

## **ENVIRONMENTAL AND SOCIAL MANAGEMENT SYSTEM: AUDIT FINDINGS AND DETAILS OF ARRANGEMENT**

1. OrbiMed Asia Partners V, L.P. (OAP V) is a private equity fund managed by OrbiMed Advisors LLC (OrbiMed) with an expected fund size of \$1 billion. In this proposed fourth equity investment in an OrbiMed fund, the Asian Development bank (ADB) intends to contribute up to \$75 million of capital for OAP V's equity investments, representing 7.5% of the expected fund size. ADB's investment will not exceed 25% of OAP V's total committed capital and will not result in ADB being the single largest investor in OAP V. The fund is expected to provide mainly growth capital to health care companies operating in India and the People's Republic of China (PRC) across the biopharma, medical technology, health care services, diagnostics, and distribution subsectors. ADB's proposed investment in OAP V has been catalytic in developing effective long-term solutions and responses to global health care crises by enhancing disease detection and treatment and response capacities in India and the PRC. While OAP V is a health care-focused fund, the proposed investment is not categorized as a coronavirus disease (COVID-19)-response project. Instead, OAP V has a broader and long-term focus, given its aim of seeking equity investments in established and growing companies across several health care segments in India and the PRC. Furthermore, no climate change impact is expected from its investments.

2. ADB invested in OrbiMed Asia Partners II, L.P. (OAP II); OrbiMed Asia Partners III, L.P. (OAP III); and OrbiMed Asia Partners IV, L.P. (OAP IV).<sup>1</sup> OrbiMed does not maintain an environmental and social management system (ESMS) at the fund manager level, choosing only to operate its fund platforms and services following an overarching policy that guides staff to invest responsibly. For OAP II, OAP III, and OAP IV, ADB, through a side letter undertaking, obligated OrbiMed to operate each fund according to the requirements of an ESMS prescribed by ADB. OrbiMed's undertaking is bilateral with ADB, and the commitment, the environmental and social (E&S) due diligence documents, and the annual performance reports are not shared with other limited partners of each fund. OAP V will continue this arrangement for the implementation of the ESMS for OAP V.

3. ADB has assessed the investment's potential E&S impacts, its risks associated with OrbiMed's existing and likely OAP IV future portfolio, and its commitment and capacity for E&S management. The findings of ADB's due diligence are set out in detail in paras. 4–11 and are drawn from a review of OrbiMed's past performance in earlier ADB-invested funds and its investment objectives and plans as set out in the fund documentation. ADB reviewed the annual E&S performance reports of OAP II, OAP III, and OAP IV; examined the E&S due diligence process for each investment in OAP IV, and engaged with OrbiMed's E&S safeguard manager who handles all portfolio companies in India and the PRC.

### **A. Environmental and Social Management System Due Diligence Findings**

4. **Environmental and social policy coverage.** OrbiMed's senior management signed off the ADB-approved OAP IV ESMS on 23 December 2020. The objectives of the ESMS are to (i) avoid or minimize and mitigate adverse impacts of investments on the environment and affected people; and (ii) maximize opportunities, consistent with the fund's investment objectives, for E&S benefits

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<sup>1</sup> ADB. 2013. [Report and Recommendation of the President to the Board of Directors: Proposed Equity Investment to OrbiMed Asia Partners II, LP Fund](#). Manila; ADB. 2017. [Report and Recommendation of the President to the Board of Directors: Proposed Equity Investment OrbiMed Asia Partners III, LP Fund](#). Manila; and ADB. 2020. [Report and Recommendation of the President to the Board of Directors: Proposed Equity Investment to OrbiMed Advisors LLC for the Follow-on Investment in OrbiMed Asia Partners IV, L.P. Fund](#). Manila.

to be continuously achieved throughout the fund's operation. The ESMS requires the fund to endeavor, whenever possible and in line with these objectives, to enhance effective E&S management practices in its activities, products, and services through (i) applying relevant safeguard provisions; (ii) investing only when companies are expected to be designed, constructed, operated, and maintained in a manner consistent with applicable requirements; (iii) integrating E&S risk identification into internal risk management analysis; (iv) requiring appropriate consultation and transparency by companies; (v) working with portfolio companies to practice applicable requirements; and (vi) promoting investments with E&S benefits. The policy further states that the fund will use commercially reasonable efforts to ensure that gender issues will be identified, and women's needs and concerns addressed, and that the fund will seek to ensure that portfolio companies comply with applicable local labor laws.

