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ADB Safeguard Policy Review and Update: Safeguards in Different Financing Modalities

REGIONAL CONSULTATIONS

20-24 February 2023



SAFEGUARD
POLICY REVIEW
AND UPDATE

ADB

Gentle Reminders



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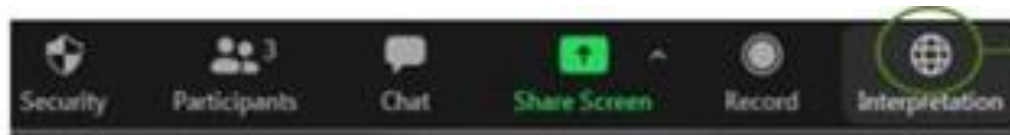
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Đề nghị nhấp chuột vào nút phiên dịch (Interpretation) trên thanh công cụ Zoom ở phía dưới màn hình của bạn.

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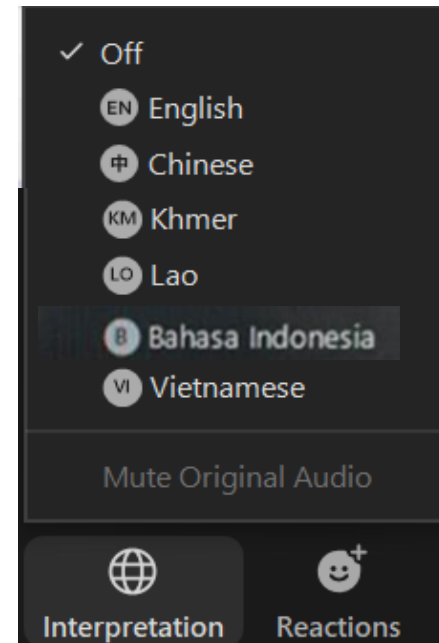
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Ngôn ngữ sử dụng:

- **Bahasa Indonesia**
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- **Vietnamese**
Tiếng Việt



Simultaneous interpretations available!

समकालीन भाषांतरण उपलब्ध है!

رواں ترجمے کے لئے دستاب زبانیں

Осуществляется синхронный перевод!

1



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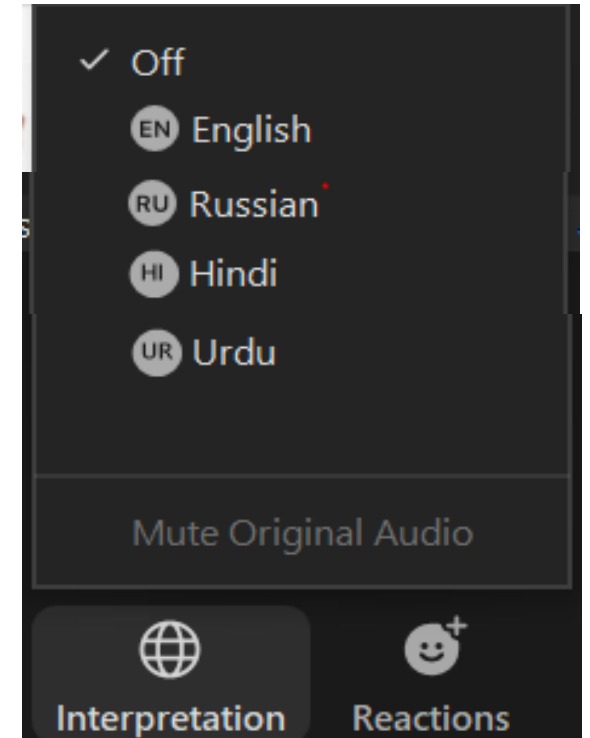
دستیاب زبانیں

Выбор языка:

- **Hindi**
हिंदी

- **Urdu**
اردو

- **Russian**
Русский язык

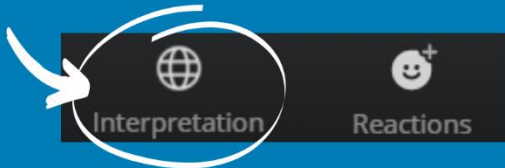




HOW TO LISTEN TO INTERPRETATIONS

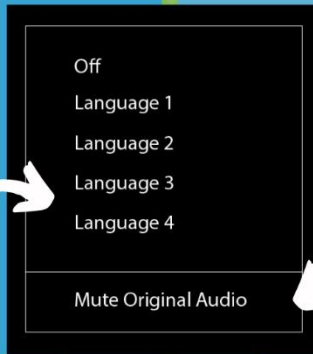
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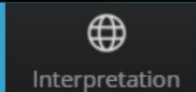


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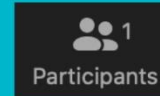


