

**Revision of the Structure and Policy of the Independent Consultation and Investigation
Mechanism: Summary of Key Changes**

July 30, 2014

Background

The ultimate goal of the current ICIM Structure and Policy Revision is to ensure that the ICIM is organized and staffed to meet current and future needs, and has the appropriate structure, policy and processes to function effectively.

Since June 2013 to date, an external consultant in collaboration with the Board of Executive Directors of the IDB has been working to identify options for a more effective and efficient structure in the IDB's context to ensure that complaints are investigated and addressed effectively, and to promote accountability for the delivery of timely results with transparency.

Within the process, the consultant explored advantages and disadvantages of the following organizational aspects in the context on the IDB:

- Whether to retain problem-solving as part of the independent office or a separate function under IDB's Management; and
- Whether the Office should have a standing panel, a customized panel or no panel.

Due consideration was also given to analyzing the advantages and disadvantages of broad vs. restrictive accessibility

The Proposed Draft released for public comment responds to a collaborative exercise which also included extensive consultation on the experience to date of different stakeholders as regards the 2010 ICIM Policy, which included Requesters, Bank staff and civil society in general. Herewith follows a summary of the main changes introduced in the proposed draft and which are only intended to serve as a guide to the reading of the proposed draft policy.

Summary of Changes

A. General Aspects and Scope

1. The Proposed Revised Policy provides stated ICIM objectives and guiding principles seeking to clarify its mandate. The 2010 ICIM policy does not have stated objectives or guiding principles;
2. The proposed Revised Policy covers all Bank-financed operations as of the moment they are approved. The 2010 ICIM Policy covered all Bank-financed operations before their approval by the Board after signing of the mandate letter for non-sovereign guaranteed or after the project number has been issued for sovereign guaranteed and MIF operations.

3. The Proposed Revised Policy simplifies the definition of Relevant Operational Policies and provides a list of the main Environmental and Social Safeguards Policies. Language is introduced providing authority to the Board to designate which policies may explicitly enter the ICIM purview.

B. Structure, Composition and Reporting Lines of the ICIM

4. The Proposed Revised Policy redefines the structure of the ICIM as headed by one ICIM Director who reports to the IDB Board of Executive Directors. The ICIM Director is responsible for the entire office and all ICIM staff including a Compliance Review Phase Coordinator, a Consultation Phase Coordinator and all administrative and operational staff work under the Director's supervision. In the Proposed Revised Policy the figure of Project Ombudsperson is replaced by the Consultation Phase Coordinator. The figure of Executive Secretary is eliminated.
5. There is no standing Panel. A Compliance Review Panel is formed by the Compliance Review Phase Coordinator acting as Panel Chair and two independent experts hired on a case by case basis

C. Initial processing of a Request

1. Who can submit a Request

6. The Proposed Revised Policy allows requests from any group of two or more people. The 2010 Policy allowed requests from one or more persons.

2. Content and Form of a Request

7. The Proposed Revised Policy lists the information that any Request must contain to be considered and more specific requirements are set for a Request to be considered.
8. Opportunity is provided to complete Requests within a certain timeframe and for refileing if Request cannot be completed within the timeframe given.
9. Limits to the support that the ICIM may provide to Requesters are set.

3. Exclusions

10. The Proposed Revised Policy seeks to simplify and clarify the purview of the ICIM by:
 - a. Reducing the number of exclusions
 - b. Introducing anonymity as a formal exclusion. The 2010 Policy did not accept anonymous Requests either but this limitation was in addition to the list of exclusions.

- c. Introducing the limitation of purview for Requests related to operations prior to their approval. Language is introduced on how such Requests are to be handled by ICIM and Management.
- d. Change in scope of the judiciary exclusion to national bodies only. Language is introduced for how the ICIM Director can deal with cases when arbitral and/or judicial proceedings become known after eligibility.

4. Registration

- 11. Details on how Requests are to be handled during Registration are provided with the instruction that all Requests received must be recorded in the Public Registry and relevant stakeholders notified of the course of action taken by the ICIM Director within 5 business days. The 2010 Policy provided that Registration would occur after eligibility determination for the Consultation Phase (21 days after Receipt)

5. Management Response to Request

- 12. Language is introduced to allow for a formal Management Response to the Request as part of the eligibility process. Also allows for Management to request a 45 business day suspension on the process if it has a specific plan and timeline to make corrections.

6. Eligibility

- 13. One only eligibility initiates the process for both phases to be conducted by the ICIM Director in consultation with the Phase Coordinators.
- 14. The process allows for eligibility site visits as needed.
- 15. The eligibility timeframe is increased from 15 to 21 business days and the timeframe from Receipt of Request to Eligibility determination is increased to 42 business days.
- 16. Eligibility criteria are reduced in number but they are now more stringent.
- 17. Eligibility takes into consideration a response from Management to the Request.

D. PROCESSES

1. Sequencing

- 18. The Sequencing requirement has been eliminated when Requesters wish to go directly to the Compliance Review Phase. In this case, the Requesters may not ask for a Consultation Phase after Compliance.

19. The Sequencing requirement remains when Requesters choose to have their Request reviewed under both phases.

2. Opting Out

20. Requesters may opt out of the Compliance Review Phase, but the ICIM Director may recommend to the Board under the short procedure to continue the process.

3. Consultation Phase

21. Consideration by the Board under the short procedure (non-objection) is introduced for the Consultation Phase Report.

4. Compliance Review Phase

22. The period for Management to comment on TORs has been reduced and Requesters' comments to the TORs are no longer considered.

23. Compliance Review Monitoring by the Mechanism is now possible whenever applicable and does not require a specific instruction from the Board.

24. Investigation Panels are formed on a case by case basis and include the Compliance Review Phase Coordinator acting as Panel Chair and two independent experts.

5. Institutional and Administrative Issues

Eligibility to work at the ICIM

25. The Proposed Revised Policy increases the number of years that Bank officials wishing to apply for ICIM positions have to wait before they are eligible to work at ICIM after leaving the Bank.

26. The ICIM Director is appointed by the Board, the Coordinators are appointed by the ICIM Director.

27. Selection of the ICIM Director, the Consultation Phase Coordinator and the Compliance Review Coordinator in general will be chosen from outside the Bank.

After Service at ICIM

28. After service at the ICIM, the ICIM Director, the Consultation Phase Coordinator and the Compliance Review Coordinator are barred from employment at the Bank.

Terms

29. The ICIM Director is appointed to a 5 year term with a possibility for one renewal of 5 years. The Coordinator positions are appointed for term of up to five years.

6. General Provisions

Time periods

Time frames have been set for all stages in the process to reduce response time.

30. For the Consultation Phase, time periods have been reduced for assessment and a limit set on the actual consultation phase exercise which may be extended at the discretion of the ICIM Director.
31. For the Compliance Review Phase, all stages have incorporated time frames: 21 business days for issuance of TORs and a self-defined time frame for investigation included in the TORs for each case with a recommendation of a 6 month duration.
32. A time limit has been set for monitoring in both phases to a maximum of 5 years.
33. The ICIM Director may recommend to the Board extending any time period. Board consideration of said recommendations is under the short procedure (non-objection)

Review of the ICIM policy

34. An independent review is to be determined by the Board within five years of the entry into effect of the new ICIM Policy.