



CAO ASSESSMENT REPORT

**Regarding Concerns in Relation to
IFC's Investment in Postal Savings Bank of China (PSBC) (#35461)
and Issues Raised in North Sumatra, Indonesia**

January 2022

Office of the Compliance Advisor Ombudsman
for
the International Finance Corporation and the
Multilateral Investment Guarantee Agency
www.cao-ombudsman.org

About CAO

The Office of the Compliance Advisor Ombudsman (CAO) is the independent accountability mechanism for the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA), the private sector arms of the World Bank Group. CAO reports directly to IFC and MIGA Boards of Executive Directors. CAO's mandate is to facilitate the resolution of complaints from people who may be affected by IFC and MIGA projects in a manner that is fair, objective, and constructive; enhance the social and environmental outcomes of projects; and foster public accountability and learning to enhance the environmental and social performance of IFC/MIGA and reduce the risk of harm to people and the environment.

For more information, see www.cao-ombudsman.org

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LIST OF ACRONYMS

CAO	Office of the Compliance Advisor Ombudsman (IFC/MIGA)
CNMC	China Nonferrous Metal Mining (Group) Co.
DPM	Dairi Prima Mineral
EPC	Engineering, Procurement and Construction
ESIA	Environmental and Social Impact Assessment
ESMS	Environmental and Social Management System
IDI	Inclusive Development International
IFC	International Finance Corporation
IPO	Pre-initial Public Offering
MIGA	Multilateral Investment Guarantee Agency
RBI	Raiffeisen Bank International
BRM	Bumi Resources Minerals
NFC	China Nonferrous Metal Industry's Foreign Engineering and Construction Co.
NFC Hong Kong	NFC (Hong Kong) Metal Resources Company Limited
NFC Mauritius	NFC (Mauritius) Mining Company Limited
PSBC	Postal Savings Bank of China

1. SUMMARY

In October 2019, CAO received a complaint from local communities living in the vicinity of PT Dairi Prima Mineral (DPM), a proposed zinc and lead mine in North Sumatra, Indonesia. The complaint, which is supported by Indonesian organizations and an international non-governmental organization (NGO), raised concerns about the environmental and social impacts of the mine's development on local communities.

The complaint asserted that IFC was exposed to the mine through its financial intermediary investments in Raiffeisen Bank International ("RBI") and Postal Savings Bank of China ("PSBC"). In March 2020, CAO found the complaint ineligible¹ regarding RBI, but eligible in relation to IFC's investment in PSBC through PSBC's potential exposure to two other companies, including the majority owner of DPM. PSBC disagrees with CAO's eligibility decision in accepting the complaint for assessment and asserts that it has no financial exposure to DPM.

During CAO's assessment of the complaint, consensus on engaging in a voluntary dispute resolution process was not achieved. Therefore, in accordance with CAO's Policy, the complaint is being referred to CAO's Compliance function for an appraisal of IFC's environmental and social performance².

2. BACKGROUND

2.1 The IFC Project

According to IFC, PSBC is one of the largest commercial banks in the People's Republic of China both in terms of total assets and total deposits, and focused on providing financial services to communities, small and medium enterprises, and farmers and rural customers.

IFC made an equity investment in the bank of US\$286 million, representing a 0.69 percent shareholding, in December 2015 when PSBC launched a pre-initial public offering ("IPO") private placement of shares to a shortlist of international and domestic strategic investors, including IFC. IFC and PSBC also entered into a Strategic Cooperation Agreement, which identified the areas in which IFC would provide advisory services to PSBC.³ According to IFC, their investment in PSBC was consistent with its strategy for East Asia, and China was a key market in achieving the World Bank Group goal of universal financial access by 2020.

¹ In addition to PSBC, the complaint submitted to CAO asserts that IFC is exposed to Dairi Prima mine (DPM) via an active equity investment in Raiffeisen Bank International (RBI) (IFC project no. 31979). At the time the complaint was submitted, publicly available information indicated that RBI potentially had a financial exposure to DPM via two intermediaries as a result of a debt default settlement. Considering available information on RBI's potential exposure to DPM and how it was acquired, CAO determined this not to be a material exposure with respect to CAO's eligibility criteria.

