

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

**Development Finance Institutions (DFIs) consultation session
Online meeting 7 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 13 April 2023 after nine further virtual consultation sessions covering all global time zones. Submissions can also be made by email to accountabilityconsultation@worldbankgroup.org. All details appear on the dedicated consultation [webpage](#).

Facilitators' Summary Report - Final

Introduction:

This Summary Report presents questions, inputs and comments received during a consultation meeting for **Development Finance Institutions (DFIs)** held on 7 March 2023 at 9:00 AM Washington DC time. The session was attended by 27 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 and MIGA Boards of Directors. The goal was to collect as many comments, questions, reflections, and recommendations from participants as possible, and have some dialogue between participants and IFC/MIGA on key issues.

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

- Participants commented that the Approach should define what IFC/MIGA mean by both 'remedy' and 'responsible exit' so that these terms are not misinterpreted. Participants requested that IFC/MIGA explain the meaning behind the words: 'responsibility,' 'facilitate and support,' and 'accountability' and why this language has been chosen.

- One participant wanted to understand where the IFC/MIGA have considered recommendations of the External Review.
- Participants expressed the view that IFC/MIGA set the bar for DFIs and should therefore play a leading role in Remedial Action as its policies are seen as a 'baseline' or 'yardstick' for other DFIs.
- There appeared to be agreement amongst participants on the importance of IFC/MIGA using its existing influence and enabling functions.
- One participant enquired how IFC/MIGA see the Approach creating an 'enhanced process' over and above what already exists.
- With regard to implementation of policies, a participant commented that emphasis could be placed on the existing requirements embedded in IFC/MIGA policies; and then the Approach could elaborate on what additional actions IFC/MIGA intends to take to strengthen implementation both in-house and on the side of the Client, including helping to build capacity in the latter.
- A participant enquired what IFC/MIGA has been learning from management and stakeholders and what experience and insights they could share that informed developing the Approach.
- Several participants commented that communication and engagement with stakeholders should be strengthened in both Remedy and Exit; and that the document needs to flesh out how enhanced stakeholder engagement will be embedded in associated processes, whether through additional grievance mechanisms or enhanced enabling activities.
- Participants said that the Approach lacks emphasis on implementation.

2. Roles and responsibilities in the remedy ecosystem

- Participants requested that IFC/MIGA assumptions behind the roles and accountabilities in the Approach be further clarified. Concerns were reported and voiced about specific language which suggests that IFC/MIGA does not consider it has any responsibility in addressing harm *e.g.*,: "*we are going to facilitate clients to feel accountable*" and "*we are going to facilitate clients to take action.*" A participant suggested specific wording in the Approach to Remedial Action such as: "*we see our role in as*" and asked IFC/MIGA to explain their attitude towards their actual role.
- A specific question was asked about how long IFC/MIGA will remain involved in a remedial action/process.
- There were also comments that IFC/MIGA does not state upfront when/where they would contribute to remedy although nothing would seem to preclude them from stepping in.
- A participant asked how other DFIs and **Multilateral Development Banks (MDBs)** who may be co-financing a project are expected by IFC to contribute or participate in remedial action.
- A participant, whose clients are governments, ministries, and other government agencies asked that responsibilities be broken down in more detail and defined, with attention also to be given to the roles and responsibilities of contractors and subcontractors.
- A participant suggested that IFC/MIGA could take more of a leading role, rather than seeing itself as an intermediary facilitating remedial action.
- Participants agreed on the importance of IFC/MIGA exercising influence and enabling remedial activities. A participant reiterated that these processes are very communication intensive, and supported the emphasis on enhanced due diligence processes and *ex ante* work to clarify roles and responsibilities, but wondered whether the emphasis on communications and engagement is sufficiently detailed in the document. The participant commented that such engagement and communication represent "low hanging fruit" in confronting trust issues.

- A participant commented that DFIs may see themselves as intermediaries and asked whether “facilitate” suggests that they stand behind their clients and are not accountable themselves. It was underscored that positioning is important, so wording in the Approach should be clear on these issues.
- A comment was made that the Approach gives a lot of time to prevention, but is less detailed on response.

3. Preparation for Remedial Action

- Participants proposed that IFC/MIGA clarify where preparation for remedial action will be required, and whether this is dependent on the level of perceived risk in a project.
- A participant asked whether remedial action plans are going to be disclosed as part of financial investment agreement packages.
- The participant commented that, in high-risk projects, clients are asked to prepare plans referencing labour, supply chains and so on, which include remedial action plans. Participants commented that asking for additional remedy action plans is repetitive and does not bring additional benefit, over and above an **Environmental and Social Action Plan (ESAP)** - which is conducted at the start of a project as part of preparing for remedy. One participant added that a lot of problems could be pre-empted by helping clients understand better the value of an effective ESAP.
- A participant commented that it is not clear if IFC/MIGA will disclose full costing or individual line items in ESAPs which may have implications for CSOs.
- Participants recommended that IFC/MIGA elaborate on the complexities of it stepping in and paying non-compliance costs directly.
- A participant reflected that remedy through direct financing is a key and repeated demand from CSOs.
- Some participants stressed the importance of having a remedy fund.
- In relation to contingency financing, participants asked whether contingency plans and funding will be available during the pilot phase and what that actually means in practical terms. A participant expressed concern about setting a precedent for contingency financing during the pilot phase, creating issues for DFIs later on.
- A participant also commented that contingency financing should be carefully considered before embarking on a pilot, or IFC/MIGA risks running into questions around how it will be provided. The participant recommended that IFC/MIGA share examples of cases where they are/have been looking at contingency funding before embarking on a pilot.
- A comment was made that it is not clear whether IFC/MIGA is contemplating including anything in the contract that would be actionable in terms of staying involved longer until remedy is completed.

