

### I. Purpose of this Policy

1. The Multilateral Investment Guarantee Agency (MIGA) strives for positive development outcomes in the private sector projects for which it provides guarantee support. MIGA believes that an important component of achieving positive development outcomes is the environmental and social sustainability of these projects, which MIGA expects to achieve through the application of this Policy on Environmental and Social Sustainability (the Sustainability Policy or the Policy), and a comprehensive set of environmental and social Performance Standards.

2. Through this Policy, MIGA puts into practice its commitments to environmental and social sustainability. These commitments are based on MIGA's mission and mandate, as presented in section II of this Policy. Translating these commitments into successful outcomes depends on the joint efforts of MIGA and its Clients<sup>1</sup>, and, in many cases, that of third parties. Consistent with these commitments, MIGA carries out the actions described in section III of this Policy, including its responsibility to conduct environmental and social due diligence of activities proposed for its support.

3. Activities supported by MIGA include a range of non-commercial risk guarantees. MIGA offers coverage for (i) Currency Inconvertibility and Transfer Restriction; (ii) Expropriation; (iii) War, Terrorism, and Civil Disturbance; (iv) Breach of Contract; and (v) Non-Honoring of Sovereign Financial Obligations. MIGA is also involved in providing small and medium-size similar coverage, for the first three risks, under the Small Investment Program (SIP). Since 1997, MIGA has also extended coverage to the reinsurance market. Guarantees may be issued for projects and for portfolios of projects<sup>2</sup>. Proposed projects that are determined to have moderate to high levels of environmental and/or social risk,<sup>3</sup> or the potential for adverse environmental and/or social impacts<sup>4</sup> will be carried out in accordance with the requirements of the Performance Standards.

4. The Performance Standards consist of the following:

Performance Standard 1: Assessment and Management of Environmental and Social Risks and Impacts

Performance Standard 2: Labor and Working Conditions

Performance Standard 3: Resource Efficiency and Pollution Prevention

Performance Standard 4: Community Health, Safety, and Security

Performance Standard 5: Land Acquisition and Involuntary Resettlement

Performance Standard 6: Biodiversity Conservation and Sustainable Management of Living Natural Resources

Performance Standard 7: Indigenous Peoples

Performance Standard 8: Cultural Heritage

5. These Performance Standards help MIGA and its Clients manage and improve their environmental and social performance through a risk and outcomes-based approach. The desired outcomes are described in the objectives of each Performance Standard, followed by specific requirements to help Clients achieve these outcomes through means that are appropriate to the nature and scale of the activity and commensurate with the level of environmental

<sup>1</sup> The term "Client" is used throughout this Policy to refer to the Project Enterprise or the Guarantee Holder (as these terms are formally defined in MIGA's Contract of Guarantee), or the borrower of any loan guaranteed by MIGA, as is appropriate in the context. The Project Enterprise takes the actions necessary to implement the Performance Standards. MIGA generally has no contractual relationship with the Project Enterprise, thus MIGA seeks to enforce its environmental and social requirements as follows. Where the Guarantee Holder is the sole or majority shareholder of the Project Enterprise, the Guarantee Holder is fully responsible for the compliance of the Project Enterprise with the environmental and social standards, and MIGA can cancel the contract of guarantee for non-compliance. In the case of guarantees in favor of project lenders who do not control the Project Enterprise, MIGA requires such unaffiliated lenders, to the extent practicable under the circumstances: (i) to include covenants in their loan documents or some other agreement with the Project Enterprise that require compliance with MIGA's environmental and social standards; and (ii) to diligently enforce these covenants against the Project Enterprise. Equity investors with a minority interest are treated on a case by case basis in a manner similar to either majority shareholders or unaffiliated lenders, depending on the level of control they exercise over the Project Enterprise.