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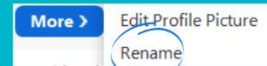
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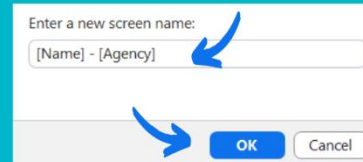
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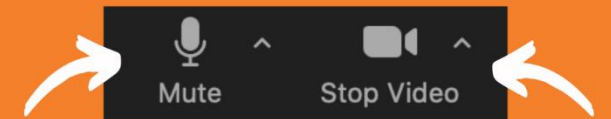
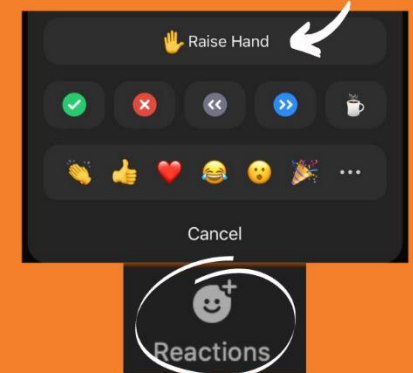


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To comment or raise a question live in the language you prefer, click on the smile icon (Reactions button), and then click on Raise Hand.



To speak and unmute yourself, click on the microphone icon.

To show your video, click on the video icon.





The Safeguard Policy Review and Update Phase 2 consultations provide opportunities for stakeholders to express their views and opinions on ADB's environmental and social safeguards in the most meaningful and safest manner possible.

All stakeholders are encouraged to articulate their inputs and concerns during these consultation sessions. By joining these sessions (and as noted in paragraph 47 of the Stakeholder Engagement Plan) stakeholders are consenting to the video and audio recording of these consultations and their subsequent release. Consultation summaries will also be prepared and publicly disclosed. This will ensure the accuracy and transparency of proceedings.

Stakeholders wishing to exclude themselves from such recordings are asked to contact the Safeguards Policy Review and Update Secretariat on safeguardsupdate@adb.org within 2 weeks of this session with their exceptions and exclusions.



The recordings and documentation allow the ADB to review, consider and respond to, if necessary, any comments and inputs made. Background materials on the thematic areas have been released in preparation for the consultations and dialogues.

All types of feedback are welcome. These will not be used for the purposes of retaliation, abuse, or any other kind of discrimination.

If you have any issues or concerns on the disclosure, recording, confidentiality, potential risks, abuse, or any kind of discrimination during the course of the consultations, or wish to exclude yourself from the recording of events and discussions, please get in touch with the Secretariat through safeguardsupdate@adb.org.

AGENDA



SAFEGUARD
POLICY REVIEW
AND UPDATE



1. Introduction (5 mins)

Jelson Garcia, Session Moderator and Senior Stakeholder Engagement Specialist

2. Welcome Remarks and Overview of Safeguards Policy Review and Update (10 mins)

Bruce Dunn, Director, Safeguards Division (SDSS), Sustainable Development and Climate Change Department (SDCC)

3. Session 1: Overview and Findings of the Analytical Study on Safeguards in Different Financing Modalities (20 mins)

Zehra Abbas, Principal Environment Specialist, SDSS, SDCC

4. Moderated Discussion #1 (35 mins)

Moderator: Duncan Lang, Senior Environment Specialist, SDSS, SDCC

5. Break (5 min)

6. Session 2: Private Sector Operations (20 mins)

Felix Oku, Senior Social Development Specialist, SDSS, SDCC

7. Moderated Discussion #2 (35 mins)

Moderator: Duncan Lang, Senior Environment Specialist, SDSS, SDCC

8. Event Evaluation (5 mins)

9. Wrap up (5 mins)

Bruce Dunn, Director, SDSS, SDCC

Welcome Remarks

Bruce Dunn, Director, Safeguards Division (SDSS) , Sustainable Development and Climate Change Department (SDCC)



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POLICY REVIEW
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Safeguards Policy Review and Update

Approach and Methodology

Policy update time frame: August 2020 to March 2024

Implementation phases:

1. **Policy update planning** (August 2020–June 2021):
 - [Background Information Paper](#) (November 2020).
 - [Stakeholder Engagement Plan](#) (April 2021, updated July 2021)
2. **Analytical Studies** (December 2020–December 2022):
 - Policy architecture, benchmarking standards / thematic issues
 - Review implementation experience
3. **Policy preparation** (October 2023–March 2024):
 - Working Paper for ADB Board consideration (July 2023)
 - Final ADB Board approval of R-Paper (March 2024)
4. **Policy roll out** (2024-2025):
 - Policy effectiveness from 2025 (date to be confirmed)
 - Implementation guidance, staff instructions, good practice notes,
 - Training and capacity building for staff and clients



