

## **Recommendations for the U.S. International Development Finance Corporation’s Independent Accountability Mechanism**

### **Consultation Process**

- In order to ensure that the U.S. International Development Finance Corporation’s (DFC) Independent Accountability Mechanism (IAM) is legitimate, effective, and reflects the expanded mandate of the institution, it is crucial that it be developed through a robust public consultation process.
- This consultation process should include the Board Resolution for the IAM, the “implementing document” for the IAM described in the DFC’s Bylaws,<sup>1</sup> and any other procedures or policies concerning the IAM. Subsequently, any changes to these documents and policies should be subject to a public consultation process, and the IAM should commit to a review every five years.
- The consultation process should include a 60-day public comment period that is advertised on the Federal Register as well as in-person and/or virtual consultations.<sup>2</sup> Drafts of the IAM’s documents should be disclosed as a part of the consultation. The DFC should publish a matrix or document that includes which recommendations were or were not implemented and why.

### **Select Recommendations for the DFC’s IAM<sup>3</sup>**

- The 2016 report, *Glass Half Full? The State of Accountability in Development Finance*, assessed the effectiveness of 11 independent accountability mechanisms and their corresponding institutions, including the Overseas Private Investment Corporation (OPIC) and the Office of Accountability (OA).<sup>4</sup> The DFC and the IAM should implement all of the remaining recommendations for OPIC and the OA outlined in Annex 14 of the report.<sup>5</sup>
- The DFC’s IAM should be established and should, at a minimum, operate according to the United Nations Guiding Principles on Business and Human Rights’ “effectiveness criteria” – it should be legitimate, accessible, predictable, equitable, transparent, right-compatible, and a source of continuous learning for the DFC.<sup>6</sup> These principles should be embedded in the structure, policies, and practices of the IAM.

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<sup>1</sup> U.S. International Development Finance Corporation, BYLAWS OF THE U.S. INTERNATIONAL DEVELOPMENT FINANCE CORPORATION 6 (June 12, 2019), [https://www.dfc.gov/sites/default/files/2020-01/BDR%2819%2901\\_DFCCorporateBylaws.pdf#page=6](https://www.dfc.gov/sites/default/files/2020-01/BDR%2819%2901_DFCCorporateBylaws.pdf#page=6).

<sup>2</sup> We recognize that the ongoing COVID-19 crisis currently limits the ability for in-person consultations.

<sup>3</sup> A full suite of recommendations with more detailed explanations will be provided during the public consultation process.

<sup>4</sup> GLASS HALF FULL? THE STATE OF ACCOUNTABILITY IN DEVELOPMENT FINANCE 11, 29 (Caitlin Daniel, Kristen Genovese, Mariette van Huijstee, & Sarah Singh eds. 2016), <https://www.somo.nl/glass-half-full-2>.

<sup>5</sup> *Id.* at Annex 14, <https://www.somo.nl/wp-content/uploads/2016/01/Annex-14-US-Overseas-Private-Investment-Corporation.pdf>.

<sup>6</sup> Office of the United Nations High Commissioner for Human Rights, Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework, ¶31, U.N. Doc. HR/PUB/11/04 (2011), [http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf).

- The IAM should have three functions – compliance review, dispute resolution, and advisory.
- The IAM should be able to receive complaints regarding all of the DFC’s operations, including activities co-financed with other development finance institutions.
- Complaints should be admissible prior to project approval and for a period of at least two years either after the U.S. government has ended its relationship with the client or from the date the complainant became aware of adverse impacts, whichever is later.
- In order to have sufficient resources to operate effectively and proactively plan for the IAM’s activities, the IAM must have its own dedicated budget that is approved by the Board.
- The IAM should have full-time staff, and the hiring process for its director should include external stakeholders. In order to promote the independence and legitimacy of the IAM, current DFC and former OPIC/USAID Development Credit Authority employees should be prohibited from serving in key roles at the IAM (including as its director) after their employment at the institution. Likewise, key IAM staff, including the IAM’s director, should be permanently barred from seeking employment with the DFC after their tenure with the IAM.
- It is crucial that project-affected communities have information about the IAM and know how to access its services and the complaint process. The DFC should require clients and sub-clients (for financial intermediary projects) to disclose the existence of the IAM to project-affected communities in a culturally appropriate, gender sensitive, and accessible manner. The existence of the IAM and how to contact it should be included in all project documents.
- The DFC should issue a no-tolerance protocol on retaliation towards anyone who raises complaints concerning the DFC’s activities, including through the IAM, and the IAM should have a protocol to prevent and address threats and instances of reprisals against people connected to an IAM complaint.
- When harm occurs as a result of the DFC’s activities, the IAM should facilitate the provision of remedy so that communities can restore their livelihoods. The DFC’s clients should be required to obtain project finance bonds, insurance, or trust funds in escrow to ensure that reserve funds are available to address adverse environmental and social harm.
- The IAM should have a complete and public complaints registry that includes all documents related to complaints received by the IAM, including complaints that are deemed inadmissible.
- The distinct roles of the IAM and the DFC’s Inspector General (IG) should be respected. Although there could be some overlap and coordination between the IAM and the IG, no IG activity should prevent an individual or community from filing a complaint with the IAM.
- The DFC should systematically incorporate lessons from the IAM’s cases into the DFC’s operations to ensure harm prevention, the sustainability of investments, and the remediation of harm to affected communities.