

**Draft Safeguard Review Procedures**  
**(Preliminary Draft Operations Manual Section)**

**October 2008**

According to ADB's Staff Instructions, operations manual sections are prepared at the R-paper (final draft policy paper) stage. To accommodate stakeholders requests, ADB has decided to post a Draft Safeguard Review Procedures (preliminary draft Operations Manual Section), together with the second draft of the Safeguard Policy Statement, for comments before the consultation workshop in Manila. The operational procedures will further be elaborated when the W-paper and a draft implementation plan are prepared. The proposed procedural requirements and guidance on the implementation of the Safeguard Policy Statement presented in this document are subject to further internal review and revision during the W-paper and R-paper stages.

## **Abbreviations**

ADB	-	Asian Development Bank
CAP	-	Corrective Action Plan
EARF	-	Environmental Assessment and Review Framework
EIA	-	Environmental Impact Assessment
EMP	-	Environmental Management Plan
ESMS	-	Environmental and Social Management System
FI	-	Financial Intermediary
IEE	-	Initial Environmental Examination
IPPF	-	Indigenous Peoples Planning Framework
IPP	-	Indigenous Peoples Plan
MFF	-	Multi-tranche Financing Facility
MRM	-	Management Review Meeting
PAM	-	Project Administration Memorandum
PCR	-	Project Completion Report
PFR	-	Periodic Financing Request
PPER	-	Project Performance Evaluation Report
RF	-	Resettlement Framework
RP	-	Resettlement Plan
RRP	-	Report and Recommendation to the President
RSES	-	Regional Environment and Social Safeguard Division
SEA	-	Strategic Environmental Assessment
SPS	-	Safeguard Policy Statement
SR	-	Safeguard Requirements for Borrowers/Clients
SRP	-	Safeguard Review Procedures

## DRAFT

### ADB Safeguard Review Procedures

#### A. Introduction

1. The safeguard review procedures (SRP) of the Asian Development Bank (ADB) outlines the process through which ADB will deliver its commitments to ensure the social and environmental sustainability of the projects it supports. The commitments are elaborated in ADB's Safeguard Policy Statement (SPS). The SRP describes internal procedural requirements that ADB staff will follow throughout the project cycle.

2. The staff of ADB through their due diligence, review, and supervision will ensure that the borrower/client complies with the Safeguards Requirements for Borrowers/Clients (SR1-4) during project preparation and implementation. The application of the SRs 1-4 will vary according to the impacts and risks of projects and their financial modalities. The SRP covers (i) the scope of application; (ii) general procedures; (iii) special procedural requirements tailored to different finance modalities; and (iv) responsibilities of various ADB departments and Units.

#### B. Scope of Application

3. The SRP will apply to all projects including ADB-financed and/or ADB-administered sovereign and non-sovereign investment projects funded by a loan, and/or a grant, and/or other means (such as equity and/or guarantee).

#### C. General Procedures

##### 1. Project Identification

4. The project team<sup>1</sup> will screen each proposed project proposal at the stage of project identification. Project screening is undertaken to (i) determine the significance of potential impacts or risks that a project might present with respect to the environment, involuntary resettlement, and Indigenous Peoples; (ii) identify the level of assessment and institutional resources required for addressing safeguard issues; and (iii) determine information disclosure and consultation requirements. Using social and environmental screening checklists, the project team will propose an initial environmental categorization for the project, and determine whether the proposed project will have any involuntary resettlement impacts or impacts on Indigenous Peoples. The project team will also determine whether or not the project is considered highly complex and sensitive. The project team submits the initial checklists and screening results (including the proposed environment category and determination on whether or not the project has IR and IP impacts) to the Director, Environment and Social Safeguard Division (RSES) of Regional and Sustainable Development Department for concurrence.

5. The results of social and environmental screening results will be examined and reconfirmed by RSES at the Management Review Meeting (MRM). At any stage of project preparation, if the scope of the proposed project is modified or more detailed information about the proposed project becomes available, the project team will decide whether the initial environmental categorization and screening results for potential involuntary resettlement and

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<sup>1</sup> "Project Team" consists of ADB professional staff and staff consultants responsible for project preparation, administration, and supervision through out project cycle.

