

## Finance for Peace

**Consultation on proposed IFC/  
MIGA Approach to Remedial  
Action; Input from Finance  
for Peace initiative**

# Consultation on proposed IFC/MIGA Approach to Remedial Action; Input from Finance for Peace initiative

The Finance for Peace initiative was invited to provide feedback on the proposed International Finance Corporation (IFC)/Multilateral Investment Guarantee Agency (MIGA) Approach to Remedial Action and the draft IFC responsible exit principles (see more information here). The Finance for Peace feedback is based on our extensive mapping and analysis of existing international investment standards and principles, including the IFC and MIGA Environmental & Social (E&S) Performance Standards. This work has been carried out as part of the Finance for Peace initiative's efforts to develop a framework and new set of standards to guide and validate peace and conflict-sensitive aligned investments. The Peace Finance Impact Framework (PFIF) has been developed through a multistakeholder process with stakeholders and describes principles, guidance and Peace Finance Standards that investors can follow to guide, validate, label and certify their investments to have intentional, rigorous and demonstrably positive peace impacts.

This note draws on the research from the development of the Peace Finance Impact Framework and is based on listening to the concerns expressed by other participants during the first and second consultation meetings. While the recommendations provided here are intended to be practical and specific in nature to the IFC/MIGA Approach to Remedial Action and draft IFC responsible exit principles, our view is that there are larger upstream limitations related to the Performance Standards which the Peace Finance Impact Framework seeks to help multilateral development banks (MDBs) and development finance institutions (DFIs) redress when investing in fragile and conflict-affected settings. We would welcome the opportunity to engage with relevant colleagues on further information sharing and exchange on these issues, if feasible.

## Scope and responsibility arise from the limitations of the Performance Standards

Based on the feedback so far, it is clear that the new approach to remedy does not meet the expectations by the CSOs. Especially, the lack of a comprehensive framework, detail and scope and failure to take responsibility have been the focus by the participants in the consultations. Many of the participants keep referring to the recommendations made in the External Review as a point of departure for a new approach. We take a somewhat different position. In our view, the problems the IFC is facing in the development of a new remedial approach originates from the IFC's own compliance mechanism in the form of the E&S Performance Standards. This compliance arrangement suggests that responsibility lies first and foremost with the client. Yet, the Performance Standards are minimum requirements only that are unable to offer any guarantee that no harm will be done as many cases have demonstrated in the past. The issue of responsibility, therefore, cannot be the outcome of compliance or non-compliance only but must be coupled with a responsibility for the limitations by the Performance Standards. Moreover, while the Performance Standards were designed to give guidance to clients to avoid, mitigate and manage risks and impacts, they were not intended to give clients greater protection over those who are impacted by the clients which is the case today. A more shared responsibility is therefore justified.

## Filling gaps through the application of double materiality and a conflict impact analysis

We believe that the new remedial approach should grasp the opportunity to fill some of the gaps left by the limitations of the Performance Standards. For instance, a readiness and preparedness for remedial action can set its own standards and procedures that would improve the management and mitigation of risks. In fact, a new remedial approach should seek a forward-looking material approach that actively draws the connection between risks to the client and the IFC/MIGA and the risks to the local environment or people and vice-versa. This double materiality principle which is currently lacking in the Performance Standards can be integrated in a new remedial approach that will benefit the holistic nature of the approach the IFC is after.

Similarly, there is a need for a peace and conflict analysis as part of the risk considerations and preparedness for remedial actions. At the moment, the extent to which the IFC/MIGA Performance Standards consider impact of client interventions on broader drivers of conflict and violence is very limited and arguably do not take any key local or national drivers of

conflict into account. This gap reduces the ability of the client to provide appropriate remedy to project-affected people impacted. In fact, many contextual ESG risks such as security, land rights or gender-based violence are systemic in nature, frequently resulting in investments unintentionally exacerbating conflict and violence. This has already been highlighted in the World Bank's Group Strategy for Fragility, Conflict and Violence, 2020-2025, as well as evaluations of the IFC/MIGA Performance Standards. Although the World Bank's ESF does not have a separate procedure for fragile and conflict-affected situations, the Bank has been developing guidelines to operationalize the ESF that may be particularly useful in such settings. For instance, the Bank may demand the use of a social and conflict analysis by a client if it is considered to be an appropriate method as part of the E&S risk assessment. 1 A key benefit of a peace and conflict analysis 2 is that it identifies ways in which a client project can create or worsen tensions or conflict, reveals the interests of and relationships between all stakeholder actors as well as anticipates material impacts through scenario-building. The latter helps to plan for different scenarios including those that may require specific remedial actions.

