

Performance Requirements

PR 1: Environmental and Social Appraisal and Management

Introduction

1. The EBRD considers it important that all companies receiving EBRD financing have a systematic approach to managing the environmental and social issues and impacts associated with their activities. Effective management systems, appropriate to the size and nature of the business activity, allow companies to better manage risks, take advantage of opportunities, enhance their social and environmental performance and reputation and often lead to improved financial performance. A successful and efficient environmental and social management system is a dynamic, continuous process, initiated and supported by management, and involves meaningful communication between the client, its workers, and the local communities affected by the project or the client company. It requires a methodical systems approach comprising planning, implementing, reviewing and reacting to outcomes in a structured way with the aim of achieving a continuous improvement in performance.

Objectives

2. The Bank requires clients to develop a systematic approach,¹ tailored to the nature of their activities or projects, to managing environmental and social risks and opportunities that will enable the client to comply with the Bank's Environmental and Social Policy throughout the life of the Bank's involvement with the project.

3. This Performance Requirement ("PR") 1 outlines the client's responsibilities in the process of appraising, managing and monitoring

environmental and social issues associated with projects proposed for EBRD financing. Engagement with the project stakeholders is an integral part of this process. The Bank's requirements regarding stakeholder engagement are outlined in detail in PR 10.

Specific Objectives of PR 1 and PR 10 are as follows:

See table on page 16.

Scope of application

4. This PR applies to projects with potential environmental or social risks and impacts that should be assessed in the early stages of project development, and managed on an ongoing basis.

Requirements

Environmental and social appraisal

5. Through appraisal activities such as risk assessment, auditing, or environmental and social impact assessment, the client will consider in an integrated manner the potential environmental and social issues and impacts associated with the proposed project. The information gained will inform the EBRD's own due diligence related to the client and project and will help to identify the applicable PRs and the appropriate measures to better manage risk and develop opportunities, in accordance with the applicable PRs. The appraisal process will be based on recent information, including an accurate description and delineation of the client's business or the project, and social and environmental baseline data at an appropriate level of detail. The appraisal should also identify applicable laws and regulations of the jurisdictions in which the project operates that pertain to environmental and social matters,

¹ Although not mandatory, the Bank encourages clients to consider adopting accredited management systems such as ISO 14001.

Environmental and Social Appraisal and Management (PR 1)	Information Disclosure and Stakeholder Engagement (PR 10)
<ul style="list-style-type: none"> • To identify and assess environmental and social impacts and issues, both adverse and beneficial, associated with the project. • To adopt measures to avoid, or where avoidance is not possible, minimize, mitigate, or offset/compensate for adverse impacts on workers, affected communities, and the environment. • To identify and, where feasible, adopt opportunities to improve environmental and social performance. • To promote improved environmental and social performance through a dynamic process of performance monitoring and evaluation. 	<ul style="list-style-type: none"> • To identify people or communities that are or could be affected by the project, as well as other interested parties. • To ensure that such stakeholders are appropriately engaged on environmental and social issues that could potentially affect them through a process of information disclosure and meaningful consultation. • To maintain a constructive relationship with stakeholders on an ongoing basis through meaningful engagement during project implementation.

including those laws implementing host country obligations under international law² (for example commitments related to land use planning and protected area management).

6. Environmental and social impacts and issues will be appraised in the context of the project's area of influence. This area of influence may include one or more of the following, as appropriate:

- (i) The assets and facilities directly owned or managed by the client that relate to the project activities to be financed (such as production plant, power transmission corridors, pipelines, canals, ports, access roads and construction camps).
- (ii) Supporting/enabling activities, assets and facilities owned or under the control of parties contracted for the operation of the clients business or for the completion of the project (such as contractors).

(iii) Associated facilities or businesses that are not funded by the EBRD as part of the project and may be separate legal entities yet whose viability and existence depend exclusively on the project and whose goods and services are essential for the successful operation of the project.

