Global Impact Investing Network
One Battery Park Plaza
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Re: <u>Opportunity for the Methodology for Standardizing and Comparing Impact Performance to include feedback from impacted communities to better ascertain net impact.</u>

To the Global Impact Investing Network:

Thank you for the opportunity to provide feedback on the GIIN's Methodology for Standardizing and Comparing Impact Performance (the Methodology). We applaud the goal of helping investors better manage and measure their net impact. In our experience, however, specificity on a critical piece for achieving that goal is missing from the Methodology. **Investors simply are not able to fully ascertain and measure impact performance without input from investment-impacted communities provided through effective grievance mechanisms.**

I. About Accountability Counsel

Accountability Counsel is a non-profit organization that amplifies the voices of people harmed by the adverse impacts of internationally financed projects. Our experience working with communities impacted by international financial flows has illustrated that financiers can safeguard against environmental, social, and financial risk by having an effective accountability process in place. By providing a process for direct community feedback related to on-the-ground impacts of investments, accountability mechanisms have proven to be effective tools for ensuring compliance with operational standards, as well as preventing, mitigating, and redressing unintended environmental and social impacts at odds with an institution's mission or mandate. As a part of our work, we maintain a database called the Accountability Console,[1] which includes all publicly available data from every complaint filed to independent accountability mechanisms at major development finance institutions and compares policies across these mechanisms to show how they can be best designed to ensure accountability for environmental and social harm.

II. Suggested Edits to the Methodology

The Methodology can promote best practice in assessing impact performance by expressly integrating consideration of information received through community feedback tools, often referred to as grievance redress mechanisms (GRMs). Effective investor-level GRMs are not only recognized as essential to address and remediate harmful impacts early by the UN Guiding Principles on Business and Human Rights (UNGPs), the OECD Guidelines for Multinational Enterprises, and the OECD Due Diligence

[1] Available at www.accountabilityconsole.com.

Guidance for Responsible Business Conduct, but they also can provide the necessary institutional insight needed to inform wiser decision-making and more robust risk management practices across a given portfolio. By providing ad hoc compliance review and mediation services to resolve unforeseen harm, GRMs can bring necessary accountability to impact missions. **We therefore suggest updating the Methodology to include the following language** (noted in red):

Section 2.3 "Impact Results," Paragraph 3

> ross impact results, investors should track positive and negative results that occur directly as a result investment and its investee's operations, products, and services as well as indirectly through the ivities of the various stakeholders affected by the investee. These effects may be intended – or aligne th the specific impact objectives or impact mandate of a given investment – or unintended positive or gative externalities associated with the investee's activities (Table 4). The consideration of both ended and unintended effects enables more holistic insight into an investment's complete set of socia d environmental effects. Methods for ascertaining unintended impacts should include effective titution-level grievance redress mechanisms, as advised by UN Guiding Principles on Business and man Rights, the OECD Guidelines for Multinational Enterprises, and the OECD Due Diligence idance for Responsible Business Conduct, as well as through other stakeholder feedback tools.

III. Four reasons why effective GRMs are essential to the Methodology

Our experience advising communities as they participate in GRM processes has revealed compelling reasons for increasing the use of effective investor-level GRMs in the field of impact investing.

1. Optimizing Intended Impact

Grievance redress mechanisms are important to optimize intended impacts, as community input is essential to ensuring that investment dollars meet their mark. Please consider the example of a "Ridge to Reef" conservation project in the Tanintharyi region of Myanmar,[2] financed in part by the UNDP.

> The intended impact of the project was to protect land from development, but because the top-down project design did not draw on the knowledge of Indigenous and traditional peoples stewarding the land, it risked not meeting its objectives. Moreover, it risked social and economic upheaval by conflicting with terms of reserved rights set forth in a nationwide ceasefire agreement. Utilizing the UNDP's compliance review and stakeholder response mechanisms, Indigenous Karen communities were able to relay consultation shortcomings that resulted in serious project concerns. Engaging with the UNDP's IAMs created the space to consider an alternative indigenous-led conservation plan that both protects the rich biodiversity in the region, and respects traditional peoples' knowledge.

[2] Myanmar case study available at https://www.accountabilitycounsel.org/client-case/myanmar-ridge-to-reef-conservation-project/.

> The promising progress demonstrates that without platforms to facilitate dialogue between investors and the communities where they invest, impact investors risk undermining their own goals.