² This CAO assessment was conducted under the 2013 Operational Guidelines and pursuant to Section 2.3, "Following a CAO assessment process, if there is no agreement to undertake CAO-facilitated dispute resolution, the complaint will proceed to the CAO Compliance role." The implementation of the new CAO Policy, effective July 1, 2021, includes transitional arrangements for CAO cases that pre-date the policy. For more information, please refer to: <https://www.cao-ombudsman.org/sites/default/files/downloads/CAOPolicy-TransitionalArrangements.pdf>. Paragraph 59 of the new CAO Policy also states that "If both Parties agree to undertake dispute resolution, CAO will facilitate this process. If there is no agreement, the complaint will proceed to CAO's compliance function."

³ See IFC Disclosure website at <https://disclosures.ifc.org/#/projectDetail/SII/35461>

2.2 The Complaint

In October 2019, CAO received a complaint from two community members from the Bongkaras and Pandiangan villages, on behalf of themselves and other community members living in the vicinity of the Dairi Prima zinc and lead mine in North Sumatra, Indonesia (the “Complainants”). The complainants are supported by the international NGO, Inclusive Development International (IDI), and other local partner organizations based in Indonesia, including Perhimpunan Bantuan Hukum dan Advokasi Rakyat Sumatera Utara (BAKUMSU).

The complaint raised concerns about the development of the mine on local communities, including consultation and information disclosure regarding the mine and its impacts, and fear of reprisals among those opposing the project. It raised concerns about potential impacts on water resources and agriculture due to contamination from the mine’s tailing storage; social impacts due to the influx of workers to the area; and air pollution and impacts to local public roads from increased heavy vehicle traffic, among others.

The complaint asserted that IFC was exposed to the mine through its investment in RBI and PSBC. In March 2020, CAO’s eligibility determination found the complaint was eligible in relation to IFC’s investment in PSBC through possible debt exposure to the mining company, China Nonferrous Metal Industry’s Foreign Engineering and Construction Co. (NFC) and its parent company, China Nonferrous Metal Mining (Group) Co. Ltd. (CNMC). NFC is the majority owner of DPM and is also responsible for the Engineering, Procurement and Construction (EPC) of the mine. CAO found the complaint in relation to IFC’s investment in RBI ineligible.

After finding the complaint eligible, CAO conducted an assessment. The issues raised by the Complainants and IFC client during the assessment are described in more detail below.

3. ASSESSMENT

3.1 Methodology

CAO’s assessment aims to gain a better understanding of the issues and concerns raised in the complaint through discussions with the complainants and different stakeholders. CAO explains the options available to address the complaint and helps the complainants and IFC client determine whether they wish to initiate a CAO dispute resolution or compliance process.

In this case, CAO’s assessment of the complaint included:

- a desk review of IFC project documentation;
- communications and in-person meetings with the Complainants and supporting NGOs;
- telephone and email communications with PSBC management; and
- telephone and email communications with relevant IFC management and staff.

CAO typically conducts a field visit as part of the assessment to meet with the parties in person. However, given current restrictions on travel and social gatherings due to COVID-19, CAO was only able to arrange one in-person meeting with the Complainants.

CAO extended the 120-day assessment period in this case due to longer case processing times due to the COVID-19 pandemic; the need to review new and confidential information provided by IFC and PSBC; and efforts to support informed decision-making about which CAO function the Complainants and PSBC wished to pursue.

A CAO assessment does not entail a judgment on the merits of the complaint and does not imply any wrongdoing on the part of PSBC in this case. CAO acknowledges and appreciates

the cooperation of Complainants, IDI, BAKUMSU, IFC, and PSBC who all provided documents and shared their views throughout the assessment.

CAO attempted to contact the project operator, DPM, to include their views in this report but did not receive a response.

3.2 Summary of Views

This section presents a broad overview of the issues and perspectives expressed by the Complainants and PSBC during CAO's assessment.

Complainants' Perspective

IFC's exposure to the mine

The Complainants assert that IFC is actively exposed to the mine through its investment in PSBC, which issued a working capital loan to NFC, the majority owner of, and EPC contractor for, the mine. They contend that the working capital loan supports NFC's general operations, including its role as EPC contractor for the mine. Moreover, they contend that PSBC, through its Environmental and Social Management System (ESMS), should have required its customer NFC, to apply the IFC Performance Standards to projects such as DPM, and noted that working capital loans are not excluded from the application of the Performance Standards.