**Stakeholder
Engagement &
Consultation**



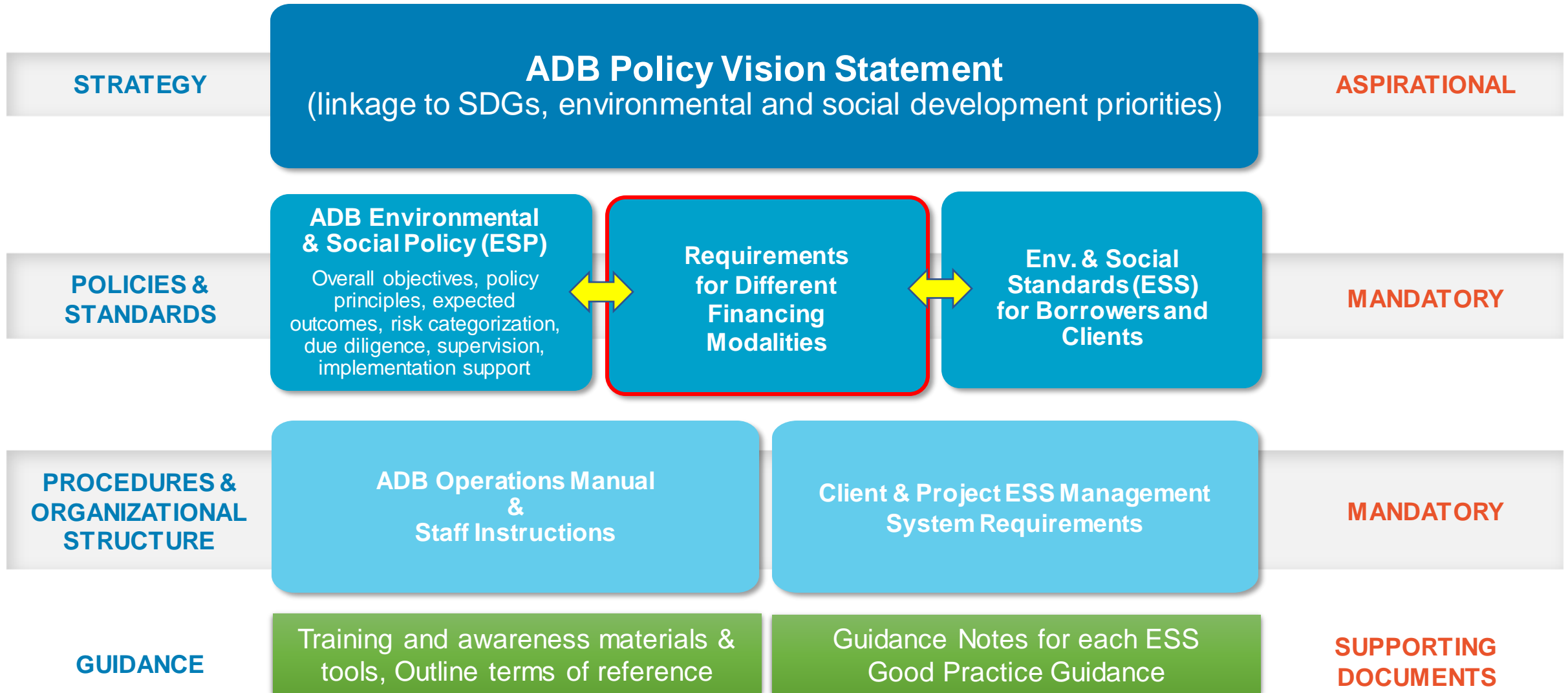
Analytical Studies and Regional Consultations Topics

Completed Consultations: Nov. 2021 - Feb. 2023

1. Policy Architecture
2. Indigenous Peoples
3. Resource Efficiency and Pollution Prevention
4. Labor and Working Conditions
5. Community and Occupational Health and Safety
6. Land Acquisition and Involuntary Resettlement
7. Biodiversity and Sustainable Natural Resource Management
8. Cultural Heritage
9. Stakeholder Engagement, Information Disclosure, and Grievance Redress Mechanisms
10. Lessons from Accountability Mechanism
11. Environmental and Social Impacts and Risk Assessment
12. Safeguards in Fragile and Conflict-Affected Situations (FCAS) & Small Island Developing States (SIDS)
13. Country Safeguard Systems (CSS)
14. Focus Group Discussions with Private Sector Clients
15. Climate Change
16. Gender and Safeguards
17. Sexual Exploitation, Abuse and Harassment (SEAH)
18. Sexual Orientation and Gender Identity and Expression, and Sex Characteristics (SOGIESC)
19. Safeguards in Private Sector Operations
20. Safeguards in Different Financing Modalities

ADBs Proposed Policy Architecture Model

Environmental and Social Policy



Session I: Overview and Findings of the Analytical Study on Safeguards in Different Financing Modalities

Zehra Abbas, Principal Environment Specialist, Safeguards Division (SDSS), Sustainable Development and Climate Change Department (SDCC)



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Objectives and Methodology of the Analytical Study

- Assess the challenges in safeguards implementation in different financing modalities.
- Propose issues for further consideration in ADB's revised safeguards policy.
- Based on the 2020 IED Report, ADB desk review of implementation challenges, lessons from experiences of other MFIs

ADB Safeguard Policy Statement (SPS) 2009

- Safeguard Requirements 4: Special Requirements for Different Finance Modalities

- ADB has various lending modalities and financial products as key instruments to promote inclusive growth and sustainable development in its DMC.
- ADB provides a variety of investment instruments:
 - Project loan
 - program loans or policy-based lending,
 - sector loans,
 - Multitranche financing facilities,
 - emergency assistance loans,
 - financial intermediaries and corporate finance.
- The SPS applies to all these modalities and outlines specific requirements (SPS, SR4)

I. Sector Loan

Description

- Supports the development of a sector through financing part of it through subprojects.
- A large number of subprojects are likely but the details are not completely known nor likely to be identified before board approval.