5. The ESMS was enhanced by (i) streamlining effective screening against prescribed environmental, health, and safety guidelines; (ii) improving the pre-capital call process for investment screening notification to ADB to determine whether to exercise its excuse right (i.e., opt-out); (iii) developing subsector-specific environmental risk and regulatory compliance screening checklists; (iv) developing an environment category B trigger for the use of external expertise to undertake a compliance audit during due diligence; (v) committing to provide the E&S due diligence report to ADB prior to capital call and work with ADB to develop a new report template that reflects OrbiMed's internal risk appraisal and management procedures, including descriptions of any required corrective actions and investment agreement clauses; (vi) implementing a monitoring system to track portfolio companies' compliance with regulatory requirements and the status of corrective action items; (vii) implementing a training plan based on identified needs of the OAP IV investment team; and (viii) refining annual E&S performance reporting. OrbiMed's Responsible Investing Policy was also cross-referenced in the ESMS and integrated into its overall investment process, applying it to all its funds under management to maintain compliance with national laws and maximize investment returns.

6. **Screening, categorization, and review procedures.** Because of the blind pool nature of private equity funds, investors in OAP V (including ADB) do not know the full composition of the fund's portfolio at the time of their investment. Therefore, existing ESMS screening, categorization, and review procedures for each proposed investment will continue to be applied. Each proposed investment will be screened against two exclusions: (i) ADB's prohibited investment activity list; and (ii) the United Nations consolidated list of pharmaceutical products in a jurisdiction where its consumption and/or sale have been banned, withdrawn, or rejected by the government.<sup>2</sup> The due diligence has not found any OAP IV portfolio company undertaking an excluded activity.

7. Following screening, the proposed investments are categorized per ADB Safeguard Policy Statement (SPS) requirements as either A, B, or C for environment, involuntary resettlement, or indigenous peoples. However, as per the side letter agreement for OAP IV, ADB will not contribute capital to any proposed investment having unresolved or causing involuntary displacement impacts or impacts on distinct and vulnerable ethnic minority or indigenous peoples groups. OrbiMed undertook E&S due diligence for all OAP IV investments, including early-stage (incubation stage) investments, and submitted the due diligence reports to ADB prior to capital call. The reports served as the basis for the issuance of no-objection clearance for each proposed investment. The E&S assessment findings are presented to the fund's investment committee when considering each proposed investment prior to approval.

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<sup>2</sup> World Health Organization. 2020. [Pharmaceuticals: Restrictions in Use and Availability](#). Geneva.

8. The 2021 E&S performance report revealed that approved investments have no material environmental issues and no involuntary resettlement and indigenous peoples-related issues. No accidents, litigation, complaints, regulatory notices, or fines were imposed on OrbiMed or portfolio companies under administration during the reporting period. Given that ADB can contribute capital to proposed investments causing environment category B or C impacts, the ESMS requires OAP V to assess company compliance with the (i) World Bank Group's environmental, health, and safety guidelines for health care facilities and for pharmaceuticals and biotechnology manufacturing; (ii) relevant national laws and regulations; and, for category B only, (iii) ADB SPS information disclosure and consultation requirements.

9. Unlike OAP II and OAP III, the OAP IV ESMS requires investment agreements to include clauses to implement corrective actions to address any E&S compliance gaps identified during due diligence. OrbiMed confirmed that investment teams discussed the applicable E&S safeguard requirements and their implementation with each portfolio company. The companies acknowledged the safeguard requirements.