Consultation and information disclosure regarding the project

The Complainants shared that they received insufficient fact-based information about DPM's proposed mining operations and the new locations for its activities. They feel that DPM's community outreach was coercion rather than consultation. They specifically highlighted their concerns about inadequate consultation and information disclosure regarding DPM's waste management system and planning.

Contamination from tailings storage

The Complainants are concerned that there may be a major leakage of tailings when the DPM mine is in construction or operational. They provided an academic study stating that waste from the proposed ore body would present environmental and health issues.⁴

The Complainants also provided technical reports to CAO that assert that the proposed mining project is unsafe, does not meet international environmental and social risk assessment safety standards, and that, if constructed, the mine will pose a permanent threat of water contamination.⁵ They shared concerns about the mine's impact on their domestic and agricultural water sources and explained that they documented the locations and nature of village water supplies down from, and adjacent to, the mine site. They explained that the water supply maps show that many villages' domestic and agricultural water supplies are vulnerable to contamination from DPM's operations.

Reports provided by the Complainants stated the tailings storage facility is vulnerable to catastrophic collapse and the proposed site was of unstable geology as it is in a high earthquake risk zone with very high rainfall events⁶. DPM mitigation measures were said to be

⁴ Tomy Alvin Rivai¹, Kotaro Yonezu¹, Syafrizal, Koichiro Watanabe, March 2019, Mineralogy and Geochemistry of Host Rocks and Orebodies at the Anjing Hitam Prospect (Dairi, North Sumatra, Indonesia) and Their Environmental Implications, available at https://drive.google.com/file/d/1VLJESiZXbAsKJAzMrhyvTnt-u_U3CzaD/view

⁵ See Report by Steve Emerman regarding environmental risks dated [December 2019](#) and [August 2021](#), and Report by Richard Meehan on tailing dam risks, dated [April 2020](#) and [May 2021](#).

⁶ Ibid.

inadequate and untested. One report stated that the tailings storage facility would represent an unacceptable risk to human life⁷.

In the Complainants' view, DPM's plans can never be compliant with the IFC Performance Standards as they pose unmitigable risk to human life and the environment. The Complainants believe the project should be abandoned.

Explosives storage facility

The Complainants are concerned about the construction of an explosives storage facility that they believe poses serious risks to human safety. They report that DPM had already built the explosive storage facility 50 meters from residential houses, without environmental approval from the government.

Fear of reprisals

The NGOs supporting the Complainants explained they feel intimidated by the situation for human rights defenders in the region. Both the NGOs and the Complainants stated that they initially requested to keep their identities confidential due to incidents of intimidation. Subsequently, during the period of the assessment, some complainants decided to disclose their names. The Complainants explained that, in their view, DPM offers benefits to community members opposing the mining project to get their support, dividing the community, and undermining their cohesion.

Community representatives reported receiving threats such as banning their children and grandchildren from accessing their land if they do not drop their activism and withholding state services such as those related to health, education, and social welfare. In February 2021, one of the original complainants formally withdrew from the CAO process expressing concern about the safety of their family and pressure from other community members and local officials.

The influx of workers to the area

The Complainants expressed concern about the negative social impacts of people from other provinces and countries migrating into their communities to work at the mine. They are also concerned about the high risks of COVID-19 transmission from the influx of workers.

Air pollution and impacts to local public roads from increased heavy vehicle traffic

Because of increased and heavy road traffic to and from the DPM mine, the Complainants are concerned about the condition of public roads and local buildings, as well as potential health impacts on nearby communities from air pollution.

Compliance with Regulatory Requirements

The Complainants expressed that there are other areas where they believe DPM failed to comply with regulatory requirements and IFC's Performance Standards, in addition to the explosives storage facility and other issues described above.

The Complainants shared that local authorities informed them that DPM had not received approval for the amendments submitted for the mining project's Environmental and Social Impact Assessment (ESIA) in 2019 and 2021. Without such approval, the Complainants believe the relocation of the tailings storage facility, preparatory testing for construction of the tailings dam, and road construction are all unlawful activities.