Safeguard Requirements

- Borrower/client agrees with ADB on safeguard frameworks (EARF, RF and IPPF) for the whole sector loan
- One or more sample subprojects are appraised for safeguards before board approval.
- Sector loan as a whole is screened and categorized based on the most sensitive components or subprojects
- Safeguards assessments according to SR 1-3 apply during implementation

Issues for Consideration

- The risk classification process should factor in the scale of the entire loan, rather than only the subproject under consideration.
- At the scoping stage this will provide better guidance to the borrower in selecting the appropriate environmental and social assessment tools
- Based on risks identified, provide clear guidance on capacity building measures for the borrower/client to be prepared and put in place.

II. Multitranche Financing Facility (MFF)

Description

- A long-term investment instrument with a limit of 10 years.
- Multiple components, projects or subprojects can be financed through different tranches under the overall facility.
- Scope of the entire MFF and all tranches identified during the preparation, and the safeguards due diligence documents valid for subsequent tranches.

Safeguard Requirements

- Borrower/client will agree with ADB on safeguard frameworks before ADB approves the MFF*
- SR 1–3 apply to all components, projects, and subprojects during preparation and implementation
- MFF as a whole is not screened and categorized. Each tranche of the MFF is screened and categorized according to the significance of anticipated impacts.

Issues for Consideration

- The risk classification should factor in the scale of the entire loan and develop specific criteria to identify the sector or modality specific risks.
- Provide better guidance to the borrower in selecting the appropriate environmental and social assessment tool based on the level of risks.
- Capacity building measures for the borrower/client to be proportionate to the risk of the overall investment, cover the implementation period of the MFF as a whole and not only for individual tranches.

** Safeguards frameworks will clarify safeguard principles and requirements governing screening and categorization, social and environmental assessment, and preparation and implementation of safeguard plans of components, projects, and subprojects to be prepared after MFF approval.*

III. Policy Based Lending (PBL)

Description

- Supports policy reforms and development expenditure programs of a DMC
- May be used to provide balance of payments assistance or countercyclical fiscal support

Safeguard Requirements

- Evaluate potential direct and indirect impacts of policy actions to be supported and integrate appropriate mitigation measures in program design.
- A safeguards matrix of potential impacts of each policy action along with mitigation measures is required.

Issues for Consideration

- The risk classification process should identify the likely environmental and social risks at the policy level.
- Provide specific guidance for risk screening of policy actions that would have direct impacts on people and the environment.
- Specific criteria to be developed to help identify the contextual risks that may affect the risk classification of the investment.
- Guidance on the selection of appropriate environmental and social assessment tools based on the level of risk.

IV. Emergency Assistance Loan (EAL)

Description

- EAL is intended to rebuild high-priority physical assets and restore economic, social, and governance activities after disasters and emergencies
- Focused on on immediate short-term requirements that can be completed within a fixed maximum implementation period.

Safeguard Requirements

- Completion of standard environmental assessments, environmental management plans, resettlement plans, and Indigenous Peoples plans may not be possible before Board approval.
- In such cases, safeguards frameworks will be prepared, following the 2009 SPS

Issues for Consideration

- The revised safeguards policy should provide adequate provisions, guidance to achieve compliance and strengthen supervision and monitoring of EAL projects.

V. Results Based Lending (RBL)

Description

- Finance a share of a government's national or sub national, sector or subsector level development program.
- Government systems and institutions are used for implementation and risk management
- Disbursement of funds is linked with the achievement results.

Safeguard Requirements

- Follow the same policy objectives and principles in the SPS, but not its policy delivery process.
- Activities that are assessed to have likely significant adverse impacts that are sensitive, diverse, or unprecedented on the environment and/or affected people are excluded.
- Following the screening process, a program safeguards system assessment (PSSA) is undertaken.
- Gap filling measures are included in the program action plan (PAP) or as disbursement linked indicators.

Issues for Consideration

- PSSA and PAP are appropriate as safeguards risk management tools.
- ADB's approach to safeguards for RBLs is consistent with other MDBs with comparable financing instruments.
- Follow-through with the operationalization of the agreed program safeguard system during implementation.
- Readiness of DMCs for RBL implementation is still low and considerable support is needed from ADB in terms of training and TA resources.
- Strengthen monitoring to include the implementation and outcomes of the agreed program safeguard system of the governments

**PSSA is a study of the DMCs applicable national legal safeguards framework, the additional programmatic, institutional, and contextual risks that could affect the ability of the government to effectively implement the safeguards for the RBL program, an assessment of DMC safeguards implementation capacity, and a study of the gaps between ADB's SPS and borrowers' systems.*

VI. Technical Assistance (TA) and Project Preparation Modalities

Description

- Supports the preparation, financing, and execution of development projects and programs, including the formulation of specific project proposals, assist DMCs in the coordination of their development policies and plans, and for capacity building within DMCs
- Project Readiness Facility (PRF) promotes project readiness by financing detailed designs, some advance procurement as well as pilot testing, and related safeguards planning instruments.
- Small Expenditure Financing Facility (SEFF) provides quick support for small financing needs, including related to project preparation, implementation, pilot testing, and post-completion.