Indigenous Peoples impacts should be updated or not. If decided to update, the project team will record the rationale for the update and submit it to the Director RSES for concurrence.

**a. Environment**

6. A proposed project is assigned one of the following four categories:

- (i) Category A: A proposed project is classified as Category A if it is likely to have significant adverse environmental impacts that are irreversible, diverse, or unprecedented on human populations, biodiversity, or natural resources. These impacts may affect an area broader than the project sites or facilities subject to physical works. In such a case, the project team will advise the borrower/client that a full scale Environmental Impact Assessment (EIA) is required.
- (ii) Category B: A proposed project is classified as Category B if its potential adverse environmental impacts are less adverse than those of Category A projects. These impacts are site-specific, few if any of them are irreversible, and in most cases, mitigation measures could be designed more readily than for Category A projects. In such a case, the project team will advise the borrower/client that an Initial Environmental Examination (IEE) is required.
- (iii) Category C: A proposed project is classified as Category C if it is likely to have minimal or no adverse environmental impacts. In such a case, the project team will advise the borrower/client that no further environmental assessment action is required.
- (iv) Category FI: A proposed project is classified as Category FI if it involves investments of ADB funds to or through a financial intermediary (FI). For FI projects with anticipated potential impacts on the environment, the project team will require the FI to establish and maintain an environmental and social management system (ESMS) to address environmental issues.

7. A project's environmental category is determined by the category of its environmentally most sensitive component, including direct, indirect and cumulative impacts.

**b. Involuntary Resettlement**

8. The project team will conduct project screening to determine whether or not there would be potential involuntary resettlement impacts, and also to assess their significance. For a project involving any physical or economic displacement, the project team will advise the borrower/client to formulate a resettlement plan (RP) to address such displacement issues. The level of detail and comprehensiveness of the RP will be commensurate with the degree of sensitivity and complexity of project impacts. The degree and complexity of impacts will be determined by (i) the scope of physical and economical displacement, and (ii) the vulnerability of the affected persons. For FI projects with potential involuntary resettlement, the project team will require the FI to address resettlement issues through its ESMS.

**c. Indigenous Peoples**

9. The project team will conduct project screening to determine whether or not there will be potential project impacts on Indigenous Peoples, and also to assess the degree of sensitivity and complexity of project impacts. For a project with impacts on Indigenous Peoples, the project team will request the borrower/client to formulate an Indigenous Peoples Plan (IPP). The level of detail and comprehensiveness of such IPP will be commensurate with the degree and

complexity of project impacts on indigenous peoples. The degree and complexity of impacts will be determined by evaluating (i) the magnitude of the project impacts on Indigenous Peoples' customary land use rights and access to land and natural resources; their socioeconomic status; cultural and communal integrity; social security status; and recognition of indigenous knowledge; and (ii) the vulnerability of the affected Indigenous Peoples. For FI projects with potential impacts on Indigenous Peoples, the project team will require the FI to address Indigenous Peoples concerns through its ESMS.

## **2. Project Design and Preparation**

### **a. Preparation and Review of Social and Environmental Assessments and Plans**

10. At the early stage of project design, the project team will discuss with the borrower/client the scope of the social and environmental assessments<sup>2</sup> and their procedures, schedules, and outlines of assessment reports and safeguard plans.<sup>3</sup> The project team will (i) confirm that the borrower/client understands ADB's safeguard policy principles and requirements for social and environmental assessments and safeguard planning as elaborated in SRs 1-3; and (ii) advise the borrower/client to submit assessment reports and safeguard plans to ADB for review as early as possible. During the project design stage, for environmental category A projects, and for projects with significant resettlement impacts and/or impacts on Indigenous Peoples, the project team will include safeguard specialist(s) in missions and field visits.

11. The project team will review the assessment reports and safeguard plans, submitted by the borrower/client, against the applicable safeguard policy principles and safeguard requirements for borrowers/clients. Should the review reveal gaps, the project team will assist the borrower/client to fill in such gaps. The project team will assess the borrower's/client's capacity in addressing environmental and social impacts and risks, identify needs for capacity building, and integrate necessary capacity building programs in the project design. For a project which is highly complex and sensitive, the project team will ensure that the borrower/client engages an independent advisory panel during project preparation, in consultation with ADB.