⁷ Ibid.

DPM's Perspective

As noted above, CAO attempted to contact the project operator, DPM, on several occasions by email, phone, fax, and post to include their views in this report but did not receive a response.

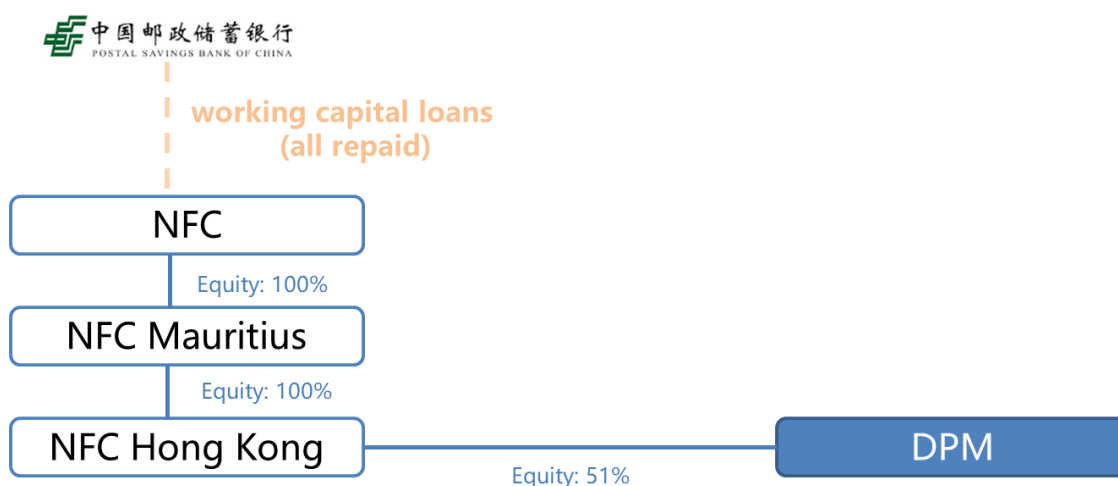
PSBC's Perspective

PSBC disagrees with CAO's eligibility decision in accepting the complaint for assessment and asserts that it has no financial exposure to DPM.

Firstly, PSBC considers that the factual basis for the Complainants' allegation that IFC has financial exposure to DPM through its investment in PSBC does not exist. PSBC asserts that it was not the lead underwriter of the 2018 II and III medium-term notes of China Nonferrous Metal Mining (Group) Co. Ltd. (CNMC), nor did PSBC participate in the underwriting or distribution of such medium-term notes. According to PSBC, in addition to the lead underwriter and joint lead underwriter, it is an industry practice for the issuer to invite other qualified institutions to participate in the distribution of such medium-term notes. All qualified institutions invited may be included in the list of participants. However, such participants do not necessarily sell or distribute the notes, as was the case for PSBC in this instance.

Secondly, PSBC alleges that, if CAO found the complaint ineligible in relation to RBI since the exposure was immaterial, then CAO should also find the complaint in relation to PSBC ineligible for the same and additional reasons (see Annex B).

Thirdly, PSBC asserts that it only provided working capital loans to the Borrowers (NFC and CNMC, collectively the "Borrowers"). PSBC specifically stated that: 1) the legal agreements between PSBC and its borrowers include strict provisions regarding the use of loan proceeds, i.e. only for daily operations, not for project investment or equity investment; 2) PSBC has implemented strict procedural controls through the terms of the loan application and review, fund disbursement, and post-loan management to ensure that the loan proceeds are used for restricted purposes only; and 3) according to PSBC, none of the documents or information provided by the Borrowers or obtained by PSBC indicates that the loan proceeds were used to provide funding for DPM. NFC (Hong Kong) Metal Resources Company Limited ("NFC Hong Kong")'s equity in DPM was acquired from BRM on April 13, 2018. There is no evidence that NFC, NFC Hong Kong, or NFC (Mauritius) Mining Company Limited ("NFC Mauritius") provided financial support to DPM or were involved in DPM's daily operation and administration. PSBC provided the following diagram showing the abovementioned connection.