Safeguard Requirements

- TAs containing pilot testing activities involving civil works are considered complex and are required to be screened for safeguards purposes. defined under SPS and OM F1. Safeguards application to TAs to be reviewed.
- No requirements for PRF and SEFF

Issues for Consideration

- Review the current application of the SPS to TA operations in terms of the risks and impacts of TA projects, and where needed, additional guidance will be prepared.
- For PRF and SEFF, more emphasis is needed on improved implementation and communication with the client on the level of readiness of safeguards planning instruments.

Moderated Discussion #1

Moderator: Duncan Lang, Senior Environment Specialist, Safeguards Division (SDSS), Sustainable Development and Climate Change Department (SDCC)



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- **Strengthening safeguards instruments.** What are the lessons and opportunities to improve the safeguards due diligence?
- **Assessing and managing risks.** How can environmental and social risk and impact assessment processes be strengthened for the different financing modalities? What are the key challenges?
- **Improving implementation, stakeholder engagement and information disclosure.** How can the safeguards implementation for the other finance modalities be strengthened, including for stakeholder engagement and information disclosure?

Sequence for Q&A



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1st sequence – Open for statements and sharing of perspectives and recommendations (raised hands to speak)

2nd sequence – Questions sent in advance (through Zoom registration)

3rd sequence – Questions posted on the chat box and participants raising hands will be called in batches

Time remaining for the break

05:00

We will be having a short break



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Session 2: Private Sector Operations

Felix Oku, Senior Social Development Specialist, Safeguards Division (SDSS), Sustainable Development and Climate Change Department (SDCC)



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Introduction to Private Sector Operations (PSO)

- ❑ Since 2009, increase in PSO, investment in FIs (banks, nonbanks, PEFs), new financing instruments (e.g., bond issuances, trade finance, IPOs).
- ❑ PSO safeguards performance as good as or better than sovereign operations
- ❑ More co-financing operations = need for greater policy harmonization
- ❑ Clients appreciate ADB's support in developing their corporate safeguard frameworks.
- ❑ Some clients mainstreamed pollution risk management to monitor long term risks, developed functioning ESMS.
- ❑ More structured approach to address core labor standards and working conditions.
- ❑ Reasonably strong (80%) due diligence via FI ESMSs
- ❑ FI risk-based audit program and Corrective Action Plans introduced

VII. Project Finance

Description

- **Project Finance** – Project finance is the structured financing of a specific infrastructure/business process – a Special Purpose Vehicle (SPV) – created by the sponsors using equity or debt under non-recourse/limited recourse financing arrangements. The lender considers the cash flow generated from this entity as the major source of loan reimbursement.

Safeguard Requirements

- SPS SR1 on Environment, SR2 IR, SR3 IP (if triggered)
- If existing facilities are involved, **SR4 Special Requirements for Different Financing Modalities applies**. This requires an **environmental and social compliance audit (ESCA)**.
- For an upgrade or expansion of existing facilities, SR 1-3 requirements will apply in addition to ESCA. 120-day disclosure requirement apply to ESCA and CAP (if any) for ENV Cat A.
- Disclose other safeguard documents as per SR 1-3.

Issues for consideration

- Flexibility to allow safeguards assessment and management planning overtime due to different stages of entry by PSO via **ESCP/ESAP**.

VII. General Corporate Finance/Corporate Finance – only PSO

Description

- **General Corporate Finance (GCF)** – Loans and/or investments to clients (not FI) having operations at multiple sites are seeking debt and/or equity financing that is not earmarked for implementing specific subprojects
- For SPS purposes, “**Corporate Finance - CF**”, refers to loans and/or investments which are earmarked for specific subproject(s) or activities.

