

## **OPERATIONS MANUAL BANK POLICIES (BP)**

*These policies were prepared for use by ADB staff and are not necessarily a complete treatment of the subject.*

### **EFFECTIVENESS OF THE LOAN AGREEMENT**

#### **A. Introduction**

1. The *Agreement Establishing the Asian Development Bank* (the Charter) provides that ADB will be guided by sound banking principles in its operations (Article 14[xiv]).
2. The Charter also provides that the contract for direct loans made or participated in or loans guaranteed by ADB will establish the terms and conditions for the loan or the guarantee concerned (Article 15.1).
3. The loan agreement, to which ADB is a party, becomes effective after its signing by all parties, upon the borrower's compliance with the conditions specified in the loan regulations made applicable thereto and any additional conditions specified in the loan agreement ("the effectiveness conditions"). The effectiveness conditions are sometimes called conditions precedent to draw down.

#### **B. The Policy**

4. The effectiveness conditions are to ensure that ADB's interests as a development financing institution are protected before any proceeds of the loan are drawn down. The borrower is to satisfy the effectiveness conditions within a period of time agreed upon with ADB and as specified in the loan agreement. This period may be extended by ADB upon the request of the borrower. ADB does not waive fulfillment of any of the effectiveness conditions except with the prior approval of the Board of Directors in case the Board approval of the investment was based on these conditions.

#### **C. Scope of the Policy**

5. There are two types of conditions of loan effectiveness: standard and special or project specific.
6. Standard conditions of loan effectiveness are stipulated in the applicable loan regulations. They relate to the legal validity of the relevant loan documents stipulated in the applicable loan regulations. Special or project-specific conditions of loan effectiveness are stipulated in the loan agreement. They relate to conditions critical for the effective implementation of the project or where the borrower or executing agency has not yet complied with a covenant stipulated in an earlier loan, and compliance with such covenant is stated as a condition of loan effectiveness in the new loan.

**Basis:** This OM section is based on:

ADB. 1984. General Counsel's memorandum of 5 January 1984 on *Loan Effectiveness Guidelines*. Manila.

This OM section is to be read with OM Section J5/OP.

**For other background information and references, see:**

ADB. 2001. *Ordinary Operations Loan Regulations (Applicable to LIBOR-Based Loans Made from ADB's Ordinary Capital Resources)*, 1 July. Manila.

ADB. 1986. *Ordinary Operations Loan Regulations (Applicable to Loans Made by the Bank from Its Ordinary Capital Resources)*, 1 July. Manila

ADB. 1982. *Special Operations Loan Regulations (Applicable to Loans Made by the Bank from Its Special Funds Resources)*, 7 December. Manila.

**Compliance:** This OM section is subject to compliance review.

**For inquiries:** Questions may be directed to the General Counsel, Office of the General Counsel.

**OPERATIONS MANUAL  
OPERATIONAL PROCEDURES (OP)**

*These procedures were prepared for use by ADB staff and are not necessarily a complete treatment of the subject.*

**EFFECTIVENESS OF THE LOAN AGREEMENT**

The operational procedures for this OM section are contained in Project Administration Instructions, No. 1.04 on Conditions and Declaration of Loan Effectiveness, as well as the documents cited therein.

- Basis:** This OM section is based on OM Section J5/BP and the documents cited therein.
- Compliance:** This OM section is subject to compliance review.
- For inquiries:** Questions may be directed to the General Counsel, Office of the General Counsel.