4. Access to Remedial Action

- A participant stated that the Approach should provide more detail on how to enhance a **Stakeholder Grievance Mechanism** and add value to clients and stakeholders on the ground without overlapping or duplicating other internal or external accountability functions, and explain how this can impact on operational decisions.
- Participants recommended that enhanced stakeholder grievance procedures should be made clear in the document to address potential duplication and overlap of functions and roles.
- Participants commented that it is very difficult for local communities to understand remedial action and the terminology in the document. Participants said that IFC/MIGA should not only

translate documents into different languages, but also use language that is easy to understand.

- A participant commented that grievance mechanisms may be explained well on paper but that it is still unclear how people will become aware of these mechanisms. The participant asked whether IFC/MIGA will consider informing communities of **Independent Accountability Mechanisms (IAMs)** in the way clients are required to do which would build trust in the Approach.

5. Facilitate and Support Remedial Action

- A participant commented that IFC/MIGA should provide more information around what additional actions they plan to take to strengthen the capacity both in-house and with the clients to facilitate and support remedial action. According to the participant there is nothing new proposed in the Approach.
- Participants commented that few clients have English-speaking staff, and that efforts to build capacity must include documents e.g., guidance notes, infographics, training materials etc. accessible in local languages and in format which are accessible to low-capacity clients.
- It was noted by a participant that current **Management Action Plans (MAPs)** already embed remedial actions.
- There was a suggestion that the Approach should be clear on whether it seeks to require an additional stand-alone remedy action plan for all projects regardless of the risk of those projects, or only in regard to some projects. In the event that it would not apply to all projects, questions were raised as to what criteria would be applied. A participant stated that MAPs that would be a repetition of Action Plans already agreed with the clients would not have any benefit and that it would be better to ensure the quality of the first Action Plan.
- A recommendation was made that IFC/MIGA should support **Dispute Resolution (DR)** processes and provide MAPs, and explain for how long IFC/MIGA will be part of a remedy process.
- IFC/MIGA were urged to elaborate on the complexities of direct financing of remedy, so that **Civil Society Organisations (CSOs)** can understand better why banks would not step in to pay the cost of non-compliance directly.

6. Process

- Appreciation was expressed for a reasonable and well-structured effort by IFC/MIGA although one participant commented that there is repetition in the Approach presentation, particularly around the process of the consultation.
- A participant requested that IFC/MIGA explain how they are coordinating internally: explain if there is a working group for key stakeholders within IFC/MIGA and/or a specific committee approving the steps for both the Approach to Remedial Action and the Responsible Exit Principles.
- Some participants remarked that it is still early days for them to comment formally on behalf of their institutions, although they are pleased to be engaged at this point at an individual level.
- A participant commented that both Remedial Action and Responsible Exit are very communication-intensive, and that IFC/MIGA should clarify in the documents how communications will be managed, in terms of scope, time, sequence, and overall stakeholder engagement.

B. Responsible Exit Principles

- Participants recommended that IFC define “responsible exit” in both the **Responsible Exit Principles** and the Approach.
- A participant commented that responsible exit is a new concept for all MDBs, which generates interest in the methodology and research that went into the document, which warrants detailed review and discussion internally in each institution.
- One participant reminded the meeting that the Civil Society Organisations (CSOs) joint statement pointed out that the principles fall short in terms of addressing community interests.
- A participant asked to what degree IFC took into consideration the Office of the High Commissioner for Human Rights (OHCHR) study on Remedy in Development Finance, and how the Responsible Exit Principles measure up to principles laid out by the OHCHR.

Duration of a project, and financing:

- With reference to additional contractual provisions and responsibilities regarding E&S issues post exit (referencing Principle 3 para c), a participant enquired how responsible exit would actually work with projects with longer-term horizons and what a “fixed period of time” would mean for IFC clients. “A fixed period of time” does not explain what that time actually means, nor how the cut-off time would be handled, nor whether IFC would retain any obligations after the cut-off time.
- The participant recommended that time frames are explained in Loan Agreements so as to give sufficient time to prepare for exit.

Stakeholder engagement:

- A participant recommended that the Responsible Exit Principles provide more detail on how stakeholder engagement will be enhanced and embedded throughout the responsible exit process.

Staffing:

- Participants recommended that the Responsible Exit Principles provide more guidance in terms of E&S staffing, and how they may engage with stakeholders during exit.
- Another added that, given CSOs’ particular interest, IFC needs to consider how it will manage a potential surge in demand being applied on any number of projects. It was also commented that NGO/CSOs will demand that staffing levels to support Responsible Exit are available for all projects, and not only those selected according to perceived risk, or other criteria.
- One participant stressed the importance of continuity in IFC staffing, as there is sometimes a challenge as staff turnover: once a project is in portfolio management phase, there is a lot of attention from management for any prepayment; because management would be part of the approval process for exit/prepayment, it would be beneficial if they had direct experience of the project.

Risk of Reprisals:

- Several participants commented that the Responsible Exit Principles should expand on the risk of reprisals.
- Participants commented that DFIs have witnessed high risk to CSOs and communities post exit.