RECOMMENDATION: **<u>The CAO should allow complaints to be submitted at least two years after project closure</u>.**

Section 2.2.1 of the CAO's Operational Guidelines limits the eligibility of complaints to projects "that IFC/MIGA is participating in, or is actively considering." Inasmuch as the full extent of adverse project impacts may not be felt until after the IFC/MIGA are no longer participating, and considering that projects sometimes close abruptly as concerns about impacts are raised, communities should have the option of submitting complaints at least two years after the IFC/MIGA's participation in the project has ended. Extending the time eligibility for complaints would facilitate redressing project harm, enhance development outcomes, and serve to improve institutional learning about the legacy impacts of closed projects. The experience of communities in Liberia adversely impacted by a biomass project financed by the Overseas Private Investment Corporation (OPIC) illustrates the need for extending complaint eligibility beyond project closure.

Negative Environmental and Social Impacts Can Undermine Intended Development Outcomes

From 2008 to 2011, OPIC approved three loans totaling $216.7 million to Buchanan Renewables (BR) for a biomass project in Liberia. BR intended to rejuvenate smallholder rubber farms and develop much needed energy infrastructure in Liberia through converting old rubber trees into biofuel to be used in a BR-constructed power plant.

Instead, inadequate due diligence, lack of community consultation, and poor project execution manifested in serious harm. The power plant was never constructed, and the wood chips from the rubber trees were either exported to Europe or the chemically-treated wood chips were dumped back onto family farms, contaminating water and soil. Moreover, the project was designed in a way that prevented previously self-sustaining farmers and charcoal producers from providing for their own welfare once the project began. Smallholder farmers who had subsisted on income from their rubber trees were left without that critical income and were struggling to satisfy basic needs. Charcoal producers lost access to rubber trees they needed to maintain their livelihoods, and BR employees demanded bribes - or sex from women - to access wood the company had promised to give them for free. Additionally, BR workers suffered from rampant labor rights violations, including intimidation, dangerous working conditions, and sexual abuse.

The Full Extent of Harm Can Follow Project Closure

Efforts to engage with BR on the negative impacts initially showed some promise. However, in early 2013, BR abruptly closed the project and withdrew from the project area, repaying its OPIC loans. The project's abrupt closure devastated local communities, leaving hundreds of Liberians worse off than they were before OPIC's investment in the project.

Because OPIC no longer had a contractual relationship with the client, the complaint was time-barred under the rules governing OPIC's accountability mechanism, the Office of Accountability (OA). Nevertheless, in January 2014, hundreds of Liberian smallholder farmers, charcoal producers, and former BR employees, supported by Accountability Counsel and Green Advocates Liberia, filed a complaint directly to OPIC's president alleging serious human rights violations, labor abuses, and environmental and health impacts.

Extending Eligibility Timelines Can Improve Outcomes and Institutional Learning

After significant pressure from the communities, OPIC's President directed the OA to conduct an investigation of the project. The OA published its investigation report in September 2014, which confirmed that all three groups of complainants suffered harm from the project, and revealed institutional gaps in tracking development outcomes, identifying vulnerable groups, and safeguarding those groups. The OA recommended institutionalizing more robust systems for screening, risk mitigation, monitoring, and human rights due diligence. After receiving the report, OPIC acted to address noted shortcomings by, among other things, applying more scrutiny to potential human rights impacts when conducting project assessments.

As the Liberia case demonstrates, the full scope of adverse impacts of a project may not be realized or exposed until after the development finance institution's participation in the project has ended. Moreover, under the current rule, communities risk losing access to a critical forum for raising concerns if the IFC/MIGA's participation in a project ends abruptly and unpredictably, as was the case with OPIC's participation in the BR project. Additionally, we have observed that communities sometimes require significant time to organize and coalesce support to help them access an accountability mechanism and file a complaint. Therefore, communities impacted by IFC/MIGA projects must have access to the CAO's services up to at least two years after the IFC/MIGA's participation in the project has ended. Extending eligibility timelines would benefit project sustainability by allowing more room to redress harm, ensure that development objectives are met, and enable the IFC/MIGA to capture useful lessons learned for better project outcomes.