

**Public Consultation on  
Proposed IFC/MIGA Approach to Remedial Action and  
Draft IFC Responsible Exit Principles**

**Civil Society Organisations (CSOs) consultation session  
Online meeting 23 March 2023**

Following the release of the proposed IFC/MIGA *Approach to Remedial Action*; and the IFCs draft *Responsible Exit Principles* in February 2023, IFC/MIGA launched a global public consultation process to elicit comments and submissions on both documents.

The consultation period began with a hybrid Informational Session on 28 February 2023, and will conclude on 20 April 2023 after nine further virtual consultation sessions covering all global time zones. Submissions can also be made by email to [accountabilityconsultation@worldbankgroup.org](mailto:accountabilityconsultation@worldbankgroup.org). All details appear on the dedicated consultation [webpage](#).

**Facilitator's Summary Report: FINAL**

**Introduction:**

This Summary Report presents questions, inputs and comments received during a consultation meeting for **Civil Society Organisations (CSOs)** held on 23 March 2023 at 9:00 AM Washington DC time. The session was attended by 26 participants and conducted in English without interpretation.

The session was conducted by a team of professional facilitators. IFC and MIGA representatives provided presentations on the process to date, which covered background to the process, the documents themselves, and next steps towards finalising the documents for consideration by the **Committee on Development Effectiveness (CODE)** of the IFC/MIGA Board of Directors. The goal was to collect as many comments, questions, reflections and recommendations from participants as possible.

This Summary is based on comprehensive notes taken during the meeting by a team of Note-takers. It is divided into themes, some of which may overlap, and inputs intersect. The final Report, at the end of the consultation period, will elaborate on the key points.

The session was divided into two parts: the proposed IFC/MIGA Approach to Remedial Action; followed by the draft IFC Responsible Exit Principles.

**A. APPROACH TO REMEDIAL ACTION**

**1. Scope of the Approach to Remedial Action**

- A general comment from a number of participants on the draft Approach was that they find it lacking sufficient substance to comment on, and that participants hoped to see more substance and detail on the Approach in a next draft.

- A participant commented that it is not clear from the Approach what the process would really look like, and what would change from the existing IFC approach. Because of that, it is not clear why such a long consultation and drafting period would be necessary with such limited proposed changes. The participant expressed the hope that the next draft of this document will include a lot more substance on what the Approach entails.
- A participant asked that IFC/MIGA clarify whether this draft Approach is only forward looking; and that it will not address the harm caused by legacy or previous IFC investments, many of which have caused harm that will be experienced by communities in perpetuity. The participant noted that, in some legacy projects, the **Compliance Advisor Ombudsman (CAO)** has already implicated the IFC regarding failures in its supervision and/or due diligence. The participant further commented that a next draft should include proposals on dealing with legacy cases.
- One participant enquired whether governance would be included as part of Environmental, Social and Governance (ESG) standards.
- Another participant enquired why the Approach proposed such a long pilot period when the Approach has such limited content.
- One participant requested clarification on the matter of litigation risk as raised in the Approach, as this was not clear.

## 2. Roles and responsibilities in the Remedy ecosystem

- One participant said that they would like to see more IFC involvement in developing solutions, bringing its technical expertise to bear.
- A participant suggested that there may be potential to explore arbitration in the Dispute Resolution (DR) context despite its possible challenges, as this could offer communities another avenue to achieve redress in the case of harm. The participant suggested that IFC/MIGA work with stakeholders to see if they could come up with some suggestions around how third-party arbitration could work in the context of remedial actions.
- One participant commented that IFC/MIGA need to look beyond short-term goals (profits), and instead reimagine and reform the institution.
- A comment was shared that there is no example in the Approach of a company-level **Grievance Mechanisms (GMs)** able to handle issues deeper than the everyday, and that GMs often result in compensation discrepancies.

## 3. Preparation for Remedial Action

- A participant commented on the need to refer to existing standards, including the OHCHR report *Remedy in Development Finance*, that has clear arguments for having contingency funds, while the Approach's analysis regarding contingency funds is limited. The participant wanted such a fund/funds to be considered for the Approach, citing several cases (such as Karot in Pakistan) where the investigation of a complaint was only finalized after completion of the project, making remedy almost impossible. The participant further suggested that

IFC/MIGA should ensure that the Approach makes provision for quick action and finding solutions as well as strict timelines.