PSBC believes that the Borrowers can corroborate its position. PSBC provided a letter from NFC stating that the loans granted by PSBC to NFC were used according to the requirements of China's banking regulatory authorities and were not used for DPM or the DPM project.

Fourthly, PSBC informed CAO that, as instructed by IFC: 1) it has established an ESMS and relevant E&S policies consistent with IFC's standards, which restrict PSBC borrowers' eligibility for obtaining project loans and restrict the use of loan proceeds; and 2) it has submitted annual reports to IFC every year. The ESMS and policies strictly restrict the Borrowers (NFC and CMNC) from applying for loans for a project similar to DPM. As required by PSBC's E&S policies in effect, when approving the loans, the Borrowers can only obtain working capital loans from PSBC, and such loans, as described above, can only be used for daily operations.

In summary, PSBC is adamant that there is nothing to indicate that the proceeds of the loans provided by PSBC to its Borrowers were used to provide funding for DPM. Therefore, they find no relevant link between DPM and PSBC.

Furthermore, PSBC considers that the issues raised by the Complainants are specifically related to the operations of DPM, which is far beyond the control of PSBC in terms of DPM's equity structure, corporate governance, or any other perspective. PSBC, therefore, believes that the absence of connection to the project of concern, DPM, makes the complaint fall outside CAO's mandate to further assess or handle the case.

4. NEXT STEPS

The outcome of a CAO assessment determines whether a complaint is transferred to CAO's Dispute Resolution or Compliance function. In this case, there was no consensus to participate in a dispute resolution process, which is voluntary and requires the participation of both the Complainants and the IFC client and/or sub-client. Therefore, the case will proceed to CAO's Compliance function for an appraisal in accordance with the CAO Policy⁸. The compliance appraisal will determine whether a CAO compliance investigation of IFC is warranted or whether to close the case⁹. IFC's exposure to the DPM mine through PSBC and related compliance issues will be further reviewed as relevant in the context of CAO's compliance appraisal, but is beyond the scope of CAO's assessment process.

⁸ <https://www.cao-ombudsman.org/sites/default/files/downloads/CAOPolicy-TransitionalArrangements.pdf>

⁹ Per the [CAO Policy](#) "A compliance investigation determines whether IFC/MIGA has complied with its E&S Policies and whether there is Harm related to any IFC/MIGA non-compliance, following a systematic and objective process of obtaining and evaluating evidence " (para. 112). For further information on the CAO compliance process see CAO Policy paras. 76-146.

ANNEX A. CAO COMPLAINT-HANDLING PROCESS

Once CAO declares a complaint eligible, an initial assessment is carried out by CAO dispute resolution specialists. The purpose of CAO's assessment is to: (1) clarify the issues and concerns raised by the Complainant (s); (2) gather information on how other stakeholders see the situation; and (3) help stakeholders understand the recourse options available to them and determine whether they would like to pursue a collaborative solution through CAO's Dispute Resolution function, or whether the case should be reviewed by CAO's Compliance function.

As per the IFC/MIGA Independent Accountability Mechanism (CAO) Policy,¹⁰ the following steps are typically followed in response to a complaint that is received:

Step 1: **Acknowledgement** of receipt of the complaint.

Step 2: **Eligibility**: Determination of the complaint's eligibility for assessment under the mandate of CAO (no more than 15 business days).

Step 3: **Assessment**: Assessing the issues and providing support to stakeholders in understanding and determining whether they would like to pursue a consensual solution through a collaborative process convened by CAO's Dispute Resolution function, or whether the case should be handled by CAO's Compliance function to review IFC's/MIGA's environmental and social due diligence. The assessment time can take up to a maximum of 90 business days, with possibility of extension for a maximum of 30 additional business days if after the 90-business day period: (1) the Parties confirm that resolution of the complaint is likely; or (2) either Party expresses interest in dispute resolution, and there is potential that the other Party will agree.