The value of GRMs to investors was most recently recognized in investor standards developed by the United Nations Development Programme (UNDP) to assess impact and alignment with the United Nations' Sustainable Development Goals.[3] Similarly, Principle 5 of the International Finance Corporation's Operating Principles for Impact Management[4] call on investors to "assess, address, monitor, and manage potential negative impacts of each investment . . . . using an approach aligned with good international industry practice," which includes making available effective GRMs per the UNGPs.

2. Identifying and Preventing Unintended Impact

In addition to measuring intended impact, effective GRMs provide investors with information about unintended impacts. They also can provide early reconsideration and resolution of risks before it is too late. Take for example investments for a hydroelectric facility sited in Oaxaca, Mexico.[5]

> According to a U.S.-based private equity firm that provided substantial funding for the project, the intended impact of the facility was to produce and export energy to areas north of Oaxaca; however, communities near the construction site had legitimate concerns of potential harm to their environment, livelihoods, health, and physical safety.
>
> Affected communities first attempted to raise concerns about the project's potential impacts on the environment and the wellbeing of nearby residents to governmental authorities and project contractors. When they received no meaningful response, they filed a complaint through the grievance mechanism of the U.S. Overseas Private Investment Corporation (OPIC), a co-financier of the project. The complaint resulted in a professionally-mediated dialogue process that included participation from the communities, the Mexican operating company, the private equity firm, and the mechanism staff. Through the dialogue process, investors realized that the risks of harm outweighed the projected benefits of the project and halted project construction to avoid the most serious impacts of concern. But for the existence of an accountability mechanism, the investors might not have been made aware of the true risks and externalities of their investments.

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[3] *see* UNDP SDG Impact Standards for Private Equity Funds, Standard 2.1 – Management Approach (To demonstrate "effective mechanisms and processes to deliver on its strategy, including its impact thesis and portfolio level impact goals," funds should "establish[] or participat[e] in effective grievance and reparation mechanisms for affected Stakeholders"), available at https://sdgimpact.undp.org/private-equity.html.

[4] Available at https://www.ifc.org/wps/wcm/connect/Topics_Ext_Content/IFC_External_Corporate_Site/Development+Impact/Principles/.

[5] Oaxaca case study available at https://www.accountabilitycounsel.org/client-case/mexico-oaxaca-hydroelectric/#case-story.

3. Bridging the Investor-Investee Information Gap

The direct communication link between communities and investors through effective GRMs can also circumvent the potential problem of an investee hiding issues that threaten impact performance, or in very unfortunate situations threatening or retaliating against whistleblowers and stakeholders to discourage future complaints that might compromise investor trust. Far too often investors attempt to push governance obligations onto investees, with disastrous results. This was the experience of communities in Liberia[6] who were adversely impacted by a biomass project financed by OPIC.

> From 2008 to 2011, OPIC approved three loans totaling USD $216.7 million to Buchanan Renewables for a biomass project in Liberia. Buchanan Renewables intended to rejuvenate smallholder rubber farms and develop much needed energy infrastructure in Liberia by converting old rubber trees into biofuel to be used in a Buchanan Renewables-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 Buchanan Renewables employees demanded bribes - including sex from women - to access wood the company had promised to give them for free. Additionally, Buchanan Renewables workers suffered from rampant labor rights violations, including intimidation, dangerous working conditions, and sexual abuse.
>
> Efforts to engage with Buchanan Renewables itself on the negative impacts initially showed some promise. However, in early 2013, Buchanan Renewables 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 investigate 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 impact, identifying vulnerable groups, and safeguarding those groups.

[6] Liberia case study available at https://www.accountabilitycounsel.org/client-case/liberia-buchanan-renewable-energy/.

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4. **Sector-wide Learning**

Beyond the potential to better specific investments, information received through effective GRMs across the field of impact investing would benefit investment sectors more generally. Many independent accountability mechanisms of multilateral development banks publish advice based on lessons learned from cases,[7] and our analysis of data from the cases informs which investment policies and practices require changes.

IV. Related Recommendations

In addition to the opportunity for the Methodology to include a recommendation that investors adopt GRMs, we recommend that GIIN (1) include effective GRMs in its IRIS+ Core Metrics; and (2) consider the opportunity of providing a network-wide GRM as a service to its members.

A. The GIIN should include effective GRMs into its IRIS+ Core Metrics and related advice.

We recommend updating IRIS+ metrics to require reporting on the existence and adequacy of investor-level GRMs for receiving and addressing stakeholder feedback. Specifically, the metrics on "stakeholder engagement" (OI7914) and "community engagement strategy" (OI2319) can be improved by:

(1) Setting forth an expectation for effective GRMs within the metrics;[8] and

(2) Referencing the relevant provisions of the UNGPs, the OECD Guidelines, and the OECD Due Diligence Guidance in usage guidance.