10. **Monitoring and reporting.** The existing ESMS requires the fund to continue to monitor portfolio company performance against its ESMS requirements through annual reports submitted by the companies to OrbiMed. These reports have been shared with ADB. OrbiMed is also required to submit to ADB annual E&S performance reports, which present the results of the evaluation of E&S performance of each ADB-invested portfolio company annually and report to ADB on compliance performance. The 2021 E&S performance report confirmed that investment teams regularly engaged with and visited portfolio companies. ADB anticipates that the succeeding reports will also report on the status of corrective actions for relevant portfolio companies. The E&S safeguard manager has confirmed that OAP IV's portfolio companies under administration comply with ADB's E&S safeguard requirements and standards.

11. **Organizational structure and capacity.** In December 2020, OrbiMed appointed a dedicated staff E&S safeguard manager, Priya Malebennur, who is concurrently vice-president for environmental, social, and governance. She is based in India but oversees both India and PRC investments under processing and administration. The E&S safeguard manager has oversight for E&S issues, ensures resources are made available for E&S management, and should sign and submit the annual E&S performance report to ADB. The due diligence noted that on 30 December 2020 the E&S safeguard manager conducted in-house training on "Introduction to OAP IV ESMS" for six staff members involved in commercial, environmental, and social risk management. The E&S safeguard manager attended training or learning activities at the Asian Impact Webinar, including the Financing for Tech Startups on 10 March 2021 and New Ways to Measure Women's Work and Empowerment on 23 March 2021. ADB has no record of offering OrbiMed staff training in 2019–2021 and has only provided advice and guidance during the review of E&S due diligence reports and discussions about select proposed investments.

12. **Information disclosure and grievance redress.** The existing ESMS only requires OrbiMed to comply with ADB SPS information disclosure and consultation requirements in the context of environment category B impacts being generated by a portfolio company. However, the June 2021 monitoring report states that OAP IV has not financed any environment category B portfolio companies. OrbiMed maintains a public website highlighting most of its portfolio company investments. OrbiMed does not maintain a formal grievance redress mechanism to enable communities affected by the business activities of its portfolio companies to communicate with it. However, it maintains a public presence through its website and offices and has not reported to ADB receipt of complaints related to OAP IV portfolio companies.

## **B. Conclusions**

13. The project has been categorized FI for environment and FI treated as C for involuntary resettlement and indigenous peoples. For OAP V, OrbiMed will largely adopt the ADB-approved OAP IV ESMS with very minor enhancements. ADB due diligence findings identified the following actions to enhance the ESMS: (i) refine the E&S due diligence process to further improve the pre-capital call process, (ii) implement a training plan based on identified needs of the OAP V investment team, and (iii) refine annual E&S performance reporting by incorporating the status of corrective actions resulting from E&S due diligence per proposed investment.

14. OrbiMed will continue to (i) apply ADB's prohibited investment activities list and the United Nations consolidated list of pharmaceutical products in a jurisdiction where its consumption and/or sale have been banned, withdrawn, or rejected by the government as part of screening activity; (ii) ensure that investments using ADB funds comply with ADB's SPS and abide by applicable local and national laws and regulations; and (iii) implement the enhanced ESMS for all proposed investments using ADB funds before disbursement. The ESMS will set out requirements, as applicable, for compliance with national labor laws and measures to comply with the internationally recognized core labor standards, pursuant to ADB's Social Protection Strategy. ADB will retain the right to opt out of contributing capital to any proposed investment categorized A against all safeguard requirements, and any investment categorized B for involuntary settlement or indigenous peoples impacts. The ESMS will also contain requirements, as applicable, for information disclosure and consultation with affected people following ADB requirements. OrbiMed will include in its annual reporting information to ADB (i) the nature of subprojects and/or investment activities and categorization; (ii) compliance with the safeguard and social requirements; (iii) compliance with applicable local, national, and international laws and standards; and (iv) status of compliance with corrective action plan items as a result of the E&S due diligence activity (if applicable).