Safeguard Requirements

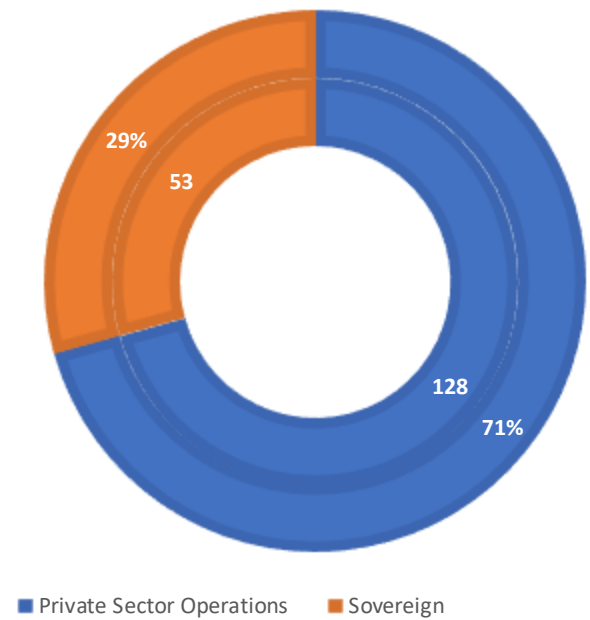
- **GCF** - Conduct a corporate audit of environmental and social management systems (ESMS) and develop Corrective Action Plan – CAP
- For **corporate finance** related to implementation of specific subprojects, SR 1-3 apply additional to maintaining ESMS.
- For projects involving **rehabilitation**, **modernization** or **expansion** of **existing facilities**, SR1 para 10 and SR4 paragraph 12 apply.
- The **Audit Report + CAP** (if any) are disclosed per SR 1-3 and AIP 2018 requirements. For environment category A projects, ADB to disclose reports on its website at least 120 days prior to ADB Board approval.
- Submission of **monitoring reporting** is per SR1-3 requirements.

Issues for consideration

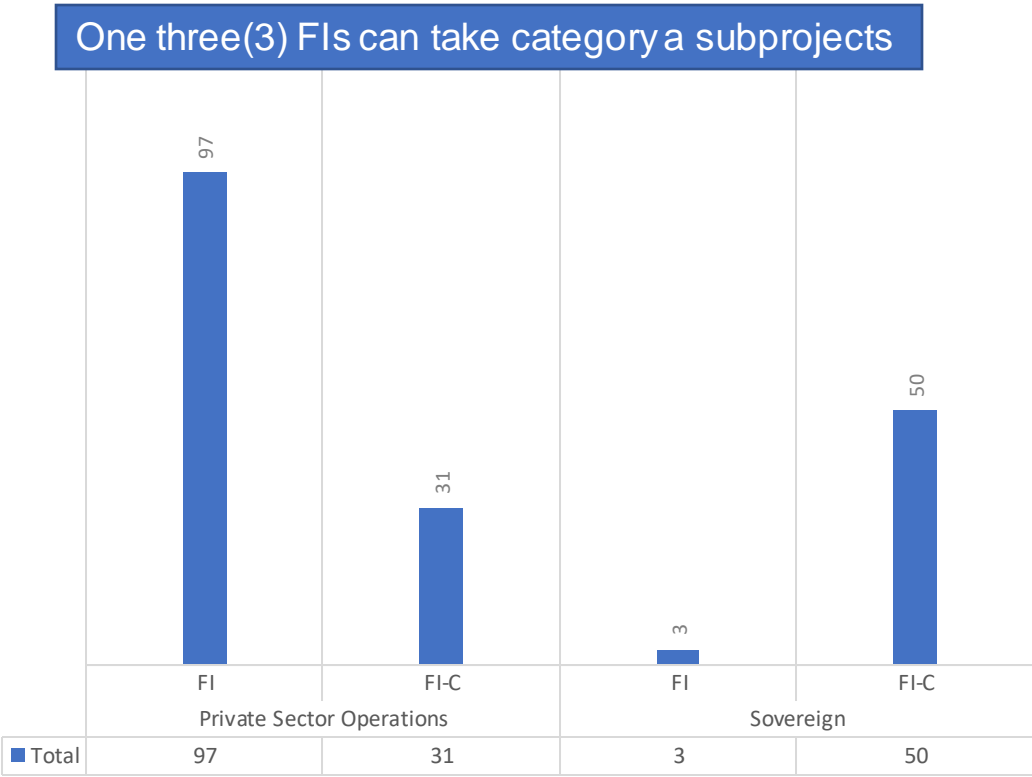
- **Corporate Finance.** Develop safeguards requirements that cover all corporate financing transactions (debt and equity) making a distinction for the business activities being financed by ADB where appropriate.
- **ESMS.** Scope of the ESMS should be proportionate to the risk as identified through the risk classification process.
- **Capital Markets Transactions.** Due to the nature of capital markets transactions, environmental and social appraisal needs to be risk based, guided by publicly available information to assess the client’s capacity and commitment to manage the environmental and/or social risks associated with its business activities (and with the investment projects to be financed with proceeds raised through such capital market transactions) in accordance with relevant national laws, GIP, and the new policy. The appraisal will identify whether the available information is sufficient to determine the environmental and social risks of the project and compliance with ADB policy upon investment.
- **Monitoring and Disclosure of Information.** Monitoring and reporting requirements during project implementation should be commensurate with the overall safeguard risk.

