

World Bank Performance Standards for Private Sector Projects

1. This note summarizes the steps that Bank Management has taken to complete the process set out in the recommendations in the President's Memorandum and the published paper, *Proposed Adoption and Application of World Bank Performance Standards for Private Sector Projects Supported by IBRD/IDA*, which the Board of Executive Directors approved on June 26, 2012 (R2012-0130 [IDA/R2012-0161]). This note is provided to the Executive Directors for information.
2. The updated IFC Performance Standards were approved by the IFC Board as the environmental and social policy standards for private sector projects following extensive external and internal consultations, and went into effect on January 1, 2012. The aim of the adoption of World Bank Performance Standards was to facilitate Bank support for private sector led projects by applying environmental and social policy standards that are better suited to the private sector, while enhancing greater policy coherence and cooperation across the World Bank Group. Thus, in June 2012, the Bank's Board of Executive Directors approved the application of World Bank Performance Standards in place of the World Bank environmental and social safeguard policies and procedures to Bank support for projects (or components thereof) that are owned, constructed and/or operated on a commercial basis.
3. Bank Management has completed the process of developing the Operational Policy (OP) and Bank Procedure (BP) 4.03, *Performance Standards for Private Sector Activities* to be used as described in the June 2012 Board paper. This required no policy changes from what was presented in the Board paper. As noted during the Board discussion, Management recognized that the adoption of The World Bank Performance Standards is only a first step in achieving significant gains in efficiency and effectiveness when supporting private sector investment for development in collaboration with the IFC and/or MIGA. A second key step is to adopt procedures that would present to private sector investors a consistent World Bank Group approach when IFC or MIGA were also involved. OP/BP 4.03, therefore, have been written to closely parallel procedures followed by IFC environmental and social specialists during project preparation and supervision, at least from the perspective of the private sector investors in development projects. Attached to this note are the final versions of OP/BP 4.03.
4. To ensure the smooth rollout of this OP/BP, Bank Management has concurrently taken the following additional steps: (i) it has provided interim information since September 2012 to staff on procedures, closely paralleling those followed by IFC staff; and (ii) it has drafted and intends to issue, for use by staff, final instructions and guidance notes to ensure the smooth introduction and implementation of these procedures.



Performance Standards for Private Sector Activities

Purpose

1. The aim of this policy is to facilitate Bank financing¹ for private sector led economic development projects by applying environmental and social policy standards that are better suited to the private sector, while enhancing greater policy coherence and cooperation across the World Bank Group.
2. The eight IFC Performance Standards have been adopted by the Bank as the World Bank *Performance Standards for Projects Supported by the Private Sector* (“**WB Performance Standards**”) for application to Bank support for projects (or components thereof) that are designed, owned, constructed and/or operated by a Private Entity (as defined below), in lieu of the World Bank’s safeguard policies (“**WB Safeguard Policies**”).² This OP sets forth the circumstances under which the WB Performance Standards may be applied, the roles and responsibilities of the Private Entity implementing the project, and of the Bank in supporting environmental and social sustainability aspects of the project.

Scope of Application

3. *Private Entity.* For purposes of this OP, a private entity is any natural or legal person, whether privately or publicly owned: (a) which is carrying out or is established for a business purpose, and is operating on a commercial basis; (b) which is financially and managerially

¹ In this OP, unless the context requires otherwise, the term: (a) “**Bank**” means IBRD and IDA (whether acting in its own capacity or as administrator of trust funds funded by other donors); (b) “**WB Group Entity**” means IFC or MIGA (or both); and (c) “**financing**” means any loan, credit, or grant made, or any guarantee issued, by the Bank from its resources or from trust funds funded by other donors and administered by the Bank, or a combination of these.

