SDG Impact Team
United Nations Development Programme
One United Nations Plaza, DC1-1938
New York, NY 10017

23 June 2020

Re: <u>UNDP SDG Impact Standards and the requirement for effective stakeholder grievance mechanisms</u>

To the UNDP SDG Impact Team:

We see that Draft 2 of the Private Equity (PE) Standards and Draft 1 of the Bond Standards both include a requirement for the fund or issuer to implement an effective grievance mechanism, in line with Principle 31 of the United Nations Guiding Principles on Business and Human Rights (UNGPs). We commend you for including this governance requirement. Effective grievance mechanisms bolster governance by providing investment managers the opportunity to hear from the very individuals who are most impacted by investments. Effective mechanisms also serve as tools for financers to understand their *net* impact and not solely their expected impact, as impacted communities are often the first to be aware of an investment's unintended consequences. In short, well done.

In fact, the requirement of an effective grievance mechanism at the fund and bond issuer level is so critical that we hesitate to recommend any edits to the language that is already included in Draft 2 of the PE Standards. In the event that other stakeholders recommend edits as well, we implore you to ensure that at a minimum, the requirement that exists in Draft 2 of the PE Standards not be diminished in the final version.

With that in mind, we write to make two small recommendations regarding the draft language requiring effective grievance mechanisms: (1) the language should be the same in both the Bond and PE Standards; and (2) the language should make explicit that the requirement is for the fund manager and bond issuer to have an effective grievance mechanism such that pushing this obligation down to the investee (or project) level would be inadequate. Additionally, we are including resources for implementation and verification of effective grievance mechanisms.

Proposed Edits to Standards' Language

1. **The language requiring an effective grievance mechanism should be the same in the Bond and Private Equity Standards.**

Neither the obligation to have an effective mechanism nor its design is different depending on whether the financing is through private equity or a bond. Thus, the requirements should rely on identical language. Otherwise, any difference in language might be misconstrued to have significance as funds or issuers begin to implement the standards.

2. **The language in Draft 2 of the Private Equity Standards should be expanded upon to make crystal clear that the obligation pertains to the fund as opposed to an investee; this language should then be incorporated into the final version of the Bond Standards.**

Thank you for confirming that the requirement in Draft 2 of the PE Standards for an effective grievance mechanism applies to the fund manager as opposed to the investee. That distinction is critical. Time and time again Accountability Counsel sees investors attempt to push governance obligations onto investees, with disastrous results. Take for example, the experience of communities in Liberia who were adversely impacted by a biomass project financed by the Overseas Private Investment Corporation (OPIC):

> From 2008 to 2011, OPIC approved three loans totaling USD $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 previously on income from their rubber trees were struggling to satisfy basic needs. Charcoal producers lost access to rubber trees they needed to maintain their livelihoods, and BR employees

demanded bribes - including 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.

Efforts to engage with BR itself on the negative impacts initially showed some promise. However, in early 2013, BR abruptly closed the project, withdrew from the project area, and repaid its OPIC loans. The project's closure left communities with little option for redress at the investee level. Communities then implored OPIC's institutional-level accountability mechanism to conduct an investigation into the project. The mechanism independently reviewed the project, and its resulting report confirmed the harm caused by the project and revealed institutional gaps in tracking the impact of the investment, identifying vulnerable groups, and safeguarding those groups.

Therefore, we recommend that the language be edited slightly to make clearer what is already intended by the text: that the governance obligations in the standards apply to the fund manager and bond issuer. On page 44, under 6.1, we propose the addition of the red text:

- they have oversight of policies governing Meaningful Stakeholder Engagement (and protection) including having effective Stakeholder grievance mechanisms in place at the fund level.[1]

The Examples of Evidence Sources should be amended similarly:

- Fund-level[2] Stakeholder grievance mechanisms, complaints register and actions taken

Implementation and Verification

Committing to the exact language of the standards is only a first step and that the standards will really be tested once it is time for implementation and verification. The good news is that the principles by which an effective grievance mechanism is verified are already agreed upon and articulated in Principle 31 of the UNGPs. Funds and issuers must demonstrate that their respective stakeholder grievance mechanisms are: (1) legitimate; (2) accessible; (3) predictable;

[1] For the Bond Standards, please replace "fund level" with "bond issuer level."
[2] Again, for the Bond Standards, please replace "fund-level" with "bond issuer-level."

(4) equitable; (5) transparent; (6) rights-compatible; (7) a source of continuous learning; and (8) based on engagement and dialogue.

Accountability Counsel created this short guide for impact investors that helps define and explain what the above eight elements mean. Further, private equity firms and bond issuers can learn from the many effective grievance mechanisms already in place at development finance institutions, including the UNDP. One tool available to guide those designing and those verifying grievance mechanisms is the 2016 "Glass Half Full?" report and its accompanying annexes, which assesses the policies and effectiveness of 11 mechanisms used by major development finance institutions.

As always, thank you for your consideration.

Sincerely,

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