December 21, 2018

Via Electronic Mail

Hans Peter Lankes
Vice President, Economics and Private Sector Development
International Finance Corporation
2121 Pennsylvania Ave., NW
Washington, D.C. 20433

Re: Response to IFC Operating Principles for Impact Management

Dear Mr. Lankes:

Thank you for the opportunity to provide feedback on the IFC's Operating Principles for Impact Management (the Principles). As practitioners and organizations that work to strengthen accountability within international finance and ensure access to remedy when investments result in harmful impacts, we write to welcome the Principles as a set of standards to guide investors on how to manage investments so that they contribute to measurable positive social, economic, and environmental impacts. While this development marks an important step in the institutionalization of a uniform set of standards that all impact investors can consult, we believe that the following recommendations will bring additional clarity and enhance the foundation that the Principles seek to establish.

As a general comment, the Principles should go further in their reference and incorporation of transparency, accountability, consultation, and harm avoidance and remediation. Access to information is a central feature of accountability, and it allows the full range of investment "stakeholders," including project beneficiaries and other affected individuals and communities, to play a more active and engaged role in how investments impact their lives. Furthermore, guidance for managing negative impacts, which are inimical to the aims of impact investing yet are more likely to be overlooked, should be equally or more robust than for positive impacts. This includes proactively consulting affected local communities at every stage of an investment and providing them with a mechanism to provide feedback about positive and negative impacts. Worryingly, the Principles themselves are devoid of any specific mention of consultation.

We commend impact investors for desiring to do good with their investments. However, without a commitment to the principles of transparency, accountability, consultation, and harm avoidance and remediation, the impact investing field risks harming the very people on the ground that it seeks to benefit and undermining the positive outcomes that investors wish to achieve. We recommend better integrating these principles to provide impact investors with a more robust foundation for reaching and sustaining their goals toward positive social, economic, and environmental impacts.

Principle 1
We welcome that the Principles aim to be aligned with the Sustainable Development Goals (SDGs). In light of this, we also strongly urge that within Principle 1, the definition of the "strategic impacts objectives" explicitly embrace the UN Guiding Principles on Business and Human Rights (UN Guiding Principles) and the OECD Guidelines for Multinational Enterprises (OECD Guidelines),[1] which are important frameworks for responsible business conduct. This is especially critical given the Principle's aim to help investors "achieve positive and measurable social, economic, or environmental effects." To achieve these positive effects, it is essential to identify, protect, prevent, and address the risk of adverse human rights impacts linked to Managers' investments or advice. Managers should seek to ensure that their impact objectives and investment strategies are fully consistent with the UN Guiding Principles and OECD Guidelines regardless of the size of the investment portfolio.

Principle 2
To manage the balance of strategic impact and financial returns, it is important that the Principles are read and applied in an interconnected manner that considers expected impacts of both individual investments and the portfolio as a whole. While the impacts of individual investments are mentioned elsewhere, Principle 2 should explicitly state that the objective of the impact management process should be to establish and monitor expected impact performance at the portfolio and individual investment levels. Principle 2 should also recognize that the core principles of transparency and accountability apply to the whole portfolio, as well as to each individual investment. Furthermore, while evaluating overall positive impact is important, it is imperative to address negative consequences of any given investment regardless of how the portfolio is performing overall. Principle 5 alludes to this, and it should be clearly expressed here as well.

We commend the recognition of the role that staff incentive systems play in influencing investment decisions and how these systems must be adjusted to account for more than just financial returns. Managers should link incentives to the application and protection of human rights in alignment with the UN Guiding Principles and the OECD Guidelines, as well as to the achievement of measurable positive social, economic, and environmental impacts on the ground.

