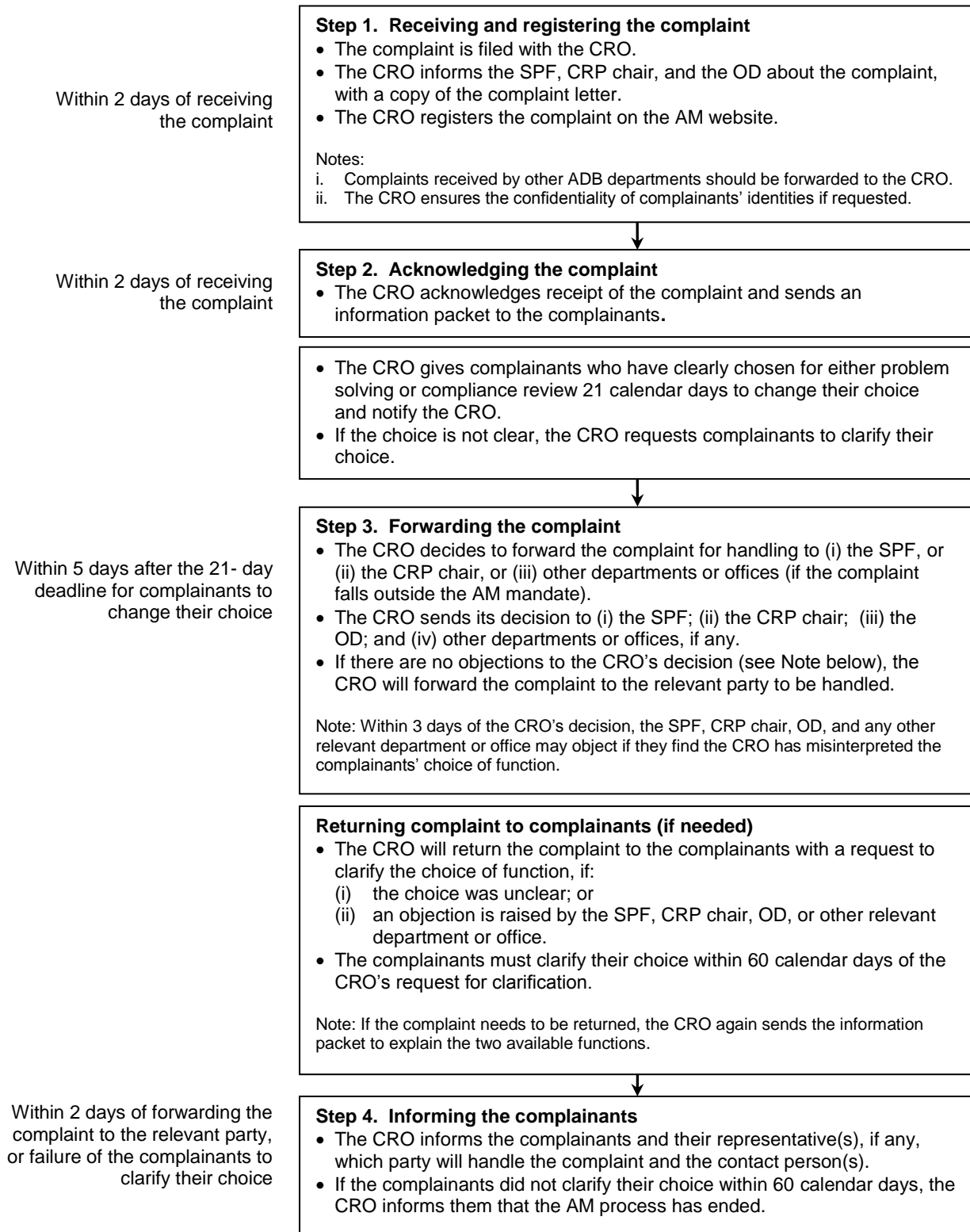


Table A1.2: The Problem Solving Process

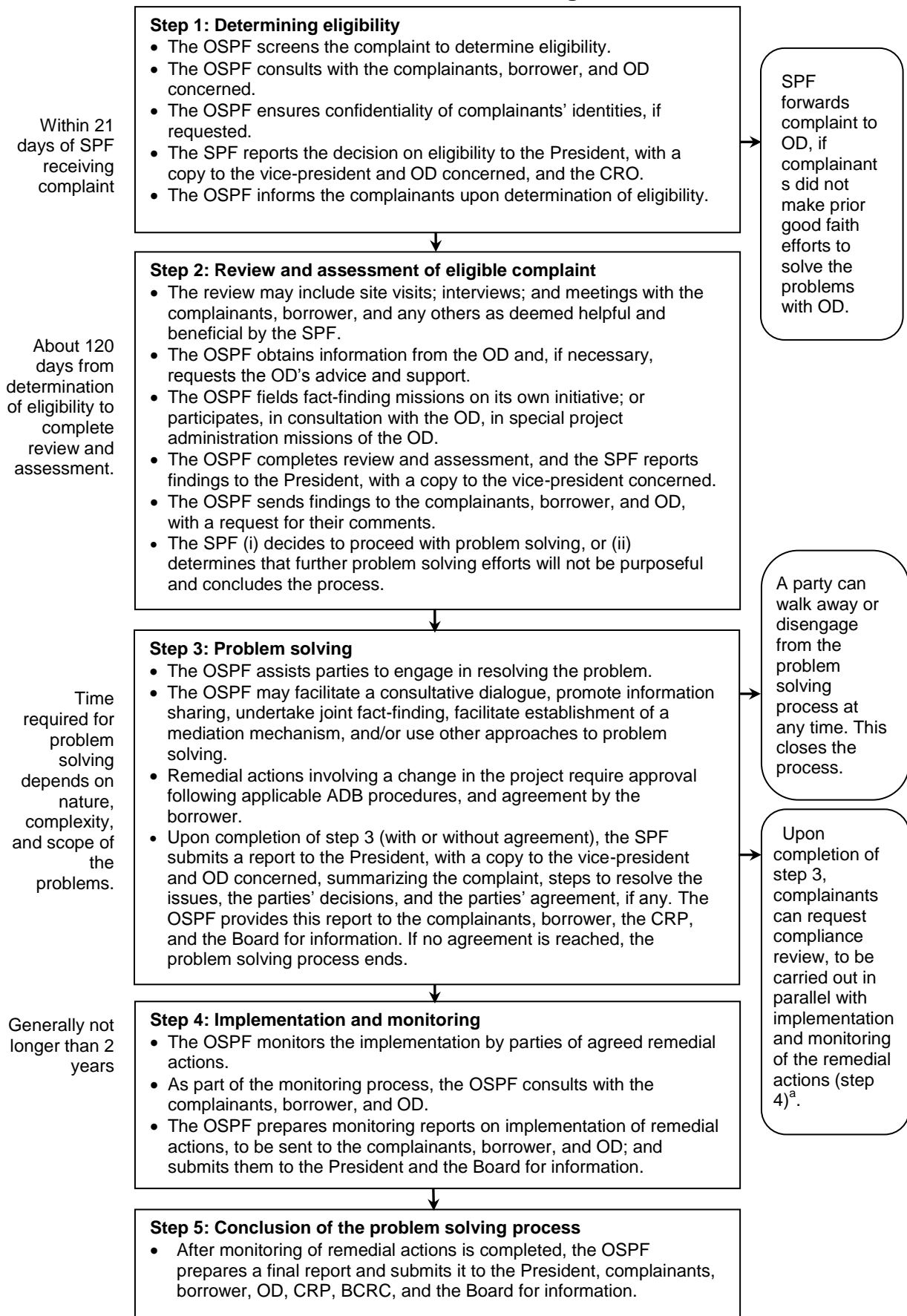
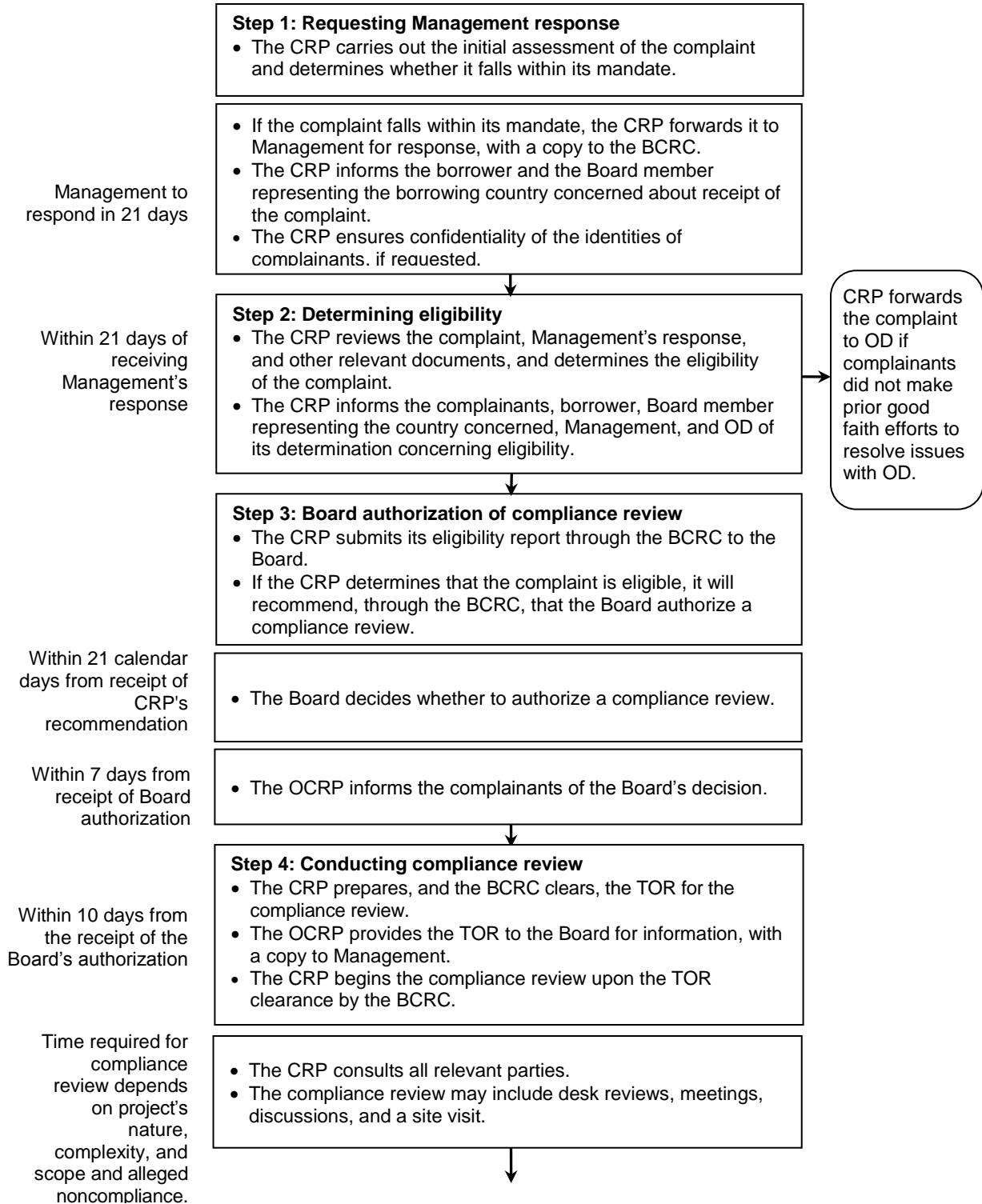