² See, *Proposed Adoption and Application of World Bank Performance Standards for Private Sector Projects Supported by IBRD/IDA*; June 26, 2012; R2012-0130; IDA/R2012-0161. The IFC Performance Standards which comprise the WB Performance Standards can be found at www.ifc.org/enviro, under “Performance Standards”, following the overview of the standards. IFC’s “*Policy on Environmental and Social Sustainability*” and IFC’s “*Access to Information Policy*” are not Bank policies and are therefore not included in the WB Performance Standards. While the Guidance Notes and Interpretation accompanying the IFC Performance Standards are similarly not Bank policies, and therefore not included in the WB Performance Standards, they may be consulted for good practice guidance. For purposes of this OP, the World Bank Safeguard Policies comprise the following: OP/BP 4.00 (“*Piloting the Use of Borrower Systems to Address Environmental and Social Safeguard Issues in Bank-supported Projects*”), OP/BP 4.01 (“*Environmental Assessment*”), OP/BP 4.04 (“*Natural Habitats*”), OP/BP 4.09 (“*Pest Management*”), OP/BP 4.10 (“*Indigenous Peoples*”), OP/BP 4.11 (“*Physical Cultural Resources*”), OP/BP 4.12 (“*Involuntary Resettlement*”), OP/BP 4.36 (“*Forests*”), OP/BP 4.37 (“*Safety of Dams*”), OP/BP 7.50 (“*Projects on International Waterways*”), and OP/BP 7.60 (“*Projects in Disputed Areas*”).



autonomous; and (c) whose day-to-day management is not controlled by the government (“*Private Entity*”).³

4. *Private Sector Activity.* This OP applies to a Bank supported activity if: (a) the activity is designed, constructed, operated and/or owned, by a Private Entity (or consists of technical assistance in preparation for such activity), is productive and is necessary to meet the development objectives of the member country in which it is implemented; (b) the Private Entity is fully responsible for identifying, assessing and managing the environmental and social risks associated with the activity; and (c) the Private Entity has a generally recognized capacity⁴ to identify, assess and manage the environmental and social risks associated with the activity (and in the case of an activity involving a financial intermediary, to identify, assess and manage these risks associated with the subprojects it finances) (“*Private Sector Activity*”). The Private Sector Activity may constitute the entire Bank supported project, or it may comprise part of a Bank supported project whose other parts do not constitute a Private Sector Activity (“*Non Private Activity*”).

5. *Scope of Application.* Subject to the provisions of paragraph 7 below, the Bank may, unless the member country objects, apply the WB Performance Standards, in lieu of the WB Safeguard Policies, to a Private Sector Activity. The Bank applies the WB Performance Standards as follows:

- (a) if the Private Sector Activity constitutes the entire Bank supported project, the Bank applies the WB Performance Standards to the entire project;⁵ and
- (b) if the Private Sector Activity comprises part of a Bank supported project (or falls within the “area of influence” of such project (see, OP 4.01, *Environmental Assessment*, paragraph 2)) whose other parts comprise a Non Private Activity, then, notwithstanding OP 4.01, the Bank applies: (i) the WB Performance Standards to the Private Sector Activity; and (ii) the WB Safeguard Policies to the rest of the project.

6. A Private Sector Activity, as long as it meets the requirements set forth in paragraph 4 above, may take a number of forms, including: (a) an activity involving a public private partnership (“*PPP*”), especially in an infrastructure sector, comprising a contractual arrangement between a public entity or authority and a Private Entity, whereby risks from construction, and/or operations, and/or financing are fully or partially transferred to the Private Entity; (b) an activity that involves medium- or long-term management contracts, affermage/leases, privatizations, concessions, or build-own-transfer, build-own-operate-transfer, build-own-operate, and other similar arrangements; (c) an activity involving a financial intermediary, provided the subprojects financed by the intermediary and supported by the Bank are implemented by Private Entities;

³ In the IFC Performance Standards, the Private Entity is referred to as the “client”.

⁴ Ability to raise commercial funds in the market under the Equator Principles, or existence of a satisfactory management system may indicate such capacity.

⁵ These provisions apply equally to a Bank supported project comprising several components, each of which is a Private Sector Activity but each is implemented by a different Private Entity.



and (d) in exceptional cases, an activity implemented by a state-owned entity, provided it meets the criteria of a Private Entity described above.