Principle 3
Principle 3 should set clear expectations that Managers assess and document expected contribution for both individual investments and the whole portfolio. As currently composed, Principle 3 provides that Managers can choose one or the other, even though both are needed to ensure sufficient forethought on investment decisions. As mentioned above, while aggregate data are useful, they must not be allowed to obscure individual

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[1] Office of the High Commissioner for Human Rights, United Nations, *Guiding Principles on Business and Human Rights*, https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf; Organisation for Economic Co-operation and Development, *OECD Guidelines for Multinational Enterprises*, http://www.oecd.org/daf/inv/mne/oecdguidelinesformultinationalenterprises.htm.

projects that failed to produce their expected positive impact and the lessons these projects contain.

Principle 4

Principle 4 includes useful language on the need for a systematic approach toward assessing expected impacts; however, it falls short of explicitly calling on investors to conduct equally rigorous evaluations of concrete negative impacts. While Principle 5 homes in on (and Principle 8 recognizes) potential negative effects, the systematic approach suggested under Principle 4 should encompass a thorough assessment, mitigation, and remediation of negative impacts as well.

Furthermore, the commentary for Principle 4 restricts the impact analysis to those who will experience the "intended impact" – in other words, the project's intended beneficiaries – thereby omitting other critical groups that may be impacted by the investment. These populations may endure environmental and social harm that the investor may not have considered when making the investment.

The Principles later acknowledge that investors may also consider "indirect and systemic impacts." While this could be read to more broadly include unintentionally impacted individuals and communities, the language remains vague. We encourage the IFC to clarify any ambiguity so that investors and the broader stakeholder community can benefit from clear and direct guidance.

Principle 5

We applaud the inclusion of Principle 5, which instructs investors to "assess, address, monitor, and manage the potential negative effects of each investment." Ensuring that impact investors measure and account for an investment's holistic impact, and not simply the prospective benefits that may accrue to a select subset of the population, is critical to protect individuals and communities from unforeseen environmental and social harm that may accompany these investments. Principle 5 would be further enhanced by setting clear expectations that the Manager should develop an environmental and social policy[2] and set up the appropriate internal systems for its application. Principle 5 should also instruct Managers to establish a transparency policy that provides for the disclosure of any social, environmental, and human rights impact assessments and mitigation measures.

Principle 5 instructs asset managers to appraise the risks posed by their investees, provide them with support as needed, and "address unexpected events." This guidance not only underscores the need to consider potential harm when making initial investment decisions, but highlights the importance of providing avenues for remedy when unanticipated harm results. However, there is no discussion of the need for an

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[2] For more information, *see* Oxfam Int'l, *Open books: how investments in financial intermediaries can be transparent and why they should be*, https://oxfamilibrary.openrepository.com/bitstream/handle/10546/620559/bp-financial-institutions-disclosure-161018-en.pdf.

accountability or community feedback mechanism to ensure that those who may be harmed have a predictable way to be heard and receive remedy.

Even if a small number of projects result in harm to individuals and communities, impact investors open themselves to serious risks, and not just for the particular investors involved but for the entire field. These risks may jeopardize the field's ability to mature in order to achieve positive environmental and social goals. The converse is also true: investors that plan for and are open to addressing potential adverse impacts not only protect themselves from the threat of conflict or stalled or failed operations, but can burnish their reputation as an ethical actor, attracting business from customers in search of the industry's most respected players.

As the Principles recognize, impact investors that seek to maximize net positive impact must investigate both the positive and negative consequences of their investments. A mechanism that allows affected individuals and communities to provide feedback directly to investors is a critical and efficient tool for directly capturing data about negative impacts and ensuring that those who have experienced harm are made whole.