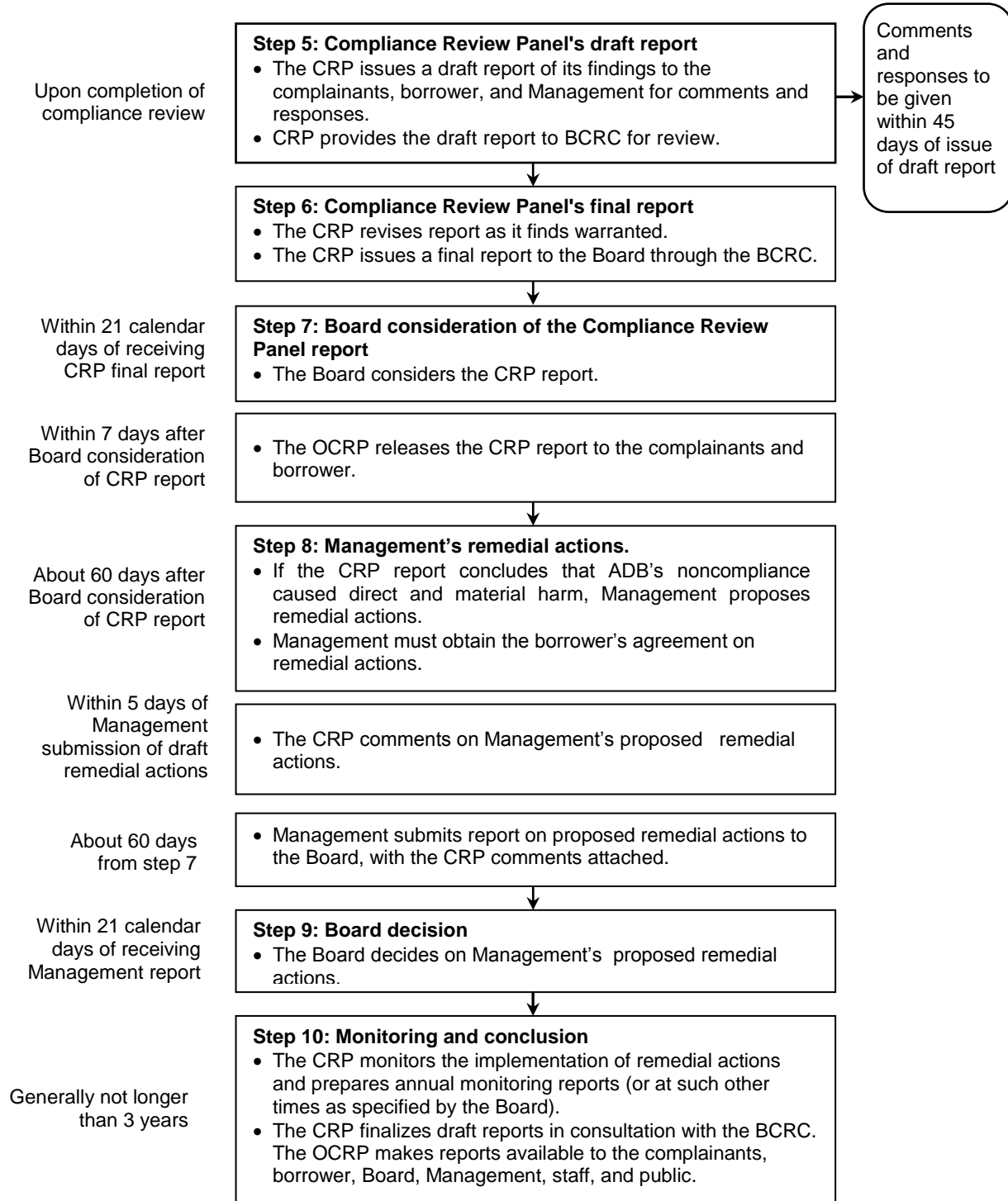


Table A1.3: The Compliance Review Process





ADB = Asian Development Bank, AM = Accountability Mechanism, BCRC = Board compliance review Committee, CRO = Complaint Receiving Officer, CRP = Compliance Review Panel, OD = operations department, OSPF = Office of the Special Project Facilitator, OCRP = Office of Compliance Review Panel, SPF= Special Project Facilitator , TOR = terms of reference.

^a All complaints must be filed within the cutoff date, i.e. 2 years after the loan or grant closing date. See also footnote 10.