7. *Limitations*

- (a) The WB Performance Standards do not apply to activities involving provision of goods and services, or civil works or turnkey contracts, for the design or construction of facilities that will be fully owned and operated by the public sector (i.e., activities for which private sector involvement in the project is limited to bidding on public contracts).
- (b) The WB Performance Standards do not apply to activities where the responsibilities for identifying, assessing and managing environmental and social risks and impacts are shared between the Private Entity and the member country and cannot be clearly separated. In such cases, the WB Safeguard Policies apply in their entirety to such activities.
- (c) Subject to paragraph 9 below, the requirements of OP/BP 7.50 (*Projects on International Waterways*) and those of OP/BP 7.60 (*Projects in Disputed Areas*) apply to any Bank supported Private Sector Activity.

Private Entity and Bank Roles and Responsibilities

8. The Private Entity is responsible for developing an environmental and social management system (“*ESMS*”) and for identifying, assessing and managing environmental and social risks and impacts associated with the Private Sector Activity, all in accordance with the WB Performance Standards. Financial intermediaries are required to develop an ESMS, acceptable to the Bank, which the intermediary applies in identifying, assessing and managing environmental and social risks and impacts under its Bank-supported portfolio of subprojects.

9. The Bank reviews the Private Sector Activity, the ESMS, and environmental and social assessment and management plans prepared for activities under the ESMS for consistency with the WB Performance Standards.⁶ The Bank categorizes the activity on the basis of the nature of the potential environmental and social risks and impacts of the Private Sector Activity. As part of its review, the Bank takes into account country environmental studies, country assistance or partnership strategies, sector strategies, or comparable Bank-financed studies or programs. The Bank ensures that the notification requirements under OP/BP 7.50 (*Projects on International Waterways*) related to the activity are met; and the Bank may rely on any such notification being undertaken by a WB Group Entity if such notification is found acceptable to the Bank. Finally, the Bank monitors the social and environmental aspects of the Private Sector Activity with respect to the applicable WB Performance Standards.

⁶ In the case of financing involving a financial intermediary, the Bank reviews the intermediary’s ESMS.



10. Since the Private Entity will normally have undertaken significant work in developing the Private Sector Activity long before the Bank's involvement, the Bank bases its decision, on whether to support a Private Sector Activity, in part on the work already undertaken by the Private Entity in the development of the activity, decisions already made regarding the activity, and permits and approvals already issued by the member country.

11. The Bank explains in the project documents: (a) the rationale for applying WB Performance Standards; (b) the role of the Private Entity in developing, implementing, owning and/or operating the project; (c) the role, if any, of the public sector in developing and implementing the project; (d) the role and responsibility of each of the Private Entity and public sector in identifying, assessing or managing the social and environmental aspects of the project; and (e) parts of the project, if any, that are subject to WB Safeguard Policies.



Performance Standards for Private Sector Activities

1. This BP sets out the environmental and social review¹ procedures (“*ESRPs*”) to be followed for a Bank² supported Private Sector Activity for which the WB Performance Standards apply in accordance with OP 4.03. Section A covers general requirements for all such activities; Section B covers additional requirements for activities that do not involve financial intermediaries (“*FIs*”); and Section C covers additional requirements for activities that involve FIs.

A. General Requirements

Differences in Bank and Private Entity Approaches to the Scope, Timing and Milestones of Private Sector Activities and their Development

2. Since the timing of the Bank’s initial involvement in a Private Sector Activity often occurs after the Private Entity has been awarded a concession or made key business decisions relating to the Private Sector Activity, it may be necessary for the Bank to:

- (a) adapt rapidly the scope of the environmental and social review for the Private Sector Activity, as well as take into account the timing and key milestones of the Private Entity’s preparation of the Private Sector Activity; and
- (b) review any approved permits, authorizations, and environmental and social management plans for consistency with the requirements of the WB Performance Standards, and to inform the action plan required pursuant to paragraph 9 of this BP.

Involvement of IFC and/or MIGA

3. If the Private Sector Activity involves potential support by a WB Group Entity, the Bank shares information regarding environmental and social aspects of the activity with the WB Group Entity, in accordance with its policy on Access to Information.