Financial Intermediation Portfolio Overview

Distribution of FI Projects
Sovereign vs Private Sector Operations
2010 - 2021

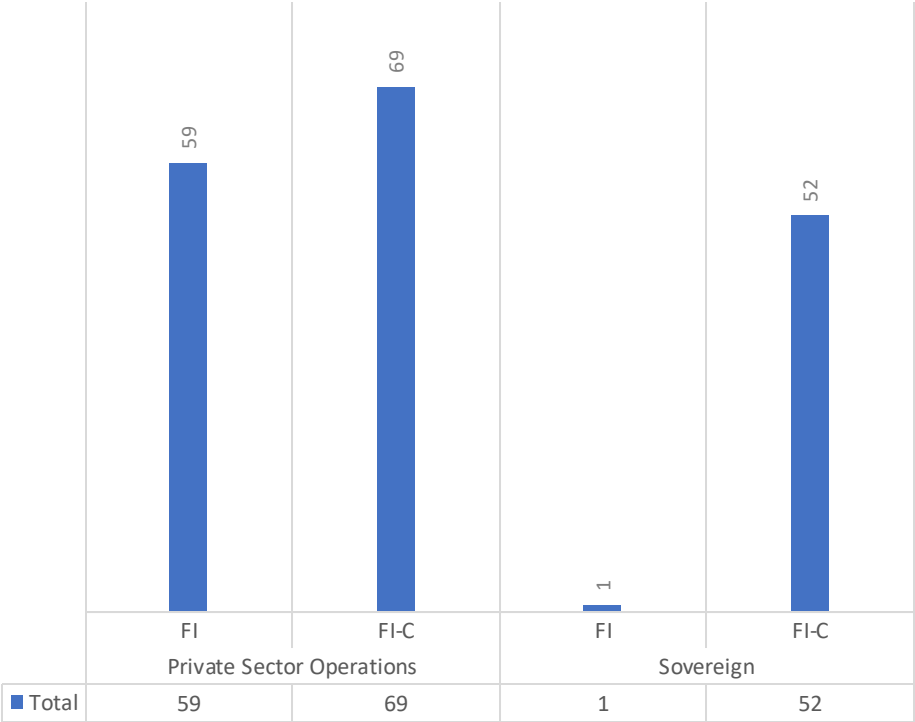


Distribution of FI Projects by Environment Category
Sovereign vs Private Sector Operations
2010 - 2021

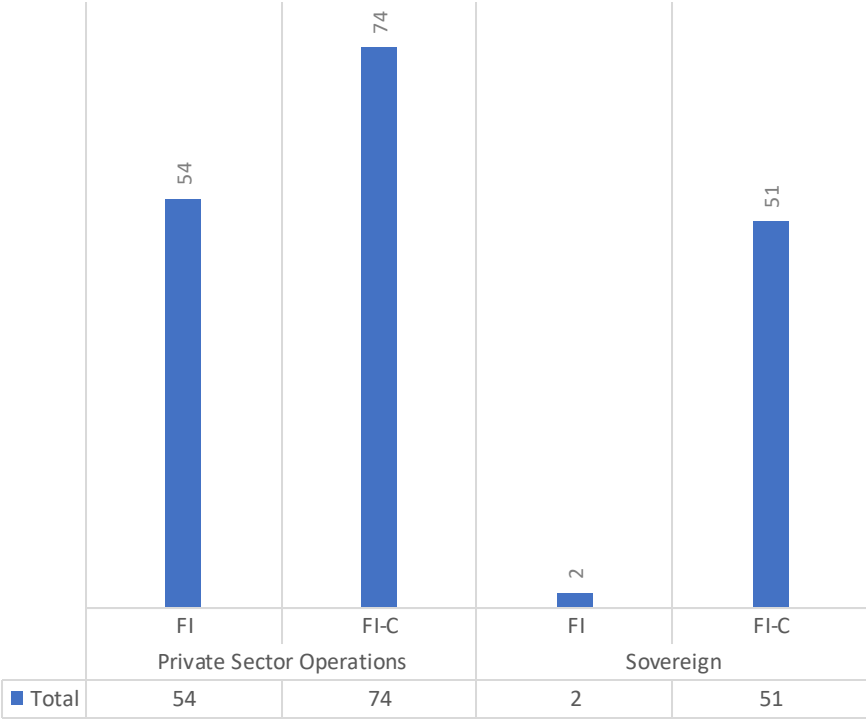


Financial Intermediation Portfolio Overview

Distribution of FI Projects by IR Category
on Sovereign and Private Sector Operations
2010 - 2021



Distribution of FI Projects by IP Category
Sovereign vs Private Sector Operations
2010 - 2021



VIII. Financial Intermediaries (FI)– both Sovereign and PSO

Description

- Provides funding to **FIs** (banking and non-banking institutions) for ADB's sovereign and private sector borrowers and
- Used by the PSO for Private Equity Funds (**PEF**) and Trade and Supply Chain Finance Program (**TSCFP**).
- ADB financing to FIs includes **loans, equity, credit lines** and **guarantees**.