(iv) Facilities, operations, and services owned or managed by the client which are part of the security package committed to the EBRD as collateral.

(v) Areas and communities potentially impacted by: cumulative impacts from further planned development of the project or other sources of similar impacts in the geographical area, any existing project or condition, and other project-related developments that can realistically be expected at the time due diligence is undertaken.

² For example, the Aarhus, Espoo and Biodiversity Conventions.

(vi) Areas and communities potentially affected by impacts from unplanned but predictable developments caused by the project that may occur later or at a different location. The area of influence does not include potential impacts that would occur without the project or independently of the project.

Based on the above, the EBRD and the client will agree on the area of influence for each project.

7. Environmental and social issues and impacts will also be analysed for the relevant stages of the project cycle. These may include preconstruction, construction, operations, and decommissioning or closure and reinstatement. Where relevant, the appraisal will also consider the role and capacity of third parties, such as local and national governments, contractors and suppliers, to the extent that they may influence the project, recognising that the client's ability to address these risks and impacts will depend on its control and influence over the third party actions. The impacts associated with supply chains central to the project's core functions will be considered where the resource utilised by the project is ecologically sensitive, or in cases where low labour cost is a material factor in the competitiveness of the item supplied.³ The appraisal will also consider potential transboundary and global issues, such as impacts from effluents and emissions, increased use or contamination of international waterways, greenhouse gas emissions, climate change mitigation and adaptation issues, and impacts on endangered species and habitats.

8. The nature of due diligence studies undertaken will be commensurate with the risks and issues involved. It will be an adequate, accurate, and objective evaluation and presentation of the issues, prepared by qualified and experienced persons. Depending on the

potential significance of issues and impacts, the Bank may require that some due diligence studies are conducted by independent third party specialists. For each project, the Bank will agree with the client the nature of due diligence studies required.

9. Projects categorised by EBRD as "A" will require special formalised and participatory assessment processes. An indicative list of such projects is provided in Appendix 1 to the Policy. Greenfield developments, or major expansions of activities, with potentially significant and diverse adverse environmental or social impacts, such as those listed in Appendix 1, will require a comprehensive environmental and/or social impact assessment, to identify and assess the potential future environmental and social impacts associated with the proposed project, identify potential improvement opportunities, and recommend any measures needed to avoid, or where avoidance is not possible, minimise and mitigate adverse impacts. This assessment will include an examination of technically and financially feasible alternatives to the source of such impacts, and documentation of the rationale for selecting the particular course of action proposed. The Environmental Impact Assessment (EIA)/Social Impact Assessment (SIA) shall meet PR 10 and any applicable requirements of national EIA law and other relevant laws.⁴ In exceptional circumstances, a regional, sectoral or strategic assessment may be required. Projects involving involuntary resettlement or impacts on Indigenous Peoples or cultural heritage will require an assessment in accordance with PRs 5, 7 and 8 respectively, in addition to any other environmental or social due diligence studies that may be required.

10. Projects categorised as "B" may require a variety of due diligence investigations, depending on the project's nature, size and location, as well as the characteristics of the potential

³ See also PR 2, section 20 and PR 6, section 22.

⁴ A report format for EIA/SIA, consistent with the EU EIA Directive, will be available from the EBRD. Projects located in EU Member States are required to comply with the EU EIA Directive and, where necessary, obtain a permit.

environmental and social impacts and risks. Due diligence should identify and assess any potential future impacts associated with the proposed project, identify potential improvement opportunities, and recommend any measures needed to avoid, or where avoidance is not possible, minimise, and mitigate adverse impacts. Depending on the potential environmental and social risks, the Bank may require that existing facilities be subject to an audit to assess the environmental and social impacts of past and current operations of the existing facilities. The purpose of such audits is to identify past or present concerns, current status of regulatory compliance, management systems and performance as well as potential risks, liabilities and opportunities associated with the project. Other types of investigations, such as hazard analyses or risk assessments, may also be required. The focus of the assessment, audit or other investigation may be environmental or social (for example, labour, occupational health and safety, community impacts) or a combination of all, depending on the nature of the project. Any investigations of existing facilities must be carried out by specialists that are independent from the facility being investigated.