The Principles should include a recommendation on the creation of one or a small but centralized number of community feedback mechanisms for people harmed or who fear harm from an investment. The mechanism(s) could be standalone or tied to existing investor networks that are thematic, regional, and/or general and global. The feedback process could result in the deployment of neutral mediators to assist with dispute resolution, independent investigations into allegations of serious harm, and the adoption of other methods to help investors understand the feedback, improve their due diligence, and address negative impacts.[3]

Principle 6

Principle 6 is an encouraging acknowledgement that impact assessment should not end once an investment is approved but rather should be an ongoing process that requires proactive remedial measures as circumstances change. This Principle could go further by referencing potential negative impacts, which may be overlooked due to a sole focus on positive impacts. Furthermore, Principle 6 should be effectuated, in part, by the community feedback mechanisms discussed above. Providing communities with an avenue to communicate grievances and obtain remedy is a crucial component of any effective monitoring system.

Principle 7

Principle 7 commendably instructs Managers to consider impacts throughout the life of an investment, including through the investor's exit. The assessment at this late stage should include an evaluation of (a) whether any negative environmental or social

[3] For more information, *see* Accountability Counsel, "Impact Investing," https://www.accountabilitycounsel.org/institution/impact-investing/#documents; *see also* BankTrack and Oxfam Int'l, *Developing Effective Grievance Mechanisms in the Banking Sector*, https://www.banktrack.org/download/developing_effective_grievance_mechanisms_in_the_banking_sector/2018_pa_002_bank_report_faweb2_3.pdf.

externalities are likely to occur if the investor's involvement were to end at that time and (b) the investees' willingness to address such negative impacts in a timely manner, should they occur.

Principle 8

Principle 8 emphasizes the fundamental importance of accounting for adverse impacts. By counseling investors to conduct a post-mortem on their investments' holistic impacts and incorporate lessons learned into future investment decisions, the Principles can play a pivotal role in preventing unanticipated harm. Such preventative measures are essential to safeguarding against adverse environmental and social impacts.

However, Principle 8 fails to consider the critical part that impacted individuals and communities can and should play in this systematic learning and improvement process. As mentioned under Principle 5, the Principles should refer to the need for an accountability or community feedback mechanism through which investors can learn about their investments' impacts directly from those affected by them. Such a mechanism could provide a clear and real-time window into the positive and negative effects of an investment, allowing investors to more accurately and efficiently address risk, prevent and remediate harm, and chart the course of their future investment decisions.

Principle 9

By calling for public disclosure and independent verification of an investment portfolio's alignment with the Principles, Principle 9 strives to ensure that investors will fully abide by them. Accountability and transparency are key to the successful implementation of any non-binding principles. However, the Principles present no framework through which the public (and other investors) can hold investors accountable for their adoption. Furthermore, the Principles do not call for investors to disclose information about their investments and the projects they are funding, which inhibits project beneficiaries and impacted individuals more broadly from providing direct feedback to investors about the conditions on the ground. Principle 9 currently fails to provide guidance on how impact investors can develop a meaningful accountability and feedback framework through which they can not only hold the whole field to high standards, but also ensure that they are learning from and responding directly to those impacted by their investments and improving investment decisions and practices along the way.

Thank you again for the opportunity to offer these recommendations. We commend the IFC for developing this initial set of standards, and we hope this marks the beginning of more robust measurement and avenues for addressing and remediating negative impacts while enhancing positive ones. We look forward to engaging with you further.

Sincerely,

Accountability Counsel
Action Paysanne Contre la Faim

Africa Center for Corporate Responsibility
African Law Foundation (AFRILAW)
Arbeitsgemeinschaft Regenwald und Artenschutz (ARA)
Bank Information Center
BankTrack
Center for International Environmental Law (CIEL)
Conseil Régional des Organisations Non Gouvernementales de Développement
Due Process of Law Foundation
Fund Our Future
Gender Action
Global Network for Good Governance (GNGG)
Inclusive Development International
International Accountability Project (IAP)
International Rivers, Africa Program
MiningWatch Canada
Observatoire d'Etudes et d'Appui à la Responsabilité Sociale et Environnementale (OEARSE)
Oxfam International
Oyu Tolgoi Watch
Responsible Sourcing Network
Rights CoLab
Rivers without Boundaries
Social Justice Connection
Urgewald