

# PUBLIC CONSULTATION

## FEBRUARY 21 – APRIL 13, 2023

### INFORMATIONAL MATERIALS



*Creating Markets, Creating Opportunities*



# PUBLIC CONSULTATION PROCESS



- **February 21, 2023 – April 13, 2023**
- **Access [website](#)** for informational materials, feedback form, and consultation schedule
- **February 28, 2023: 9am EST: Informational Session**
- **Provide feedback** by email, through the online feedback form, or through attending consultation sessions

# PUBLIC CONSULTATION SESSIONS

## Consultation Meetings

- The following meetings are open to all stakeholders.
  - March 3, 9:00am EST, Hybrid, Location: IFC, Washington, DC (English)
  - March 16, 2:00pm UTC, Virtual (French)
  - March 23, 2:00pm UTC, Virtual (English)
  - March 29, 8:30am IST / 10:00am ICT, Virtual (English)
  - March 30, 11:00am UTC+2, Virtual (Arabic)
  - April 4, 10:00am EDT, Virtual (Spanish, with Portuguese Interpretation)
- Invite-only meetings will also take place for the following stakeholder groups:
  - ❖ IFC/MIGA clients;
  - ❖ Independent Accountability Mechanisms (IAMs); and
  - ❖ Development Finance Institutions.
  - ❖ Members of these groups will receive an invitation by email and can also email questions to [accountabilityconsultation@worldbankgroup.org](mailto:accountabilityconsultation@worldbankgroup.org).
- Additional sessions may be added depending on interest.

# IFC/MIGA APPROACH TO REMEDIAL ACTION

## DRAFT FOR PUBLIC CONSULTATION

*This IFC/MIGA Approach to Remedial Action (Approach) was prepared for public consultation purposes only. The Approach is a proposal by IFC/MIGA that has not been endorsed by and remains subject in all respects to further review and comment by the IFC and MIGA Boards of Directors, including the Committee on Development Effectiveness (CODE). Accordingly, the Approach remains subject to change following these consultations and further review and comments from CODE and the IFC/MIGA Boards of Directors.*



*Creating Markets, Creating Opportunities*



## Motivation

- IFC/MIGA are committed to strengthening implementation of their Sustainability Frameworks
- IFC/MIGA also committed to explore the recommendations of the “External Review of IFC/MIGA’s E&S Accountability, including the CAO’s Role and Effectiveness”

## Process to Date

- Reviewed relevant theory, guidance, and practice
- Presented key considerations for the approach and received feedback from internal stakeholders and the Committee on Development Effectiveness (CODE) of the IFC/MIGA Board of Directors
- Engaged with the Compliance Advisor Ombudsman (CAO) and World Bank
- Developed proposed IFC/MIGA Approach to Remedial Action paper

## Scope

- Addressing adverse E&S impacts in projects supported by IFC/MIGA requires a holistic approach, with actions throughout the project cycle
- This includes attempting to resolve emerging environmental and social (E&S) issues early, proactively, quickly, and effectively

## Relevant Frameworks

- **The existing Sustainability Frameworks have many relevant aspects**, including the application of the mitigation hierarchy, E&S Action Plans, corrective actions plans as needed, project-level grievance mechanisms, and access to the CAO
- **The CAO Policy will further strengthen access to remedial actions**

## Roles and Responsibilities

- In line with the Sustainability Frameworks, IFC/MIGA embrace the concept of a **remedy ecosystem** in which various actors have differentiated but complementary roles to play
- **IFC/MIGA clients** have the primary responsibility for managing E&S risks; **IFC/MIGA** have a role to **facilitate and support** remedial actions

## Preparing for Remedial Action

### Strengthen the assessment process

- Assess potential sources and extent of **IFC's and MIGA's influence** over clients and other parties with respect to remedial action
- Assess **client preparedness** (understanding and commitment) for implementing E&S action plans (ESAPs) and for remedial actions if needed
- **Communicate expectations** for clients to provide remedial action if necessary, during initial client engagement process

### Consider financial resources

- Review **client financial resources** to implement ESAPs and provide remedial action if necessary
- Explore **suitable financial instruments** for select projects, where relevant

### Consider revised/additional contractual provisions

- E.g., client commitments to remediate/develop remedial plans for certain potential adverse impacts

### Conduct additional capacity-building activities

- Based on assessment of client E&S capacity and **focused on low-capacity clients**

## Access to Remedial Action

- Develop **new guidance materials and training for clients and IFC/MIGA staff** on how to make project-level grievance mechanisms more effective in addressing stakeholder concerns and complaints
- Strengthen **IFC Stakeholder Grievance Response Function**
- Continue developing **similar MIGA grievance response function**, modified for MIGA's size, portfolio, and business model
- Continue implementation of new **CAO Policy**



## Response

- **Pursue a continuum of possible responses to facilitate and support remedial actions, to be deployed in accordance with the unique circumstances of each individual case:**
  - Exercise influence: Seek to improve the effectiveness of IFC/MIGA's existing influence, increase influence through proposed preparedness steps, and exercise influence after harm has occurred
  - Enabling activities: Support client and/or relevant third parties through activities such as technical assistance, capacity building, fact-finding, dialogue facilitation, or community development
- **Built into existing processes**, including CAO dispute resolution, following CAO compliance investigation, or doing a non-CAO complaint process
- **Financed through existing sources**, with possibility of requesting budget increase and/or considering other available options including using donor funds