The updated metrics should also clearly detail effectiveness criteria for GRMs, as articulated by Principle 31 of the UNGPs, *i.e.*, investors should be able to qualitatively demonstrate that GRMs are: (1) legitimate; (2) accessible; (3) predictable; (4) equitable; (5) transparent; (6) rights-compatible; (7) a source of continuous learning; and (8) based on engagement and dialogue. We therefore recommend updating the metrics as follows:

Stakeholder Engagement (OI7914)

Describes the mechanisms in place to gather input from stakeholders on product/service design, development, and delivery, including effective grievance redress mechanisms available

[7] *see, e.g.,* Advisory Reports issued by the Compliance Advisor Ombudsman (CAO) of the International Finance Corporation and Multilateral Investment Guarantee Agency, available at http://www.cao-ombudsman.org/howwework/advisor/index.html.

[8] We note that while some metrics reference the need for "employee feedback systems" (OI3601) and "client complaint tracking systems" (PI9435) to receive and resolve complaints submitted to investees, these are not the same as effective GRMs. Moreover, they overlook the need for the *investor* to establish communication lines with communities to derive top-level insight and optimize investment performance.

to prevent, mitigate, and remedy harm throughout the lifecycle of an investment or project.

Footnote
Organizations should note at what stages (*i.e.*, concept development, product design, *etc.*) stakeholders were engaged, how they were engaged, and whether they were compensated for their engagement. Additionally, when reporting on the effectiveness of available grievance redress mechanisms, organizations should note how they meet each of the eight effectiveness criteria outlined by Principle 31 of the UN Guiding Principles on Business and Human Rights (*i.e.*, legitimate, accessible, predictable, equitable, transparent, rights-compatible, a source of continuous learning, and based on engagement and dialogue).

Community Engagement Strategy (OI2319)

Indicates whether the organization implements a strategy to manage its interactions with local communities affected by its operations.

Footnote
Organizations should footnote the relevant details about their community engagement strategy, including existence of and reliance on effective grievance mechanisms to capture community concerns through the lifecycle of investments or projects, and how ~~it is~~ they are being implemented. See usage guidance for further information.

Correspondingly, the "usage guidance" for the metrics can be expanded to shed light on the expectation for and growing proliferation of stakeholder feedback tools and effective GRMs in the impact investing space. The World Economic Forum paper on "Engaging all affected stakeholders into investments and activities of organizations,"[9] which already exists under the usage guidance for "Stakeholder Engagement" metric, could likewise be included under the "Community Engagement Strategy" metric as it discusses the importance of grievance systems to identify and respond to concerns from community stakeholders. In addition, under each metric we recommend referencing the following resources:

- Principle 31 of the UNGPs;
- Guideline 46 of the OECD Guidelines for Multinational Enterprises;
- Guidance notes 2.1 and 6.2 of the OECD Due Diligence Guidance for Responsible Business Conduct;
- Accountability Counsel's "Guide for Impact Investors,"[10] written to help define and explain the criteria for effective GRMs per the UNGPs.

B. The GIIN is well-positioned to institutionalize an effective grievance mechanism available for its network of impact investors.

[9] Available at https://impactmanagementproject.com/wp-content/uploads/Guidance-on-engaging-all-affected-stakeholders.pdf.
[10] Available at https://www.accountabilitycounsel.org/wp-content/uploads/2019/05/5-22-19-impact-investing-ams-benefits-w-best-practice-examples.pdf.

We see tremendous opportunity for the GIIN itself to provide an effective grievance mechanism that members can opt into for a fee.[11] We understand that not all impact investors have the resources for their own mechanism yet might want to avail themselves of its benefits.

A GIIN mechanism need not be conceptualized from scratch, as effective models already exist in the development finance world.[12] For example, the Independent Complaints Mechanism[13] serves three different financial institutions from France, Germany, and the Netherlands. Each financial institution has agreed for the centralized Independent Complaints Mechanism to audit grievances received against its own safeguards policies.

V. Conclusion

Thank you for your consideration of these recommendations. Accountability Counsel is here as a resource and welcomes an opportunity for further discussion.

Sincerely,

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[11] For more information on Accountability Counsel's vision for an independent grievance redress forum serving a network of impact investors, please visit https://www.accountabilitycounsel.org/institution/impact-investing/.
[12] *see* The Independent Accountability Mechanisms Network, available at http://independentaccountabilitymechanism.net/.
[13] Available at https://www.fmo.nl/independent-complaints-mechanism.