11. In cases where clients with multi-site operations are seeking from the EBRD general corporate finance, working capital or equity financing, the appraisal outlined in paragraphs 4 to 10 may not be appropriate. In such cases, which will be confirmed by the EBRD on a project-by-project basis, the client will commission a qualified and experienced, external specialist to conduct a corporate audit of their current environmental and social management system (ESMS) and the company's past and current performance against EBRD's PRs.

The audit will:

- assess the client's ability to manage and address all relevant social and environmental risks and impacts of its business and operations, in particular the issues identified in the PRs (including this PR)
- assess the client's compliance record with applicable laws and regulations of the jurisdictions in which the project operates that pertain to environmental and social matters, including those laws implementing host country obligations under international law
- identify the company's main stakeholder groups and current stakeholder engagement activities.

The exact scope of the corporate audit will be agreed with the EBRD on a case-by-case basis.

12. Projects categorised "C", as having minimal or no adverse impacts, will not be subject to further environmental or social appraisal beyond their identification as such, and will not require an ESAP as per sections 14–16 below.

13. As part of the appraisal process, the client will identify and engage with stakeholders in accordance with PR 10.

Environmental and Social Action Plan (ESAP)

14. Taking into account the findings of the environmental and social appraisal and the result of consultation with affected stakeholders, the client will develop and implement a programme of mitigation and performance improvement measures and actions that address the identified social and environmental issues, impacts and opportunities in the form of an Environmental and Social Action Plan (ESAP). Mitigation measures and actions will be

identified so that all relevant stages of the project (for example, pre-construction, construction, operation, closure, decommissioning/reinstatement) operate in compliance with applicable laws and regulations and the PRs of this Policy. The ESAP should take a long-term and phased approach and also take into account expected future regulatory requirements. The ESAP shall focus on avoidance of impacts, and where this is not possible, mitigation measures to minimise or reduce possible impacts to acceptable levels. Where residual impacts affect biodiversity, environmental offsets may be required in accordance with PR 6 to promote a “no net loss” approach; compensation for involuntary resettlement and for impacts on Indigenous Peoples will be carried out in accordance with PRs 5 and 7. The ESAP will also address, where appropriate, opportunities to achieve additional environmental and social benefits of the project including, where relevant, community development programmes. Where stakeholder groups were identified as disadvantaged or vulnerable during the appraisal process, the ESAP will include differentiated measures so that adverse impacts do not fall disproportionately on them and they are not disadvantaged in sharing any development benefits and opportunities resulting from the project. Depending on the project, the ESAP may consist of a combination of operational policies, procedures, management systems, practices, and capital investments. The measures and actions to address identified impacts and risks will favour the avoidance and prevention of impacts over minimisation, mitigation, or compensation, where technically and financially feasible.

15. The level of detail and complexity of the ESAP and the priority of the identified measures and actions will reflect the project’s risks, impacts and opportunities. The ESAP will document key environmental and social issues, the actions to be taken to address them adequately, as well as any actions to maximise environmental or social benefits, the schedule and person/unit responsible for implementation and monitoring, and an estimate of the associated costs. The client will inform the EBRD how these costs will be met. Desired outcomes will be defined against the baseline established during appraisal as measurable events to the extent possible, with elements such as performance indicators, targets, or acceptance criteria that can be tracked over defined time periods. Where current operations are significantly non-compliant with regulatory requirements and existing permits, the proposed actions and schedules for these areas of non-compliance should be agreed with the relevant competent authorities. Recognizing the dynamic nature of the project development and implementation process, the ESAP will be responsive to changes in project circumstances, unforeseen events, and the results of monitoring. For Category A projects the Bank may agree with the client during appraisal a management of change process to govern the way in which proposed project changes or unforeseen circumstances are managed and reported.