Step 4: **Facilitating settlement**: If the parties choose to pursue a collaborative process, CAO's Dispute Resolution function is initiated. The dispute resolution process is typically based on or initiated by a Memorandum of Understanding and/or mutually agreed-upon ground rules between the parties. It may involve facilitation/mediation, joint fact finding, or other agreed resolution approaches leading to a settlement agreement or other mutually agreed and appropriate goals. The major objective of these types of problem-solving approaches will be to address the issues raised in the complaint, and any other significant issues relevant to the complaint that were identified during the assessment or the dispute resolution process, in a way that is acceptable to the parties affected.¹¹

OR

Compliance Appraisal/Investigation: If the parties opt for an investigative process, the complaint is transferred to CAO's Compliance function. The complaint is also transferred to the Compliance function when a dispute resolution process results in partial or no agreement. At least one Complainant must provide explicit consent for the transfer, unless CAO is aware of Threats and Reprisals concerns. CAO's Compliance function reviews IFC/MIGA's compliance with environmental and social policies, assesses related harm, and recommends remedial actions where appropriate following a three-step process. First, a compliance appraisal determines whether further investigation is warranted. The appraisal can take up to 45 business

¹⁰ For more details on the role and work of CAO, please refer to the full IFC/MIGA Independent Accountability Mechanism (CAO) Policy: <https://www.ifc.org/wps/wcm/connect/d3e7f1c4-fd6b-40fd-ae76-fb028916611d/IFC-MIGA-Independent-Accountability-Mechanism-CAO-Policy.pdf?MOD=AJPERES&CVID=nFDGwP2>

¹¹ Where stakeholders are unable to resolve the issues through a collaborative process within an agreed time frame, CAO Dispute Resolution will first seek to assist the stakeholders in breaking through impasse(s). If this is not possible, the Dispute Resolution team will inform the stakeholders, including IFC/MIGA staff, the President and Board of the World Bank Group, and the public, that CAO Dispute Resolution has concluded the dispute resolution process and transferred it to CAO Compliance for appraisal.

days, with the possibility of extending 20 business days in exceptional circumstances. Second, if an investigation is warranted, the appraisal is followed by an in-depth compliance investigation of IFC/MIGA's performance. An investigation report will be made public, along with IFC/MIGA's response and an action plan to remediate findings of non-compliance and related harm. Third, in cases where non-compliance and related harm are found, CAO will monitor the effective implementation of the action plan.

Step 5: **Monitoring and Follow-up**

Step 6: **Conclusion/Case Closure**

ANNEX B. INFORMATION PROVIDED BY PSBC REGARDING RAIFFEISEN BANK INTERNATIONAL (RBI)

1. The relationship between IFC's Financial Intermediary clients ("FI") and its Sub-Client:

- a) IFC made a straight equity investment in RBI in January 2014¹² and IFC was exposed to DPM through its investments in RBI:
 - i) RBI and Bumi Resources (Bumi): On June 12, 2014, RBI provided Bumi with an AS\$80 million loan. Later, Bumi defaulted on the loan whose size had reached \$93,112,190,37. Following a settlement agreement, 57.03 percent of the loan was converted into shares, and the remaining balance of the loan was converted into other equity and debt instruments¹³.
 - ii) Bumi Resources and Bumi Resources Minerals (BRM): Bumi Resources is the parent company who owns a 35.73 percent equity stake in Bumi Resources Minerals (BRM). According to BRM's 2018 Annual Report, Bumi provided a working capital loan as well as technical and project support to BRM¹⁴. Having provided BRM with a working capital loan that has a current balance of \$68 million, Bumi is one of the largest creditors of the company. Moreover, as part of a cooperation agreement signed between them, Bumi administers the funds of BRM, suggesting it has a level of financial control over the company. This establishes active financial and administrative links between Bumi and BRM¹⁵.
 - iii) BRM and DPM: BRM is an equity holder who originally held 100 percent but now 49 percent equity stake in DPM. According to the complaint and BRM's website, DPM is one of just three projects¹⁶ operated by BRM and it is the furthest along in terms of development. BRM has, to date, spent \$256 million on DPM, among which \$65 million to fund exploration and the development of mining infrastructure¹⁷. BRM's 2019 Annual Report showed that it is substantially involved in DPM's daily operation and administration, including appointment of managers and implementation of environmental and social policies¹⁸.
- b) Since DPM is one of just three projects operated by BRM, Bumi's financial, technical and project support towards BRM also contribute to DPM. Bumi's 2018, 2019, and 2020 Annual Reports treated DPM as a crucial "business segment"¹⁹.
- c) RBI is an equity holder who is able to proactively influence Bumi's operation. Moreover, public information shows that RBI actively expressed its willingness to

¹² IFC Project Information Portal, Project #31979 (accessed November 8, 2021); available from <https://disclosures.ifc.org/project-detail/SII/31979/rbi-equity>.

