accountability counsel

Guidance for Investors:
Managing Environmental & Social Risks with Effective Due Diligence & Grievance Redress Mechanisms

The Evolution of Environmental & Social Risk Management

Even when driven by the best of intentions, investments carry risks that they will miss their mark and inadvertently harm the communities and places that they seek to benefit. As a result of decades of experience, many investors have adopted environmental and social safeguards to guide their investment decisions. Historically, those safeguards emphasized desk analysis, based on client reports and technical disclosures. However, more recently and progressively, they have evolved to incorporate mechanisms for hearing and resolving concerns raised by communities whose lives and lands are impacted by investment activities. This brief supports investors to meet these new standards.

Robust "Desk Diligence" is Necessary, But Not Sufficient

Since the 1970s, investors have increasingly adopted environmental and social standards to inform their investment decisions. This may be achieved by developing bespoke "safeguards", or by aligning themselves with major standard-setters, such as the International Finance Corporation's Performance Standards, the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct, and reporting initiatives such as the IFRS Sustainability Disclosure Standards, the Taskforce on Nature-related Financial Disclosures, the Science Based Targets Network, and the Global Reporting Initiative. Increasingly, regulators are moving towards mandated due diligence, such as the European Corporate Sustainability Due Diligence Directive, and similar country-level regimes.

Such safeguards provide the foundation for responsible, sustainable investing. Any investor in high-risk sectors, projects, or contexts[1] should develop their own environmental and social safeguard policy, or adopt existing good practice standards. Investors who are investing in pooled funds or alongside other major financial institutions should ensure that they are only investing in funds or collaborations that have such safeguards in place.

[1] This would include any project involving displacement or resettlement of communities, significant environmental pollution, or carrying risks of violence, or any project in a fragile or conflict-affected country. High-risk sectors include infrastructure, energy, and extractives.

At a minimum, those safeguards should require:

- Environmental and social risk due diligence that is proportional to the risk posed by the project, with specific attention given to risks to vulnerable groups (such as women, children, sexual minorities, and other marginalized or historically disadvantaged groups.
- Specific identification of the communities who are impacted, or potentially impacted, by this project, together with a plan to engage those communities in meaningful consultation with a view to achieving broad community support for the project. Project information should also be shared with those communities in an accessible format and language.
- All identified environmental and social risks are subject to a mitigation hierarchy: avoidance, mitigation, management, and compensation. Required actions and contingency plans should be comprehensively recorded, shared, and consulted with impacted communities.
- If Indigenous lands are impacted, Free, Prior, and Informed Consent must be obtained. The protocol for doing so should be developed by the Indigenous communities, and the outcome should be subject to appropriate verification.
- A plan to monitor the environmental and social risks and impacts during the lifetime of the project, and to respond to any impacts that arise.

Those safeguards must extend beyond "desk diligence." Exclusive reliance on client or technical reports leaves investors vulnerable to unforeseen or undisclosed environmental and social risks that–left unaddressed–lead to project underperformance, as well as business and reputational risks. To counter this, investors should:

- Incorporate independent monitoring or verification of risk management for high risk projects, including any projects involving displacement of communities, impacts on Indigenous lands, or risks of violence, as client self-reports will be naturally affected by power dynamics and other financial and relational incentives; and
- Create channels for on-the-ground information and feedback, including a Grievance Redress Mechanism (GRM).

Why Have a Grievance Redress Mechanism?

When a project is off track or causing harm, the first to know are those closest to it: the communities whose lives and lands are touched by the project, or the workers implementing it. Accordingly, it's vital that investors have means by which they can be apprised of – and respond to – local community concerns.

A GRM is an environmental and social risk management tool that enables individuals and communities to raise their concerns with project implementers and investors, triggering a transparent and predictable process to review and resolve those concerns. Implemented well, a GRM enables investors to:

- ➔ **Optimize Positive Impact:** Beneficiary/community input and feedback helps to ensure that investments meet their mark and maximize intended impact.
- ➔ **De-Risk Investments:** GRMs provide an 'early warning system' for unintended negative impacts allowing for reconsideration and resolution of risks.
- ➔ **Bridge Information Gaps:** GRMs can help to uncover hidden issues – including gaps in client self-reporting or monitoring – that threaten impact performance and pose business and reputational risks.
- ➔ **Learn:** GRMs enable institutional and sector-wide learning, by highlighting gaps in existing policies and practices, and lessons for future investments.
- ➔ **Respect Communities, their Environment, and their Rights:** GRMs support responsible, sustainable investors to live their values, align their investments with their mission, and respect human rights and the environment.

GRMs should exist at the investor-level, as well as the project-level. Investor-level mechanisms offer a safer forum for complainants where retaliation concerns exist, ensure that critical information reaches investors so they can make informed business decisions, and enable investors to collaborate with their clients in the design of solutions, all while meeting international best practice.

Which Standards Call for Investor-Level GRMs?

Effective investor-level GRMs are increasingly being recognized as a core tenet of good governance. Ever since the World Bank created the first such GRM in 1993 (the Inspection Panel), GRMs have proliferated across development finance institutions, and now, increasingly, private investors. Among other relevant standards:

- UN Guiding Principles on Business and Human Rights (Principle 29) provide that enterprises should establish or participate in effective GRMs for those who may be adversely impacted by their activities.
- The European Sustainability Reporting Standards (put in place by the Corporate Sustainability Reporting Directive) require companies, including financial sector actors, to report on their GRMs and their policies for remedying adverse impacts to communities affected by their operations.
- The Global Reporting Initiative Universal Sustainability Reporting Standards (GRI Disclosure 2-25) instruct companies to report how they are identifying, addressing, and remediating negative impacts, including via GRMs.

A comprehensive list of relevant laws, regulations, standards, and guidance can be

found on our website, here.

How to Design an Effective GRM?

The hallmarks of a good GRM are:

- It is readily accessible with simple requirements to file a complaint;
- Its procedures are predictable, timely, and publicly available;
- It incorporates multiple tools for addressing concerns about the project, with a goal of resolving and remedying those concerns in accordance with international best practice; and
- Those responsible for implementing the GRM are independent of those responsible for investment decisions.

A GRM can and should be proportional to the investor, the size and risk profile of their investments. It could also be shared among multiple investors, by operating at a fund- or network-level. However, a typical GRM operates as follows:

An Investor GRM exists to receive complaints from individuals about existing or feared E&S impacts that can be plausibly linked to their investment

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The GRM is operationally independent from those making investment decisions, ideally reporting to the Board of Directors or equivalent governance body

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A complaint is filed using a simple form which explains the harm they fear or are experiencing, and the connection between the harm and the investment

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The GRM offers a range of tools to resolve the complaint (in a timely manner), such as facilitated dialogue between the complainants, the investor, and the project implementer, or an investigation into the complainants' concerns

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The GRM monitors the implementation of any outcomes of the GRM process

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Lessons learned are incorporated into institutional policies and practice

The GRM should also incorporate specific measures to ensure that vulnerable people are able to participate freely and fairly in the GRM process, including by providing: access to project information in an accessible language and format; an ability to appoint representatives (if desired); an option to request that their identity is kept confidential (in cases of reprisal risks); and translation.

For more information about GRM design, please contact us at www.accountabilitycounsel.org and see our Guiding Practice from the Policies of Independent Accountability Mechanisms.