12. The project team will send the assessment reports and safeguard plans to RSES for further review. Should the review identify gaps regarding compliance with ADB's requirements, RSES will provide comments and recommendations to the project team. The project team will require the borrower/client to address these concerns before project appraisal.

### **b. Information Disclosure**

13. The project team will work with the borrower/client to ensure that relevant information on potential positive or negative project impacts and mitigation measures is made available, in a form, manner, and language(s) accessible to the project-affected people and other stakeholders enabling them to contribute meaningful inputs into the project design and its implementation. Information disclosure is an on-going process, and will be carried out as early as possible during project preparation, but not later than project appraisal. The project team will advise the borrower/client that information disclosure processes must be documented and reflected in the EIA/IEE/RP/IPP.

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<sup>2</sup> Social and environmental assessments refer to social impact assessment (SIA), EIA and IEE.

<sup>3</sup> Safeguard plans include environmental management plan (EMP), resettlement plan (RP), and indigenous peoples plan (IPP).

14. The project team will ensure that the following safeguard documents are posted on ADB website: (i) for environmental Category A projects, draft EIA reports at least 120 days before Board consideration in case of public sector projects, and at least 60 days before Board consideration in case of private sector projects; (ii) draft environmental assessment and review frameworks (EARF), draft resettlement frameworks (RF)/resettlement plans (RP), and draft Indigenous Peoples Planning Frameworks (IPPF)/draft Indigenous Peoples plans (IPP), where applicable, before project appraisal; and (iii) the final or updated EIA/IEE, RP, IPP upon receipt.

### **c. Consultation**

15. The project team will work with the borrower/client to apply a process of free, prior and informed consultation with project-affected people and other stakeholders, and to create an enabling environment for their participation in project planning and implementation. Such consultation and participation is an on-going process, and will be started as early as possible in the project cycle.

16. For all projects (except projects with minimal or no adverse impacts, and private sector FI projects), the project team will ensure that the borrower/client will appropriately document the consultation processes in EIA/IEE, RP and IPP. The project team will review the safeguard planning documents ensuring that the consultation processes meet the relevant requirements stipulated in SRs 1-4, and paying special attention to the need of creating opportunities for vulnerable groups to participate in consultations. For environmental category A projects or projects with significant involuntary resettlement impacts and/or impacts on Indigenous Peoples, the project team will participate in consultation programs in order to understand the main concerns of the project-affected people so that their concerns and recommendations could adequately be addressed in the project design.

17. For projects with the following activities that affect indigenous peoples communities, the project team will require the borrower/client to apply the principle of free, prior, and informed consent (FPIC)<sup>4</sup> of Indigenous Peoples communities, and seek to ascertain broad community support: (i) commercial development of the cultural resources and knowledge of Indigenous Peoples; (ii) physical relocation from traditional or customary lands; and (iii) commercial development of natural resources on lands used with impacts on the livelihood, or cultural, ceremonial, or spiritual uses that define the identity and community of Indigenous Peoples. The project team will require the borrower/client to document the processes and outcomes of free, prior and informed consultation within affected Indigenous Peoples communities, as specified in SR3. Such documents will be submitted to ADB for review. The project team, by its own investigation through field visits and review of documents submitted by the borrower/clients, will verify that there is broad community support for the project activities. The project team will reflect the processes and outcomes of such consultations and the verification results in the Report and Recommendation of the President (RRP). The project team will not proceed further with project processing, if it is unable to determine that such broad community support for the project activities exists.

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<sup>4</sup> For the purposes of policy application, FPIC refers to a collective expression by the affected Indigenous Peoples communities, through individuals and/or their recognized representatives, of broad community support for the three types project activities. Such broad community support may exist even if some individuals or groups were to object to the project activities.

**d. Report and Recommendation of the President (RRP) and Management Review Meeting (MRM)**

18. In the formulation of project documents for the submission to the Board, the project team will summarize in RRP project environmental categorization, screening results of anticipated involuntary resettlement and impacts on Indigenous Peoples, and the findings and recommendations of the social and environmental assessment reports and safeguard plans. The project team will send the draft RRP to RSES for review before MRM and ensure that safeguard requirements are appropriately covenanted and documented.