## NEXT STEPS

<b>FEBRUARY-APRIL 2023</b>	Public Consultation
<b>JUNE 2023</b>	Feedback from public consultation (reported to CODE) will inform development of a Management Directive to govern a 4-year pilot period
<b>JULY-DECEMBER 2023</b>	During pre-pilot preparation period, IFC/MIGA will build necessary capacity; finalize systems, procedures, guidance, reporting requirements, and tools; and conduct training
<b>JANUARY 2024- DECEMBER 2027</b>	<p>IFC will pilot approach for all new direct investment projects (in the case of financial intermediaries, only relevant aspects of the approach would be piloted); MIGA will pilot for all new political risk insurance guarantee operations</p> <p>Approach will be finalized at the end of the 4-year period, coinciding with review of the CAO Policy</p>

# IFC RESPONSIBLE EXIT PRINCIPLES

## DRAFT FOR PUBLIC CONSULTATION



*Creating Markets, Creating Opportunities*

# BACKGROUND

## Motivation

- Part of ongoing efforts to further and more systematically integrate how IFC analyzes and addresses environmental and social (E&S) issues throughout the project cycle
- Takes forward the Operating Principles for Impact Management
- Responds to IFC's Management Response to the Compliance Advisor Ombudsman (CAO) Compliance Investigation Report for *Corporación Interamericana para el Financiamiento de Infraestructura (CIFI)* (2020)

## Process to Date

- Reviewed IFC's existing policies and practices, relevant theory and guidance, and policies and practices of peer institutions
- Analyzed potential consequences of exiting or not exiting for different relevant stakeholders and additional constraints
- Presented the principles and received feedback from internal stakeholders and the Committee on Development Effectiveness (CODE) of the IFC/MIGA Board of Directors
- Engaged with CAO
- Developed IFC Draft Principles to Responsible Exit presentation

## Preparing for Exit

- **Actions taken early in the project cycle** to reduce the likelihood of E&S issues being present at exit and to strengthen the ability of IFC and its clients, respectively, to act to address them if they are

## Responsible Exit Principles

- **Intended to inform decision-making on whether and how to exit**, in a broad range of factual circumstances
- **Current Scope:** When contemplating an active exit\* from all projects in which (i) there is an associated open CAO case past eligibility and/or (ii) the project's E&S performance is unsatisfactory, and in additional projects to be identified on an ad hoc basis by project teams or management
  - \*IFC proactively decides to exit from an investment or agrees to amend the terms of the transaction documents to enable the client to exit in circumstances where such exit, at that time, would not have otherwise occurred without action by IFC.*
- **Process:**
  - For each exit, consider each responsible exit principle in turn.
  - Analyze whether the proposed exit is aligned with the principle, including exploring any additional actions that can be taken to strengthen alignment.
  - Document analysis, including additional actions taken.

## RESPONSIBLE EXIT PRINCIPLES (1/2)

### **PRINCIPLE 1. SUPPORT THE ACHIEVEMENT AND SUSTAINABILITY OF TARGETED DEVELOPMENT IMPACT.**

IFC's exit should support the achievement and sustainability of the contemplated development impact of the project. IFC should consider the project outcomes that have been achieved and whether remaining invested would or would not enhance the likelihood of achieving or sustaining that impact or mitigating significant adverse results, within a timeframe that is substantially consistent with the contemplated timeline for such investment.

### **PRINCIPLE 2. ADDRESS E&S ISSUES.** IFC's exit should, to the extent practicable:

(a) be consistent with the ESAP and other action plans or structured in a way that enables the issues identified in such plans to be addressed prior to exit;

(b) not increase or exacerbate existing E&S issues; and

(c) consider whether, and if so, how to address and/or mitigate any other E&S risks identified during the life of the investment (i) that could materialize post exit and cause imminent and serious harm to public health, safety or security, and/or imminent and significant adverse impacts on the environment, and (ii) which IFC has the means to address and/or mitigate, including through support to its client.

## RESPONSIBLE EXIT PRINCIPLES (2/2)

**PRINCIPLE 3. USE LEVERAGE PRE-EXIT.** IFC should use the practicable leverage at its disposal to implement the ESAP and other action plans and to address and/or mitigate any other adverse E&S risks and impacts that are both likely and severe, including considering any remedial actions.

**PRINCIPLE 4. CONSIDER INSTITUTIONAL CONSTRAINTS.** IFC's exit should be consistent with IFC's private sector development mandate (Article I); operational principles (Article III, Section 3), and risk considerations (including significant reputational damage and legal liability).

**PRINCIPLE 5. CONSIDER PRECEDENTIAL IMPLICATIONS.** IFC's exit should not be counter to the appropriate standard for IFC to follow in similar cases.

**ADDITIONAL GUIDANCE:** Take into account the risk of reprisals against civil society organizations (CSOs) and project-affected communities following exit. Analyze possibilities for, and, where feasible given the circumstances of the exit, define a stakeholder engagement approach with, individuals and communities that may be impacted by the proposed exit and any related actions.

## NEXT STEPS

<b>FEBRUARY-APRIL 2023</b>	Public Consultation
<b>MAY-DECEMBER 2023</b>	Feedback from public consultation and lessons learned from piloting (reported to CODE) will inform finalization of the principles in the form of a Management Directive and changes to operational procedures
<b>JANUARY 2024 ON</b>	Ongoing implementation, supported by additional guidance and training as needed