4. When a WB Group Entity has carried out or is carrying out environmental and social due diligence work for the Private Sector Activity under its environmental and social due diligence procedures, the Bank may choose to rely on such due diligence work for purposes of determining whether or not the Private Sector Activity has been prepared in accordance with the WB Performance Standards. In case of such reliance, the Bank does not require the WB Group Entity to follow or have followed the procedures set forth in this BP, nor is the Bank required to undertake the environmental and social review work undertaken, or to be undertaken, by the WB Group Entity. The Bank may also choose to rely on the WB Group Entity’s project implementation support activities during the Bank’s implementation support. Any such reliance by the Bank, whether during preparation or implementation support, is, however, subject to the pre-condition that the Bank has concluded written arrangements with the WB Group Entity designed to ensure that the Bank is kept adequately informed on an ongoing basis of: (a) the status of the

¹ For the purposes of this BP, “environmental and social review” refers to the due diligence activities carried out during project preparation by Bank staff, as well as review of reports and other information obtained during supervision and monitoring activities by Bank staff.

² In this BP, the terms “Bank”, “WB Group Entity”, “financing”, “Private Sector Activity”, and “Private Entity” have the meanings set forth in OP 4.03.



Private Entity's compliance with its environmental and social requirements; and (b) the consistency of the implementation of the Private Sector Activity with the WB Performance Standards.

Screening and Categorization

5. The Bank screens the Private Sector Activity in order to determine the nature and extent of the environmental and social assessment needed, based on the type, location, sensitivity, and scale of the activity, as well as the nature and magnitude of its potential impacts. This screening also identifies any additional information required to complete the Bank's environmental and social review and determine whether to support the activity. The findings of this screening are summarized in the documentation for the concept decision point (including the Integrated Safeguards Data Sheet ("ISDS")).
6. The Private Sector Activity is categorized by the Bank as Category A, B, C, or FI, depending on the nature of the activity and financing mechanism, as follows:
 - (a) **Category A:** Business activities with potential significant adverse environmental or social risks and/or impacts that are diverse, irreversible, or unprecedented;
 - (b) **Category B:** Business activities with potential limited adverse environmental or social risks and/or impacts that are few in number, generally site-specific, largely reversible, and readily addressed through mitigation measures;
 - (c) **Category C:** Business activities with minimal or no adverse environmental or social risks and/or impacts; or
 - (d) **Category FI:** The activity involves support, through a FI, of initially unspecified subprojects that may result in adverse environmental or social risks and/or impacts.

The type of instrument used to identify and assess environmental and social risks may vary in accordance with the nature of the potential risks and impacts.

Specific Provisions

7. At the conclusion of the environmental and social review, the Bank prepares the appraisal stage ISDS. The legal agreements with the Bank for the Private Sector Activity include undertakings, as relevant, to: (a) implement the Private Sector Activity in accordance with the ESMS (as defined below); (b) carry out the action plans referred to below in paragraphs 9, 11 and 12; (c) in relation to non-FI Private Sector Activities, prepare and furnish the AMR as provided in paragraph 16 below; and/or (d) in relation to FI Private Sector Activities, provide reporting to the Bank on the implementation of the ESMS as referred to in paragraph 23(d) below.

B. Detailed Procedures (other than when Financial Intermediaries are involved)

Environmental and Social Information Requirements and Review

8. *General Requirements.* The Bank undertakes a detailed review of the Private Entity's environmental and social management system ("**ESMS**") and environmental and social impact assessment and any related documentation. During the review, the Bank requests clarification or additional information as needed to address any deficiencies identified in the documentation, or other

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



concerns. A visit to the project site during preparation is mandatory for all Category A Private Sector Activities.

9. The purpose of the environmental and social review is to determine whether the ESMS and the design and proposed implementation of the Private Sector Activity are consistent with the WB Performance Standards. If they are not, further processing requires the Private Entity to develop a time-bound action plan acceptable to the Bank to address any deficiencies and ensure such consistency.

10. The Bank requires the Private Entity to engage with affected communities through disclosure of information, consultation with and informed participation by them, in a manner commensurate with the risks to, and impacts on, the affected communities. Factors to be considered by the Bank include: the procedures and requirements established under national and local environmental laws and policies for environmental permitting, and local social and cultural conditions that may constrain certain forms of public consultation and disclosure.