¹³ BR, *Additional And/Or Revised Information On Brief Prospectus*, July 12, 2017 (accessed November 8, 2021); available from http://www.bumiresources.com/uploads/2018-bumiresources/09/2584ac1662bca252239bd0c2f3c6834d_a133608947371c2244aafb34566ce0f7.pdf.

¹⁴ BRM, *Annual Report 2018*, PDF's page 70 (Report's page 68) and PDF's page 240; available from https://www.idx.co.id/StaticData/NewsAndAnnouncement/ANNOUNCEMENTSTOCK/From_EREP/201904/50cfb3d9b8_7a9fd8598b.pdf

¹⁵ BRM, *Annual Report 2018*, PDF's page 70 (Report's page 68), PDF's page 240; available from https://www.idx.co.id/StaticData/NewsAndAnnouncement/ANNOUNCEMENTSTOCK/From_EREP/201904/50cfb3d9b8_7a9fd8598b.pdf

¹⁶ See BRM's official website at <https://bumiresourcesminerals.com/business-units/>

¹⁷ Page 6 of the Complaint.

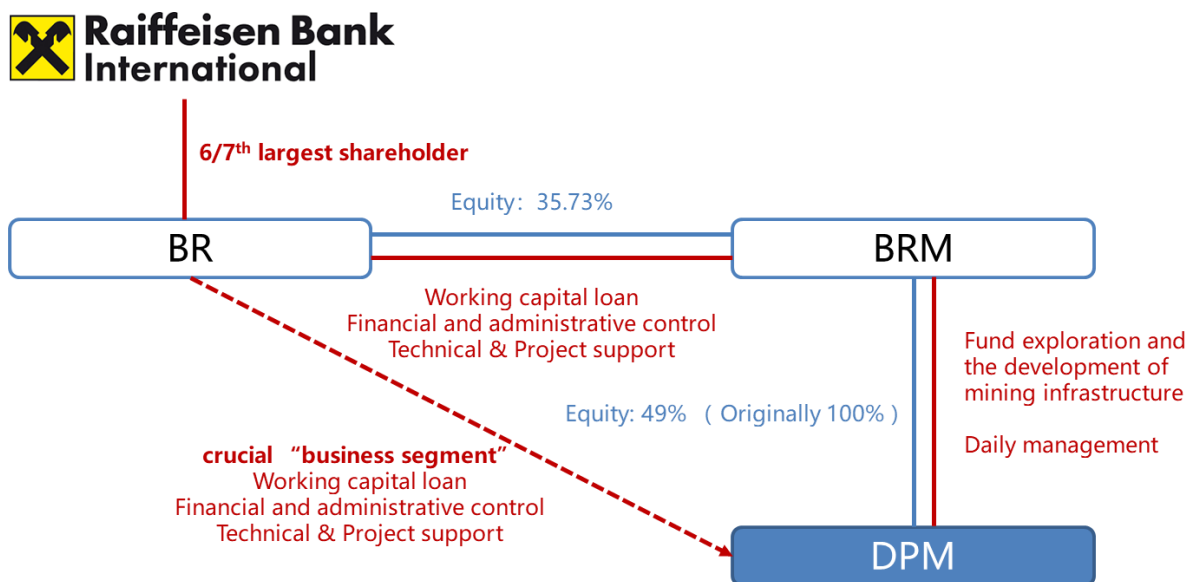
¹⁸ BRM, *Annual Report 2019*, PDF's page 54 (Report's page 52), PDF's page 86-87 (Report's page 84-85), PDF's page 89 (Report's page 87), PDF's page 92 (Report's page 90), PDF's page 98 (Report's page 96). BRM, *Annual Report 2020*, page 13; available from <https://bumiresourcesminerals.com/annual-report/>

¹⁹ BR, *Annual Report 2018*, page 125-126; BR, *Annual Report 2019*, PDF's page 144 (Report's page 142); BR, *Annual Report 2020*, page 134; available from <http://www.bumiresources.com/en/investor-relations#report>

become Bumi's shareholder while working on the company's debt settlement agreement.