- One participant expressed frustration at the lack of affirmative commitment by IFC/MIGA in the Approach document. The participant commented that there may be some good ideas in terms of additional contractual requirements but was dismayed by IFC/MIGA's reticence to be bolder in committing to using these contractual requirements as the *de facto* standard. The participant would like to see much bolder commitments to a standard that confirms that if you contribute to harm you should contribute to remedy.
- A participant commented that there should be a contractual requirement in every financing agreement that requires client-funded remedy.

#### 4. Access to Remedial Action

- On the role of **Stakeholder Grievance Response (SGR)**, a participant commented that the processes are not transparent enough. The participant asked whether changes to the SGR role will include establishing guidelines and procedures for engaging with communities, and managing complaints, and whether the process of developing such guidelines will be a transparent and consultative process.

#### 5. Facilitate and Support Remedial Action

- A participant commented that existing Compliance and Dispute Resolution processes take too long, leading to frustration and to harm not being effectively resolved. The same participant also said that more needs to be done to prevent harm.
- One participant also commented that IFC/MIGA teams are unwilling to engage once a CAO case is filed.
- Several participants commented on the need to prevent harm and proposed that more be done to invest in prevention.
- Several participants commented that more investment and more work need to be done on building the capacity of project teams in social expertise, and providing or encouraging training in relation to implementing IFC/MIGA Performance Standards.
- Several participants shared the view that communities should be encouraged to try to resolve issues locally in cooperation with the client. Financial institutions working with private sector companies also lack capacity in terms of E&S standards and efforts should be made to build their capacity.
- In relation to technical expertise, a participant commented that IFC/MIGA are not doing enough to support clients or communities, and that the Approach should expand the supporting role of IFC/MIGA. Views were expressed that IFC/MIGA could get involved much earlier in dispute resolution processes to support successful resolution as, in their view, GMs are generally not able to handle the type of widespread problems and harms faced by communities, as the GMs are only equipped to solve 'household' issues.
- One participant commented that the Approach rejects the idea of new instruments because there are existing processes that could be enhanced, yet the Approach does not provide

analysis on whether those existing instruments serve the purpose of ensuring that there are funds available for remedial action.

- A participant made the point that enhanced or shortened timelines alone will not mean that harms are remedied where they are complex, widespread, and deep. The participant commented that IFC/MIGA need to do more to provide the technical support necessary to ensure that harmful impacts are remedied as quickly as possible. In their view that, in combination with use of leverage, is what will speed up DR processes and support positive outcomes.
- One participant used a recent example of a case where sufficient remedial action had not been taken and where remedial action is still necessary. They would like IFC/MIGA to provide confirmation that a review of cases where harm has occurred will be conducted. They would also like details on how IFC/MIGA will approach a case-by-case analysis: what factors will be considered; how these factors will be weighed; whether IFC/MIGA will finance remedy for these cases, who will be involved in decision-making and further detail.

## **B. RESPONSIBLE EXIT PRINCIPLES**

- A participant asked if there is a more detailed document on the Responsible Exit Principles that provides the rationale to this document and commented that if there is, it would be extremely important to disclose it and consult on it. The participant commented that transparency with IFC decision-making should be part of a principle or a stand-alone principle.
- Several participants commented that they found it disheartening that community engagement is relegated to “additional guidance” rather than being one of the principles. In their view, this should be one of the most important principles and should be underlying everything IFC does when considering exit.
- A participant remarked, from a trade union perspective, that it would be helpful if the Responsible Exit Principles aligned with OECD Guidelines for multinational enterprises, notably the obligation to include trade unions or workers representatives in any changes that would have a major effect on employment. The participant cited an example where IFC may be planning an exit, and the company is not able to find new investment: how can the impact on jobs be mitigated? In their view, the Responsible Exit Principles should require IFC and clients to provide sufficient notice and to cooperate with labour representatives in developing plans and programmes to reduce such impacts.
- A participant emphasized the links between remedy and responsible exit. They commented that there should not be any exit if there is no effective remedy offered, or if there is an ongoing case with CAO involvement. These links should in their view be made explicit in the Responsible Exit Principles.