11. *Expansion; Modernization.* If the Private Sector Activity involves expansion and/or modernization of facilities, the environmental and social aspects of both existing and proposed new facilities are reviewed by the Bank. The Bank requires the Private Entity: (a) to complete an environmental and social audit of the existing operation or facility; and (b) depending on the results of the audit, to carry out a time-bound action plan to bring the existing operation into a status consistent with the applicable WB Performance Standards within a reasonable period of time.

12. *Privatization.* If the Private Sector Activity involves a privatization, the Bank requires the Private Entity: (a) to engage an independent consultant to conduct an environmental and social audit of the facilities; and (b) depending on the results of the audit, to carry out a time-bound action plan to bring the existing facilities into a status consistent with applicable Bank Performance Standards within a reasonable period of time.

Environmental and Social Review Summary

13. For each Category A and each Category B Private Sector Activity, upon a determination that the activity is designed and will be implemented in a manner consistent with the WB Performance Standards, the Bank prepares an environmental and social review summary (“*ESRS*”). The ESRS consists of: (a) a brief description of the activity on which the environmental and social review is based; (b) a list of key environmental and social issues, and categorization by the Bank; (c) key sources of information for the environmental and social review; (d) a summary of WB Performance Standards triggered; and (e) a brief summary of the key findings of the review.

14. When the Bank and a WB Group Entity support the same Private Sector Activity, the Bank collaborates with the WB Group Entity in the preparation and disclosure of a single, World Bank Group ESRS and supporting documentation. If no WB Group Entity is supporting the activity, the Bank transmits the draft ESRS to the Private Entity and requests its review of, and permission to post, the ESRS, at the InfoShop and the Bank’s local Public Information Center (“*PIC*”). Upon receipt of written permission from the Private Entity, the Bank discloses the ESRS at the InfoShop and its local PIC. If the Private Entity does not provide its permission, the Bank does not continue processing the Private Sector Activity for Bank support.

*Disclosure of Environmental and Social Assessment Documents*

15. For each Category A and each Category B Private Sector Activity, the Bank requires the Private Entity to disclose and maintain on the activity's or Private Entity's website, if one exists, the environmental and social assessment prepared for the activity for a minimum period beginning no later than disclosure of the ESRS by the Bank and for as long as the Bank is providing implementation support to the Private Sector Activity. The link to the website is identified in the ESRS. Alternatively, if no such website exists, the Bank requires the Private Entity to permit the Bank to disclose the environmental and social assessment at the InfoShop and in the Bank's local PIC along with the Bank's ESRS. Specific minimum times for disclosure prior to Board presentation are the same as those governing Bank guarantees.

Implementation Support

16. Throughout the period of the Bank's implementation support/supervision of the Private Sector Activity, the Bank requires the Private Entity to furnish to it an annual monitoring report ("AMR") acceptable to the Bank summarizing the Private Sector Activity's consistency with the WB Performance Standards, and identifying any environmental or social issues that arise during implementation and how they have been addressed. The Bank carries out site visits or takes other measures as necessary to verify the information provided in the AMR.

C. Detailed Procedures for a Private Sector Activity involving Financial Intermediaries*Responsibilities*

17. If the Private Sector Activity involves a FI, the FI is required by the Bank to:

- (a) develop and operate an ESMS that is commensurate with the level of social and environmental risks in its portfolio, and prospective business activities;
- (b) apply relevant aspects of WB Performance Standard 2 to its employees; and
- (c) ensure that all subprojects supported by the Bank comply with applicable national and local laws and regulations.

18. The Bank requires FIs whose portfolio and/or proposed business activities present moderate to high social or environmental risks (i.e., Category FI-1 and FI-2, as described below) to ensure that any such activities supported by the Bank are operated in a manner consistent with the WB Performance Standards.

19. In order to appropriately identify the environmental and social risks related to proposed business activities under the Bank-supported Private Sector Activity, the Bank reviews the existing portfolio and/or proposed business activities of the FI to identify risks, and assesses whether the ESMS for the Bank supported Private Sector Activity is appropriate for managing those risks.