- d) PSBC only provided working capital loans to NFC without holding NFC's equity like RBI did with Bumi. As a result, PSBC did not possess equity holder's rights within NFC. Moreover, NFC has fully repaid PSBC's working capital loans.
- e) The complaint claimed that PSBC "co-arranged two perpetual medium-term notes" for CNMC, who is the parent company of NFC. However, PSBC states that PSBC was not the lead underwriter of the 2018 II and III medium-term notes of CNMC and did not participate in the underwriting or distribution of such notes.

In summary, PSBC asserts that RBI's equity investment in Bumi Resources made their connection more material than the connection between PSBC and NFC through working capital loans. PSBC provided the following diagram regarding RBI's financial exposure to DPM:



2. The relationships between the FI, FI's Sub-Client, and DPM:

- a) As noted above, Bumi Resources provided financial, technical, and project support to BRM and DPM. Bumi's 2018, 2019, and 2020 Annual Reports treated DPM as a crucial "business segment". DPM is one of just three projects operated by BRM whose annual reports show that it is substantially involved in DPM's daily operation and administration.
- b) There is no evidence that NFC Hong Kong directly or indirectly provided financial, technical or project support to DPM. Also, there is no evidence that NFC Hong Kong or NFC Mauritius was involved in DPM's daily operation and administration.
- c) Public information shows that NFC Hong Kong's equity in DPM was acquired from BRM²⁰. Thus, the connection between NFC, NFC's subsidiaries, and DPM is in no way stronger than that between Bumi Resources and BRM.

In summary, PSBC states that the links between Bumi Resources, BRM, and DPM are material and strengthened by consolidated operational and financial management. They further state

²⁰ BRM, *Annual Report 2019*, PDF's page 76 (Report's page 74); available from <https://bumiresourcesminerals.com/annual-report/>

that no evidence shows that any operational and financial management links exist between NFC, NFC Hong Kong, NFC Mauritius, and DPM.

3. Supporting materials regarding RBI in the complaint are more abundant than materials regarding PSBC:

- a. The Complainants' allegation of RBI's financial exposure to DPM takes up 11 pages (page 5-8, 11-17) of the complaint.
- b. In particular, the Complainants compared RBI with Vietinbank and ABBank, two IFC clients cited in a separate CAO case²¹, based on the size of FI exposure, layers between IFC and the project, and sub-client involved, to prove that RBI's exposure is material.
- c. When it comes to PSBC's exposure, it only takes up 5 pages (page 8-9, 17-20) of the complaint. Besides, both Vietinbank and ABBank cases are not applicable to PSBC.
- d. The Complainants' only reason for alleging PSBC's exposure is the underwriting of CNMC's notes. However, PSBC considers that it has already provided necessary evidence to CAO to prove that this is not the fact.
- e. Unlike RBI's equity investment, PSBC states that it only provided working capital loans to NFC. Consequently, the size of PSBC's exposure to DPM could not be calculated by equity percentage.
- f. There are 4 entities between IFC and DPM in PSBC's chain from PSBC to NFC to NFC Mauritius to NFC Hong Kong), while there are 3 entities between IFC and DPM in RBI's chain (from RBI to BR to BRM). From this perspective, RBI's exposure is more material than PSBC's.
- g. The Complainants suspected that RBI's financial exposure to DPM may be more material than it appears: the Indonesian Stock Exchange, where BRM is listed, currently describes Bumi Resources as a majority shareholder of BRM, with an 87.09 percent stake. However, Bumi may control a much larger stake in BRM than it discloses: for instance, Bumi may own a 13.23 percent stake in BRM through Wexler Capital Pte, a 22.86 percent stake through 1st Financial Company Limited, and a 7.99 percent stake through PT Biofuel Indo Sumatra.

²¹ Please see <https://www.cao-ombudsman.org/cases/cambodia-financial-intermediaries-01-03>