19. RSES will advise the project team as to whether the proposed project meets all applicable safeguard policy requirements prior to MRM. At the MRM, RSES will reconfirm project screening results, brief the Management the project's safeguard policy compliance status, and recommend follow-up actions, if any, that the project team should complete during project pre-appraisal or appraisal.

**3. Project Appraisal**

20. The ADB project appraisal mission will review both the procedural and substantive elements of the safeguard documents with the borrower/client. The Mission will confirm with the borrower/client that (i) the social and environmental safeguard measures to address impacts and risks are properly integrated in project design; (ii) adequate institutional capacity and arrangements are in place for implementing safeguard plans; (iii) third party risks are appropriately defined and addressed; and (iv) there are adequate financing arrangements for implementing safeguard plans. The Mission will also resolve outstanding safeguard issues identified at MRM stage, if any.

21. If during appraisal mission any major safeguard-related change(s) are introduced to the project design, the project team will request RSES to review the revised documents.

**4. Legal Agreement**

22. The project team will ensure that legal documents<sup>5</sup> include adequate covenants to address implementation of EMP/EARF, RP/RF, and IPP/IPPF, where applicable.

**5. Project Monitoring and Supervision**

23. The project team will ensure that the Project Administration Memorandum (PAM) will include a comprehensive work-plan to meet the specific safeguard covenants. The arrangements to implement the EMP/EARF, RP/RF, and IPP/IPPF and to submit monitoring reports to ADB should also be reflected in the PAM.

24. The project team will review and supervise project performance against borrower/client's commitments, as described in legal agreements. Monitoring of the implementation of safeguards plans will be integrated into the Project Performance Management System.

25. For each project with environmental or social impacts, project review missions will visit project sites to ascertain the status of implementing safeguard plans. In addition, for environmental category A projects, and projects with significant involuntary resettlement or

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<sup>5</sup> These include loan agreements, project agreements, and investment agreements.

impacts on Indigenous Peoples, ADB's safeguard specialist(s) or safeguard consultant(s) will undertake safeguard review missions to conduct detailed safeguard compliance reviews and to prepare safeguard review reports. For projects that are highly complex and sensitive, the project team ensures that borrowers/clients engage independent advisory panels during project implementation in consultation with ADB. The findings of independent advisory panels will be included in the safeguard review reports.

26. The project team will review periodic monitoring reports submitted by borrowers/clients to ensure that adverse impacts and risks are being mitigated. The project team will ensure that the borrower/client submit the following monitoring reports to ADB for review: (i) semi-annual reports for environmental category 'A' projects, and projects with involuntary resettlement impacts, or projects with impacts on Indigenous Peoples; (ii) periodical monitoring reports for environmental category 'B' projects as agreed with ADB; (iii) quarterly reports for projects with involuntary resettlement with short implementation periods; and (iv) quarterly reports for highly complex and sensitive projects.

27. The project team will ensure that environmental, resettlement and Indigenous Peoples monitoring reports submitted by borrower/clients during project implementation are disclosed on ADB's website upon receipt.

28. If the project team finds that any of safeguard requirements that are covenanted in legal agreements are not satisfactorily met, it will require the borrower/client to develop and implement an appropriate corrective action plan (CAP) agreed with ADB to rectify it. If the borrower/client fails to bring the project to safeguard compliance within a reasonable timeframe, ADB may consider exercising legal remedies including suspension, cancellation, or acceleration of maturity which are included in the legal agreements.

## **6. Uncertainties in Location and Alignment of Infrastructure and Unanticipated Impacts**

29. When specific locations or alignments of a project are uncertain at the time of Board approval, the project team will work with the borrower/client to ensure that (i) the safeguard plans present full details on the agreed processes to be followed for environmental and social assessments; (ii) special studies on environmental, involuntary resettlement, and Indigenous Peoples issues are conducted, as required; and (iii) the specifications of safeguard mitigation measures that will be taken during project implementation have been well developed. The pertinent details of such measures will be summarized in the RRP, and will be included in legal agreements.