16. In the case of clients with multi-site operations seeking general corporate finance, working capital or equity financing, the ESAP should be incorporated into the client’s corporate environmental and social management system. It will address any issues identified during the corporate audit by specifying time-bound measures to achieve and maintain compliance with the Bank’s PRs within a reasonable time frame.

Organisational capacity and commitment

17. The client will need to establish, maintain, and strengthen as necessary an organisational structure that defines roles, responsibilities, and authority to implement the ESAP and associated management system. Specific personnel, including management representative(s), with clear lines of responsibility and authority should be designated. Key social and environmental responsibilities should be well-defined and communicated to the relevant personnel and to the rest of the organization. Sufficient management commitment and human and financial resources must be provided on an ongoing basis to achieve effective and continuous social and environmental performance.

18. The client will ensure that employees with direct responsibility for activities relevant to the project's or the company's social and environmental performance are adequately qualified and trained so that they have the knowledge and skills necessary to perform their work. Training should also address the specific measures and actions required under the applicable PRs and the ESAP (if any) and the methods required to perform the action items in a competent and efficient manner.

Managing contractors

19. The PRs, including any specific requirements set out in the ESAP, will apply to the project regardless of whether it is carried out directly by the client or through contractors or subcontractors. It is the client's responsibility to ensure that contractors working on project sites meet these requirements. Effective contractor management includes:

- assessing environmental and social risks associated with contracts

- including relevant PRs/ESAP provisions into tender documents as appropriate, and screen potential contractors' capacity to meet the requirements
- contractually requiring contractors to apply these standards and include appropriate non-compliance remedies
- ensuring that contractors have knowledge and skills to perform their project tasks in accordance with the PRs and ESAP requirements
- monitoring contractor compliance with the above requirements
- in the case of sub-contracting, requiring contractors to have similar arrangements with their subcontractors

Requirements related to labour and working conditions of non-employee workers are outlined in PR 2, paragraph 19.

Performance monitoring and review

20. The client will establish procedures to monitor and measure compliance with the environmental and social provisions of the legal agreements including effective implementation of the ESAP and the PRs and improvements achieved over time against the baseline established during appraisal. The extent of monitoring will be commensurate with the risks to and adverse impacts on the environment and affected communities. Monitoring will normally include recording information to track performance and establishing relevant operational controls to verify compliance and progress, as well as acting on inspection reports by the relevant enforcement authorities and feedback from stakeholders such as community members. In addition, the client may use third parties,

such as independent experts, local communities or NGOs, to complement or verify its own monitoring information. For Category A projects, the client will be required to retain qualified and experienced specialists to perform periodic monitoring functions/audits throughout the life of the Bank's involvement with the project. The client will document monitoring results.

21. The results of the monitoring should be used to correct and improve operational performance. Similarly, monitoring activities can be adjusted according to performance experience and feedback. During project implementation, results of client self-monitoring, governmental inspection reports, third party audits/reports or monitoring by lenders may indicate that changes are necessary to the ESAP. Based on the monitoring results, the client will identify and reflect any necessary corrective and preventive actions in an amended ESAP and/or offset programme, which will be submitted to the Bank for approval. The client will implement agreed corrective and preventive actions, and follow up on these actions to ensure their effectiveness.

22. Senior management in the client's organization should receive regular performance assessments of the environmental and social management system and/or progress in implementing the ESAP, based on systematic data collection and analysis. The scope and frequency of such reporting will depend upon the nature and scope of the activities identified and undertaken in accordance with the client's management system/programme, the ESAP and other applicable project requirements.

23. Clients will facilitate monitoring visits to their sites by the Bank's environmental or social specialists, or consultants acting on the Bank's behalf. The frequency and extent of these visits will be commensurate with the project's environmental and social risks.

24. As part of their regular reporting to the Bank, clients will provide the EBRD with updates on their progress in implementing their ESAP. Stakeholder engagement during project implementation, including external reporting on progress with implementing the ESAP, will be undertaken in accordance with PR 10.