Safeguard Requirements

- Category FI transactions include support for category A and B subprojects. Cat FI-C is for subprojects with minimal or no adverse environmental and social risks and impacts.
- Other than Cat FI-C, all other FIs are required to establish an appropriate environmental and social management system (ESMS) commensurate with the nature and risks of the FI's existing and planned portfolio*.
- ADB's ESDD assesses the adequacy of the FI's capacity and commitment to manage ESMS plus any CAPs.
- FI category A subprojects are referred to ADB to ensure compliance with SR 1-3 and disclosure requirements.

Issues for consideration

- ❖ **Guidance** – Guidance Note to underpin the new policy and Good Practice Guide to help staff and borrower/client on *ESMS assessment and implementation.
 - ❑ scope of application and include specific guidance for risk screening of existing and planned portfolio, investment activities and subprojects and to determine the level of safeguards assessment, planning, and extent of monitoring and reporting and disclosure requirements at the level of the sub-projects.
- ❖ **Disclosure** - Need for greater clarity on disclosure requirements, incorporating for situations where sensitive corporate information of a client may need to be kept confidential.
- ❖ **Harmonize** - Better harmonization with the requirements of other MFIs to minimize borrower/client double effort when co-financing.

* ESMS will incorporate the following elements: (i) environmental and social policies; (ii) screening, categorization, 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. The system is documented and agreed upon by ADB and the FI during processing and before project approval.

Independent Evaluation Department (IED)

Findings for Financial Intermediation.

Overall, PSO safeguard performance for project processing, implementation, and capacity support was as good as or better than that for sovereign projects.

- ❑ ADB policy requirements with regards to FIs are narrow, and are mainly focused on categorization, screening and higher risk subprojects, with limited guidance on implementation oversight
- ❑ Use of FI as a safeguard category is inadequate as it only identifies the borrower or client and not the significance of the environmental and social risk.
- ❑ Guidance is required on disclosure of safeguards information at both FI level and activity/subproject levels in line with the requirements of ADB's AIP 2018.
- ❑ SPS lacks clarity on roles and responsibilities of both ADB and the borrower/client during the FI due diligence at project processing stage, and even more importantly during subproject implementation by the FI.
- ❑ SPS is silent on the applicable environmental and social standards for category B subprojects which forms the largest proportion of the ADB FI portfolio – National Requirements.
- ❑ ADB is aligned with all MFIs in terms of delegating the responsibility for application of their social and environmental safeguards to the FI via ESMS.
- ❑ Most MFIs apply provisions within their labor and working conditions and occupational health and safety standards to that of the FI's own workforce and any investments and/or on lending.

SPS/MFI comparison



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Benchmarking of ADB SPS Against Comparator Multilateral Financial Institutions for FIs and Corporate Finance

Factor	ADB SPS	IFC	EBRD	IDB Invest	EDFI
Policy	SPS	Performance Standards	ESP	ESPF	EDFI Standards
Year of Approval	2009	2012	2014/2019	2020	XX
Approach to Risk Assessment - ESMS	Asset class for debt Portfolio for equity	Asset class for debt Portfolio for equity	Asset class for debt Portfolio for equity	Asset class for debt Portfolio for equity	Portfolio for both debt and equity
Exclusion list	Yes	Yes	Yes	Yes	Yes
Double Intermediation	YES, with additional controls	YES, with additional controls	YES, with additional controls	YES, with additional Controls	YES, with additional controls
Disclosure Requirements for Category A/1	120 days for Env. Category A only	60 days for PSO	60 days for PSO	60 days PSO	60 days PSO
Scope of Disclosure	SR 1-3 for FI category A and B	Subproject information for FI A and B	Subproject information for FI A	Subproject information for FI A and B	Subproject information for FI A and B
Policy for Disclosure Requirement	SPS 2009, p. 20 & Access to Information Policy	Access to Information Policy, 2012, p. 11	Access to Information Directive 2019, p. 10	Disclosure Statement OPIM April 2020, Principle 5	Access to Information Requirements

Moderated Discussion #2

Moderator: Duncan Lang, Senior Environment Specialist, Safeguards Division (SDSS), Sustainable Development and Climate Change Department (SDCC)



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ADB

For ADB operations that use project finance, corporate or general corporate finance (private sector) and financial intermediaries -

What can be done:

- **To strengthen the safeguards due diligence for these financing modalities?**
- **To assess and manage risks and impacts?**
- **To improve implementation, stakeholder engagement and information disclosure?**

Sequence for Q&A



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1st sequence – Open for statements and sharing of perspectives and recommendations (raised hands to speak)

2nd sequence – Questions sent in advance (through Zoom registration)

3rd sequence – Questions posted on the chat box and participants raising hands will be called in batches

Quick Poll



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Please rate your satisfaction with today's session:

- 5** – Highly satisfied
- 4** – Somewhat satisfied
- 3** – Neutral
- 2** - Somewhat dissatisfied
- 1** – Very dissatisfied

Quick written feedback via www.menti.com

Please Click the link on the chat box.

Wrap Up and Synthesis

Bruce Dunn, Director Safeguards Division (SDSS) , Sustainable Development and Climate Change Department (SDCC)



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THANK YOU!

GET INVOLVED

Please send us
your feedback and
suggestions



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