30. If any unanticipated social and environmental impacts become apparent during project implementation, the project team will assist the borrower/client to assess the significance of such unanticipated impacts, evaluate the options available to address them, and to prepare or update safeguard plans. ADB will assist the borrower/client to mobilize the resources required for mitigating any adverse impacts or damages. In this regard, ADB's Resident Missions will take on an increasing role by working with borrowers/clients to resolve outstanding safeguard issues of on-going projects, if any. If unanticipated impacts are identified after a loan is closed, ADB will assist, as required, the borrower/client to plan and implement remedial measures to the satisfaction of both borrower/client and ADB.

## **7. Changes in Scope**

31. All changes in scope must be screened by the project team to determine the significance of their environmental and social impacts and risks in accordance with paragraph 6-9 of the SRP. Proposed changes in scope under environmental category 'A' require an EIA, and those classified as 'B' requires an IEE. The project team will ensure the disclosure of a draft EIA report at least 120 days before the change-in-scope is approved in case of a public sector project, and at least 60 days before the change-in-scope is approved in case of a private sector project. If a proposed change-in-scope triggers involuntary resettlement impacts or impacts on Indigenous Peoples, the borrower/client will formulate a new or updated RP or IPP or an addendum to the approved RP or IPP, as required. The project team will ensure that the updated RP or IPP or the addendum is disclosed to project-affected people before the approval of the change-in-scope.

## **8. Project Completion**

32. The operations department which has implemented a project will prepare the project completion report (PCR) which includes an evaluation of the implementation of safeguard plans and the degree of compliance with safeguard-related covenants. The PCR will include the following core topics, where applicable: (i) the degree and the quality of the participation of project-affected people in the project cycle; (ii) a comparison of the livelihoods of the displaced persons with the baseline situation, if the project involved involuntary resettlement; (iii) the achievement of the objectives of the EMP, RP, and IPP; and (iv) lessons learned for future operations.

33. If the objectives of the relevant safeguard plan(s) have not been realized, or if there are some outstanding safeguard issues, additional measures will be recommended in the PCR to be implemented.

## **9. Project Evaluation**

34. The Operations Evaluation Department, through its independent evaluation process, will prepare project performance evaluation report (PPER) which includes an analysis of the effectiveness of safeguard plans of the project and their implementation. The PPERs will assess the project based on relevance, effectiveness, efficiency, sustainability, including social and environmental impacts. The evaluation will also comment on the content and objectivity of the PCR with regard to safeguard issues; compliance with legal covenants; and the lessons learned, and follow-up actions.

## **D. Special Procedures for Different Financing Modalities**

35. In case of project loans, ADB staff shall comply with the general procedures detailed in Section C of this SRP. In addition, there are a number of financing modalities that require special procedures to address environmental and social impacts and risks.

### **1. Program Loans**

36. The project team will review the potential social and environmental impacts and risks of policy actions associated with a program loan. If they are likely to have direct or indirect significant environmental impacts, involuntary resettlement impacts, and/or impacts on Indigenous Peoples, the project team will advise and require the borrower/client to follow ADB's

safeguard requirements on program loans, as specified in SR4, including the preparation of a strategic environmental assessment (SEA) and appropriate social assessments, identification of mitigation measures, and integration of the mitigation measures into the program design. The project team will ensure that the mitigation measures will be incorporated in the legal agreement.

37. If an investment component is included in the program loan and specific projects are identified as a part of the program loan, these projects follow the general requirements and procedures as detailed in Section C.

## **2. Sector Finance**

38. Under the sector finance modality, all subprojects are unlikely to be identified before Board approval. Safeguard frameworks<sup>6</sup> following the outlines as detailed in SR4 are required to be in place prior to the approval of a sector investment project in order to provide guidance on screening, assessment, planning, institutional arrangement and processes to be followed in the formulation of subprojects during the project implementation.

39. The project team will review the potential social and environmental impacts and risks associated with a sector investment project, assess the borrower/client's capacity for social and environmental management, and incorporate capacity development measures in the design of the sector investment project. For any sector investment project with potential environmental impacts, involuntary resettlement, and/or impacts on Indigenous Peoples, the project team will work with the borrower/client to prepare safeguard frameworks. Moreover, one or more sample subprojects may be appraised prior to project approval in order to establish the broad criteria (including social and environmental parameters) for selecting subprojects. In case of the sample subproject(s), the project team will require the borrower/client to undertake social and environmental assessments and formulate appropriate safeguard plans in accordance with the general procedures detailed in Section C.

