

13 April 2020

Dear OECD Secretariat:

Thank you for the opportunity to provide feedback on the OECD's forthcoming *Responsible Business Conduct for Project and Asset Based Finance Transactions* guidance. We commend the OECD for endeavoring to furnish this very important guidance and note that all stakeholders have an interest in the guidance being as strong as possible.

Accountability Counsel is a legal non-profit that supports communities negatively affected by international financial flows. For over a decade we have assisted communities who are seeking remediation for harm caused by internationally financed projects to bring grievances to independent accountability mechanisms at development finance institutions. Our experience has routinely demonstrated the importance of a bank-level grievance mechanism,¹ both for affected communities and the banks themselves. We urge the *Project Finance* guidance to clearly delineate the distinct and important role of bank-level grievance mechanisms and forcefully urge banks to establish robust ones.

During the recent expert session on remediation and grievance mechanisms, we were encouraged by the extensive discussion of grievance mechanisms and the general acknowledgment of the distinction between client and bank-level grievance mechanisms. We agree that it is important to have effective client grievance mechanisms. When client grievance mechanisms are structured to be accessible, independent, and effective, many communities will opt to utilize them and many grievances can be addressed early on. We also agree with the multiple participants, from both civil society and the financial sector, who noted that many client grievance mechanisms suffer from structural flaws and inadequate capacity, if they are established at all, and that banks have an important role to play in bolstering the capacity of their clients' grievance mechanisms.

However, even where client grievance mechanisms are operating properly, bank-level grievance mechanisms serve a crucial role, both for communities and the bank, that client grievance mechanisms cannot. Some project-affected people will always be wary of bringing their grievances to client mechanisms because of their perceived proximity to the project causing harm. Grievance mechanisms housed within the bank and structured to operate independently from management are frequently perceived by communities to be uniquely trustworthy mechanisms for addressing environmental and social issues. Additionally, client grievance mechanisms are not appropriate forums for handling certain types of grievances, especially

¹ Although this submission will, in the interest of brevity, generally refer only to bank-level grievance mechanism, we note that grievance mechanisms housed at the level of an industry initiative can, where properly designed and implemented, also serve this important role.

serious ones such as human rights abuses. Bank-level grievance mechanisms can be equipped with the resources and expertise to address a broader range of project-related harm.

Bank-level grievance mechanisms also provide a distinct value-add for the banks themselves in terms of continuous institutional learning and improvement. In the course of processing grievances, bank-level grievance mechanisms produce invaluable insights into whether banks are properly implementing their due diligence standards or whether any gaps currently exist in those standards. Client grievance mechanisms are much less likely to produce systemic learning insights that can be acted upon by bank management.

Measure 6 of *Due Diligence for Responsible Corporate Lending and Securities Underwriting* commendably calls for banks to participate in some sort of grievance mechanism process as part of facilitating remediation. However, while stating that banks are expected to have their own mechanism or participate in an initiative-level one, Measure 6 as a whole can give the impression that bank-level and client grievance mechanisms can be treated as interchangeable. The OECD should build on the commitment to grievance remediation embodied in the *Corporate Lending* guidance. **The *Project Finance* guidance should clearly delineate the distinct and important role of bank-level grievance mechanisms and more forcefully urge banks to establish robust ones.**

Thank you again for the opportunity to provide feedback. We look forward to continued engagement on this important topic.

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