## Meaningful engagement through structured and sustained interactions with local stakeholders

The ideas expressed around meaningful and early engagement with respect to remedial actions and responsible exit are welcomed. These proposals indicate an acknowledgement regarding the need for more consultation and local inclusion. However, 'meaningful engagement', 'consent' and 'participation' have not yet been defined nor does the remedial approach or the exit principles provide significant guidance on how these should be achieved. Concepts of local inclusion, engagement and participation generally have a strong qualitative dimension that is highly context specific whereby the quality is the most important variable for building trust and success of a particular intervention. A tailored, in-depth and systematic engagement with local stakeholders throughout the project life cycle is considered to be highly advantageous for any investment and a key aspect for risk mitigation, local acceptability and the successful use of leverage pre- and post-exit.

### Specific recommended proposals:

We suggest that the proposed remedial action approach and exit principles takes several key steps towards an improved Sustainability Framework recognizing that sustainable development is at the very heart of long-term value creation. In this view, the new exit principles eventually become part of the governance and management of IFC investments. More concretely, we recommend that the exit principles are made part of the project life cycle and already begin to play a role in the decision-making whether or not to invest, and under what conditions the IFC is prepared to exit. This suggests that the IFC will need to be assured of the effectiveness and sustainability of the investment prior to the decision to invest. In order to facilitate the decision-making process, we recommend to introduce a new contractual provision (item 17.c) that involves the development of a double materiality E&S assessment with the participation of stakeholder communities as part of the client's preparation for remedial action. Allowing the community voices to be heard early on during the appraisal process would build trust and greater assurances of the client's ability to address impacts. This way, the Use of Leverage Pre-exit (Principle 3) is brought upfront and directly supports the sustainability of the targeted development objective (Principle 1). These types of "Enhancements" support the holistic view and they ensure that the IFC will have more control over the conditions to exit.

In connection with the above recommendation for early engagement with the affected communities, it is further recommended to put the issue of 'trust' at the heart of the facilitation and support of enabling activities for remedial actions by clients and others (item 19b), hence will make the community engagement more meaningful. Although the new approach to facilitate and support remedial actions is not intended to create a responsibility over the remedial actions themselves, it does offer an opportunity to take greater responsibility for 'creating trust-building conditions' that assist the remedial action process as part of its obligations *ex gratia* (item 21).

In the proposed approach by the IFC, support for activities has included dialogue facilitation but this currently lacks the intent needed to make dialogue effective. Dialogue and the empowerment of vulnerable communities must have the objective of creating and maintaining trust. Intentional trust building will be key to creating conditions for long-term cooperation during which the client and communities gain confidence in each other. More concretely, throughout the lifecycle of the project, the IFC is advised to create and facilitate confidence building measures through 'sustained and structured interactions' between stakeholders, preferably through independent third-party facilitation.

IFC's ability to increase levels of trust will facilitate the Use of Leverage over its client. It also grants a greater level of credibility which is something that the IFC lacks in the eyes of many CSOs and communities that have suffered from harmful effects. Therefore, it is recommended to include 'levels of trust' as part of the guiding questions of exit Principles 1 and 3, hence tie sustainability and leverage together. Additional financing for any trust-building measures would likely need to

come from the proposed donor funds mentioned under ‘F. Internal capacity and financing’. However, it is believed that the measures have the ability to reduce the significant resources that are often needed in more ad-hoc transactions associated with compliance or exit further down the line.

Although the IFC/MIGA Performance Standards do not require their clients to conduct a peace and conflict analysis, this does not preclude the IFC from demanding such an analysis as part of the enhancement of a client’s ability to provide remedy, nor does it prevent the IFC from carrying out its own analysis (preferably with the assistance of third party experts) in order to strengthen its assessment of a client’s preparedness for remedial action.

In general, a peace and conflict analysis will help IFC/MIGA to better understand the context, the risks of the investment upon the context (e.g. identify potential grievances) and the dynamic interplay between those risks over time, which ultimately helps to achieve greater control over a responsible exit or more influence over the client’s selection of appropriate and effective remedial actions. In fact, it is recommended that any actions that are taken early in the project cycle to avoid or minimize adverse impacts (item 26) must be based on the proposed peace and conflict analysis. Empirical evidence has demonstrated that investment projects that took a conflict-sensitive approach and built-in specific actions to address conflict dynamics were shown to be more sustainable, hence less likely to suffer from complaints, project delays and cancellations or exits. 3

A peace and conflict analysis consisting of a comprehensive stakeholder analysis and participatory informed theory of change has the ability to inform and strengthen the (preparation for) remedial action process, in particular in FCS/IDA countries. It is further advised that the peace and conflict analysis include a process of scenario building, thus describe “best”, “worst” and “likely” scenarios, that will help to prepare for an exit (i.e. worst case scenario). Last, it is recommended that an IFC executed peace and conflict analysis is to be carried out with the participation of clients and stakeholders to ensure uptake and to gain further trust. This likely builds-in the necessary assurances that the information gathered during the process sufficiently supports the decision-making for a responsible exit and/or remedial actions that may be required.

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