40. The project team will assess the adequacy of the borrower/client's capacity to apply national laws and ADB's safeguard requirements to the project. If gaps between ADB's policy requirements and national laws and procedures are found, and if the borrower's/client's capacity is considered inadequate, safeguard frameworks will specify the specific gap-filling and capacity enhancement requirements.

41. The EARF may specify a 'free limit'<sup>7</sup> on a project-by-project basis. For subprojects above the 'free limit', the draft EIA/IEE must be reviewed by ADB before the subproject approval. The factors for determining the 'free limits' include the degree of sensitivity and complexity of potential environmental impacts and risks, and the borrower/client capacity in addressing such impacts and risks. For an environmental category A subproject that is above the 'free limit', a draft EIA will be formulated and disclosed to the public, at least 120 days (for public sector operations), or at least 60 days (for private sector operations) prior to ADB approval of the subproject.

42. The project team will forward the draft safeguard frameworks to RSES for review. The safeguard framework will be documented in or attached to RRP.

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<sup>6</sup> These include environmental assessment and review framework (EARF), resettlement framework (RF), and/or Indigenous Peoples planning framework (IPPF).

<sup>7</sup> A monetary limit, or other limits (e.g. capacity limits for energy facilities) above which subprojects require ADB's review of safeguard documents.

### **3. Multitranche Financing Facility**

43. Appropriate safeguard frameworks (EARF, RF, and IPPF) must be prepared for a multitranche financing facility (MFF). These frameworks are mutually agreed upon by ADB and the borrower/client, and incorporated by reference in the framework facility agreement. Safeguard frameworks will include key elements specified in SR-4 which provide guidance on social and environmental screening, impact assessments, development of management plans, public consultation and information disclosure, monitoring and reporting, and institutional arrangements (including budget and capacity development) to be followed in the formulation of project components and subprojects that are prepared after Board approval of the MFF, including criteria of component or sub project selection. In addition, where significant cumulative or induced environmental impacts from the MFF are anticipated, the project team will require the borrower/client to undertake an SEA to identify measures to be built into the MFF design. The project team will submit safeguard frameworks and SEA reports to RSES for review. The safeguard frameworks and the SEA reports, where required, will be submitted to the Board together with other MFF documents for approval.

44. The MFF as a whole will not be categorized as to its environmental impacts. The project team will determine an environmental category for each tranche of the MFF. In case of involuntary resettlement and Indigenous Peoples, the project team will determine whether the tranche triggers involuntary resettlement or Indigenous Peoples safeguards. The screening for each tranche will follow the same procedures specified in Section C(1).

45. When formulating the first tranche of a MFF, the project team will review safeguard documents, and send them to RSES for further review before MRM. In case of subsequent tranches, the project team will work with the borrower/client to ensure that the safeguard requirements contained in approved safeguard frameworks are fully met. For environmental category 'A' tranches, and for tranches with significant resettlement impacts and/or impacts on Indigenous Peoples, RSES will review safeguard documents prior to Management's consideration of the Periodic Financing Request (PFR), submitted by the borrower/client.

46. The project team will ensure the following documents are posted on ADB website: (i) EARF, RF, and IPPF prepared for the MFF before the appraisal of the MFF; (ii) the draft EIA report for the tranche, where applicable, at least 120 days (for a public sector project) or 60 days (for a private sector project) before the approval of the tranche; and (iii) the draft RP and draft IPP before appraisal, in case of the first tranche, and before Management's consideration of the related PFR, in the case of a subsequent tranche.

47. The operations department which operates the MFF will prepare a consolidated annual report on the performance of the MFF and will submit it to the Board in January in each year. The annual report incorporates the findings of the safeguard monitoring reports submitted by the borrower/client, as agreed upon in the safeguard frameworks.

### **4. Emergency Assistance**

48. The project team will work with the borrower/client to prepare the relevant safeguard frameworks prior to Board circulation of a RRP in accordance with the outlines of safeguard frameworks as detailed in SR4. The safeguard frameworks will be included in the RRP as core appendices. The RRP will justify any deviation from the general procedures specified in this SRP, regarding the specific circumstances of the individual project and the emergency loan processing schedule. For projects in conflict areas, where the formulation of standard

environmental assessment (including EMP), RP and IPP is not feasible before Board approval, the safeguard frameworks may be submitted in lieu of safeguard plans for the approval. The safeguard plans based on the approved frameworks will be formulated and approved before any project-related physical activities commence.