*Screening and Categorization*

20. If Bank support to an FI is earmarked for a specific Private Sector Activity, the Bank decides the appropriate category based on the specific activity for which it is earmarked, and the Private Sector Activity is governed by the procedures outlined above in Section B.
21. Category FI Private Sector Activities are further sub-divided as follows:
- (a) FI-1: when the FI's existing or proposed portfolio includes, or is expected to include, substantial financial exposure to a proposed subproject with potential significant adverse environmental or social risks or impacts that are diverse, irreversible, or unprecedented;
 - (b) FI-2: when the FI's existing or proposed portfolio is comprised of, or is expected to be comprised of, subprojects that have potential limited adverse environmental or social risks or impacts that are few in number, generally site-specific, largely reversible, and readily addressed through mitigation measures; or includes a very limited number of subprojects with potential significant adverse environmental or social risks or impacts that are diverse, irreversible, or unprecedented; and
 - (c) FI-3: when the FI's existing or proposed portfolio includes financial exposure to subprojects that predominantly have minimal or no adverse environmental or social impacts.

Environmental and Social Requirements and Review

22. In reviewing the adequacy of the FI's ESMS, the Bank determines whether the ESMS is appropriate to the FI's risk profile, by considering whether:
- (a) the policy statement incorporated in the ESMS describes specific objectives, metrics, and aspirations that the FI has set with regard to its environmental and social performance, and is endorsed by the FI's senior management;
 - (b) organizational capacity, responsibilities, and accountability within the FI organization are described;
 - (c) procedures are in place for screening and assessing risks and impacts of subprojects or individual loan transactions; and
 - (d) procedures are in place for monitoring environmental and social performance of the FI's portfolio of subprojects and providing periodic progress reports to FI senior management.

In addition, the Bank assesses systems or procedures for training and ensuring awareness of the FI's investment, legal, and credit officers regarding the FI's ESMS.

23. Upon determination that the ESMS is appropriate to the risk profile of the FI's portfolio, the Bank approves the ESMS in a written memorandum. The memorandum consists of:
- (a) a brief summary of the findings regarding the risk profile of the FI's portfolio;
 - (b) a description of the ESMS and its appropriateness;

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



- (c) a brief summary of the FI's capacity to implement the ESMS;
- (d) recommended specific requirements to be included in the legal agreements for the Private Sector Activity regarding the periodic reporting to the Bank by the FI on the implementation of the ESMS; and
- (e) recommended language for the environmental and social impacts sections of the project documents.

Disclosure

24. For Category FI-1 and FI-2 Private Sector Activities, the Bank requires the FI to disclose through the FI's website, if a website exists, and to permit, in writing, the Bank to disclose at the Bank's InfoShop and local PIC, the following elements of the FI's ESMS:

- (a) the FI's policy statement which describes specific objectives, metrics, and aspirations that the FI has set with regard to its environmental and social performance;
- (b) the FI's procedures for screening and assessing risks and impacts of subprojects or individual transactions; and
- (c) after Bank review, the summary of the environmental assessment that is required for any subproject considered high risk in accordance with the ESMS.

25. In addition to disclosing specified information provided by the Private Entity, the concept stage and appraisal stage ISDSs are prepared and disclosed by the Bank as the source of summary information on the Bank's findings regarding environmental and social issues for Category FI Private Sector Activities.

Implementation Support

26. For Category FI-1 and FI-2 Private Sector Activities, the Bank requires the FI to furnish to it, throughout implementation, an annual environmental and social performance report ("*ESPR*") that summarizes the status of implementation of the ESMS by the FI. To determine the effectiveness of an FI's ESMS, the Bank periodically reviews the process and the results of the social and environmental due diligence conducted by the FI for the subprojects supported by the Bank. The Bank periodically reviews a sample of the subprojects with significant environmental and social risks. Bank implementation support may include visits to the FI, as well as to recipients of FI loans/investments, particularly for high risk subprojects. The frequency and focus of supervision visits is commensurate with the identified risks.