

26 April 2019

Oswaldo Gratacós, CAO Vice President
Compliance Advisor/Ombudsperson
International Finance Corporation
2121 Pennsylvania Avenue, NW
Washington, DC 20433, USA
E-mail: CAO@worldbankgroup.org

Re: Complaint regarding the International Finance Corporation's investments in Kenya Commercial Bank and Co-Operative Bank of Kenya

Dear Mr. Gratacós,

Please find enclosed a complaint filed by Save Lamu and the Kwasasi Mvunjeni Farmers Self-Help Group, highlighting their grave concerns about the International Finance Corporation's (IFC) apparent contributions to the development of the proposed 1,050-megawatt coal-fired power plant in Lamu County, Kenya. Accountability Counsel is supporting that complaint as an advisor.

The IFC's contributions to this potentially disastrous project occur through two financial intermediary clients, Kenya Commercial Bank and the Co-Operative Bank of Kenya, both of which have provided active and ongoing financial support to companies involved in the development of the coal plant. The IFC provided two active loans to Kenya Commercial Bank, approved in 2013 and 2016. It also appears that the Board approved an equity investment in Kenya Commercial Bank in 2016. The IFC also provided three active loans to the Co-Operative Bank, approved in 2012, 2015 and 2018, as well as advisory services in 2016 and 2017. Based on information available to us, we understand that, since receiving funds from IFC, both Kenya Commercial Bank and Co-Operative Bank have established active, and ongoing, credit facilities for Centum Investment, a 51% shareholder in Amu Power, the special purpose vehicle that will construct and operate the coal plant. In addition, in April 2014, following the IFC's first loan, Co-Operative Bank issued a \$5 million bid security bond directly backing Amu Power's proposal to develop the plant.

We understand that, following increased CAO and civil society attention to the IFC's financial intermediary portfolio, the IFC is asserting that 95% of its lending to financial intermediaries is now "ring-fenced", targeted to priority sectors such as financial inclusion for small and medium enterprises (SMEs). Indeed, we have noticed that the IFC has recently added "Use of Proceeds/Beneficiaries" tabs to many of its loans within its Project Information Portal, including four out of the five loans referred to above. Accordingly, we anticipate that the IFC will respond to this complaint by asserting, *inter alia*, that its funds are ring-fenced and could not be used to support the proposed coal plant. However, in this case, it's critical that the CAO

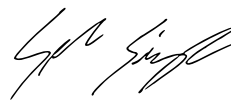
subjects any claim of ring-fencing to full investigation as part of its compliance review. Among other reasons:

- It is critical that the CAO interrogate the *traceability* of funds and the *enforceability and enforcement* of ring-fences / asserted restrictions on use of proceeds. This is especially true given that the IFC is now including “Use of Proceeds/Beneficiaries” statements on its Project Information Portal. These “Use of Proceeds/Beneficiaries” tabs use relatively vague and weak language, that certain sectors are “targeted”, rather than the language of traceable and enforceable restrictions on use of funds. The project descriptions for each of those loans also indicate that – despite “Use of Proceeds/Beneficiaries” statements asserting that the loans target the SME sector – the loans serve broader fiscal purposes, such as strengthening the Banks’ capital position in light of increased regulatory requirements. It is critical that the CAO interrogates these “Use of Proceeds/Beneficiaries” statements to determine whether civil society and other members of the public can rely on them as genuine indicators of ring-fencing, and to avoid the IFC misleading the public if they are not.
- In any event, two of the financial connections between IFC and Kenya Commercial Bank are not subject to “Use of Proceeds/Beneficiaries” limitations: the 2013 loan has no such statement; and in 2016 the Board approved a US\$70 million equity investment in the Bank which would expose the IFC to its entire portfolio of operations.
- Finally, as set out in the complaint, the IFC has a history of relationships with other financial institutions that have been linked to the coal plant. This pattern of investment leads us to fear that the current investments in Co-Operative Bank and Kenya Commercial Bank are not – or will not be – the IFC’s only connections to the proposed Lamu coal plant and its severe risks and impacts.

For these reasons, a CAO investigation is warranted even if the IFC asserts that its current investments in Kenya Commercial Bank and the Co-Operative Bank are ring-fenced. This assertion cannot be allowed to automatically undermine complaints that identify material, temporal financial connections between the IFC and harmful projects through financial intermediaries, without clear evidence that each investment is traceable and that the asserted ring-fence is enforceable and enforced.

We look forward to speaking to you further about these and other matters relating to the complaint.

Sincerely,



Sarah Singh
Communities Co-Director
Accountability Counsel