## **5. Existing Facilities**

49. For projects involving facilities and/or business activities that already exist or are under construction, the project team will require the borrower/client to conduct an environment and social compliance audit to determine their safeguard compliance status. The audit will include on-site environment and social due diligence to identify past or present safeguards concerns related to the impacts on the environment, involuntary resettlement and Indigenous Peoples. Where non-compliance is identified, the project team and the borrower/client will agree on a CAP, implementation schedule, and sufficient funds to bring the project to safeguard policy compliance.

## **6. Financial Intermediaries**

50. In case of financial intermediaries, the term 'project' is used to mean ADB's transaction with the financial intermediary (FI), whereas 'subproject' means business activities financed by the FIs.

51. The project team will conduct safeguard due diligence to assess potential social and environmental impacts and risks associated with a FI's existing and likely future portfolios, and its commitment to and capacity in environmental and social management. If ADB's assessment concludes that the FI's business activities have minimal or no environmental impacts or risks, and are unlikely to generate involuntary resettlement and impacts on Indigenous Peoples, the project team will advise the FI that it needs not apply any other specific safeguard requirements.

52. If a FI is likely to generate environmental and social impacts, the project team will undertake an in-depth assessment of the FI's current ESMS and identify areas where improvements are needed. The project team will examine the FI's ESMS focusing on (i) the FI's environmental and social policies; (ii) safeguard screening and review procedures; (iii) the current organization structure and staffing; (iii) performance monitoring procedure; (iv) reporting of safeguard review and monitoring results to management; and (v) the FI's track record in environmental and social management. If the FI does not have an ESMS, the project team will require the FI to establish and maintain an ESMS commensurate to the level of potential environmental and social impacts and risks. The ESMS will incorporate the following elements: (i) environmental and social policies; (ii) screening and review procedure; (iii) organizational structure and staffing including skills and competencies in environmental and social areas; (iv) training requirements; and (v) monitoring and reporting. Depending on the size of the FI and its business activities, the project team will require the FI to appoint a FI employee to oversee overall environmental and social aspects, and appoint one or more staff for day-to-day implementation of the ESMS. The results of project team's assessment will be documented in RRP.

53. The project team will agree with the FI that the screening procedure established under the ESMS will ensure that all subprojects are screened against the Prohibited Investment Activities List (PIL). Subprojects involving business activities included in the PIL are not qualified for FI support using ADB funds, and applications involving such activities will be rejected.

54. Where the FI provides finance under an ADB loan, equity or guarantee for targeted subprojects, the project team and the FI will agree that the FI's ESMS will be applied to all subprojects that will be financed by ADB. In case of those subprojects with potential significant social or environmental impacts and risks, the ESMS will incorporate relevant provisions to ensure that such subprojects will meet ADB's safeguard requirements in addition to national laws and standards. In such subprojects, the project team will require the FI to refer those subprojects to ADB early in its due diligence process. The project team will assist the FI in appraising these subprojects. ADB will (i) review the due diligence information collected by the FI, (ii) determine any additional information needed, (iii) assist with determining appropriate mitigation measures and, if necessary, (iv) specify conditions under which the subprojects may proceed.

55. In case ADB will not finance specific targeted subprojects, the project team and the FI will agree that the ESMS will cover the entire FI's portfolio of subprojects originated from the time when ADB provides finance. The ESMS will ensure that all subprojects comply with national laws and standards pertaining to social and environmental safeguards. ADB may set additional requirements, depending on the FI's portfolio and country safeguard systems.

56. Except for FIs that have minimal or no adverse environmental and social impacts or risks, the project team will require the FI to prepare and submit periodic reports (at the minimum annually) on the implementation status of its ESMS. If an annual report or ADB's review mission finds that the ESMS is not functioning properly, the project team and the FI will agree on a CAP immediately, and the FI will implement the CAP.

## **7. General Corporate Finance**

57. In case a borrower/client with multi-site operations is seeking from ADB general corporate finance, working capital or equity financing, the project team will require the borrower/client to commission qualified and experienced, external expert(s) to conduct a corporate audit of borrower's/client's ESMS and the company's past and current performance, against the ADB's requirements. The audit will (i) assess the borrower's/client's capacity to manage all relevant social and environmental impacts and risks of its businesses and operations, and in particular, the issues identified in the Safeguard Requirements for Borrowers/Clients; (ii) assess the client's compliance record with applicable laws and regulations of the jurisdictions in which the project operates including those laws implementing host country obligations under international law; and (iii) identify the company's main stakeholder groups and current stakeholder engagement activities.

58. The project team will review the adequacy of the borrower's/client's ESMS to enable future subprojects compliance with ADB's requirements through (i) site visits; and (ii) reviewing the corporate audit report submitted by the borrower/client. The exact scope of the corporate audit will be agreed between the client and ADB on a case-by-case basis. If any non-compliance is identified through ADB's due diligence or auditing, the project team will agree with the client on a CAP by specifying time-bound measures to achieve safeguard compliance as per ADB's requirements within a targeted time frame. The project team will require the borrower/client to incorporate the CAP in its corporate ESMS.

59. In case the investment includes rehabilitation, modernization or expansion of existing facilities, the requirements on the existing facilities, as specified in paragraph 49, will apply.

## **8. Projects with Co-financing**

60. In the context of a cofinancing transaction that requires project-specific contractual commitment by ADB to facilitate mobilization of cofinancing and/or administration of the financing partner's funds,<sup>8</sup> ADB's safeguard policy requirements will apply. In the case of a guarantee or cofinancing transaction with active coordination under formal arrangements with a financing partner to facilitate the processing and implementation of the project,<sup>9</sup> where ADB has satisfied itself that the safeguard policies of a MFI, bilateral institution, or other public/private financing partner are at least equivalent to ADB's safeguard objectives and policy principles, and that such financing partner has the capacity to implement its policies, the safeguard policies of such financing partner may apply. This approach will not remove ADB's responsibilities for due diligence and safeguard review during project preparation. Unless otherwise approved by the ADB Board, ADB's oversight responsibilities for monitoring and supervision during project implementation will also not be removed. In the context of a cofinancing transaction in which the financial partner's funds are provided in parallel to ADB's, without formal arrangements between the parties,<sup>10</sup> ADB's safeguard policy requirements will apply to all ADB financed components. In any context, ADB will make efforts to collaborate with the borrower/client and cofinanciers to adopt a single social and environmental process and unified safeguard documentation, consultation and disclosure requirements, in compliance with the principles of this SPS.

### **E. Strengthening and Use of Country Safeguard Systems in ADB Projects**

61. (Detailed procedural requirements and departmental responsibilities will be developed based on the proposed approach presented in Appendix 2 of the SPS, and subject to further internal discussions.)

### **F. Departmental Responsibilities**

62. The operational departments are responsible for safeguard policy implementation, supported by RSES as requested. Project teams are responsible for initial screening of potential involuntary resettlement and Indigenous Peoples impacts and proposing the environmental categorization of all ADB-financed projects in consultation with RSES. Moreover, project teams are responsible for advising the borrower/client on ADB safeguard policy requirements, reviewing safeguard documents submitted by the borrower/client, and providing assistance, monitoring and supervision to borrowers/clients throughout the project cycle.

63. RSES is responsible for monitoring bank-wide compliance with ADB's safeguard policy requirements, and advising and assisting operational departments in safeguard policy matters. RSES advises Management on safeguard policy issues and compliance status of projects. In this regard, questions of interpretation of terms used in this SRP will be decided by the Director, RSES. Overall performance with regard to ADB's safeguard policies and procedures is assessed through the compliance monitoring system, which is implemented by RSES.

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<sup>8</sup> This refers to ADB-administered direct, value-added (DVA) cofinancing in ADB's Cofinancing Strategy.

<sup>9</sup> This refers to Collaborative Cofinancing in ADB Cofinancing Strategy.

<sup>10</sup> This refers to Third-party Financing (Non-DVA Cofinancing) in ADB's Cofinancing Strategy.