<sup>2</sup> In this Policy, "project" may therefore refer to an individual project or, where MIGA has provided or proposes to provide guarantee coverage on a portfolio basis, to a portfolio of projects. This Policy addresses separately financial sector projects and non-financial sector business activities corresponding to activities supported by MIGA guarantee(s) in agribusiness, manufacturing, services, telecommunication, infrastructure, oil, gas, mining and/or chemicals projects separately. If a portfolio includes both types of project, then both the financial and non-financial sector sections of this Policy are applied as appropriate.

<sup>3</sup> Environmental and social risk is a combination of the probability of certain hazard occurrences and the severity of impacts resulting from such an occurrence.

<sup>4</sup> Environmental and social impacts refer to any change, potential or actual, to (i) the physical, natural, or cultural environment, and (ii) impacts on surrounding community and workers, resulting from the business activity/project to be supported.

and social risks and/or impacts. Central to these requirements is the application of a mitigation hierarchy to anticipate and avoid adverse impacts on workers, communities, and the environment, or where avoidance is not possible, to minimize, and where residual impacts remain, compensate/offset for the risks and impacts, as appropriate. The Performance Standards also provide a solid base on which Clients may increase the overall sustainability of their operations, identify new opportunities to grow their business, and build their competitive advantage in the marketplace.

6. While managing environmental and social risks and impacts in a manner consistent with the Performance Standards is the responsibility of the Client, MIGA seeks to ensure, through its due diligence and monitoring efforts, that the business activities<sup>5</sup> it supports through a guarantee are implemented in accordance with the requirements of the Performance Standards. As a result, the outcome of MIGA's environmental and social due diligence of a proposed project is an important factor in its approval process, and will determine the scope of the environmental and social conditions of MIGA guarantees. By adhering to this Policy, MIGA seeks to (i) enhance the predictability, transparency, and accountability of its actions and decision making; (ii) help Clients manage their environmental and social risks and impacts and improve their performance; and (iii) enhance positive development outcomes on the ground. When another Development Finance Institution (DFI)<sup>6</sup> or other entity with a mandate for or commitment to environmental and social sustainability has conducted environmental and/or social due diligence on the business activity for which a guarantee is sought, whether in its capacity as current or prospective equity investor, lender, insurer or through other involvement with the business activity, MIGA may choose to rely on such due diligence provided that MIGA determines it to be of sufficient quality and scope to adequately inform MIGA's approval process. MIGA may similarly rely on the monitoring carried out by such entities. When the International Finance Corporation (IFC) and/or International Bank for Reconstruction and Development (IBRD) or any World Bank Group (WBG) entity is involved with the project, MIGA may rely on and use such entity's environmental standards, environmental and social due diligence and/or monitoring, in accordance with WBG common or shared guidance.

7. This Policy is effective for all new projects to be underwritten after October 1, 2013,<sup>7</sup> and supersedes in its entirety MIGA's *Policy on Social and Environmental Sustainability* of October 1, 2007. This Policy is not an express or implied waiver of MIGA's privileges and immunities under its Articles of Agreement, international conventions, or any applicable law, nor does it provide any contractual or other rights to any party.

## II. MIGA's Commitment

8. MIGA's mission is to promote sustainable private sector foreign direct investment in developing countries, helping to reduce poverty and improve people's lives. MIGA believes that sound economic growth, grounded in sustainable productive private investment, is crucial to poverty reduction. MIGA guarantee services will be delivered in accordance with MIGA's mission and operational strategies.

9. Central to MIGA's development mission are its efforts to carry out its support to projects and investment activities with the intent to "do no harm" to people and the environment, to enhance the sustainability of private sector operations and the markets they work in, and to achieve positive development outcomes. MIGA is committed to ensuring that the costs of economic development do not fall disproportionately on those who are poor or vulnerable, that the environment is not degraded in the process, and that renewable natural resources are managed sustainably. MIGA believes that the Client's regular engagement with stakeholders about matters that directly affect them plays an important role in avoiding or minimizing risks and impacts to people and the environment. MIGA also recognizes the importance of supporting sector-wide market transformation initiatives that are consistent with sustainable development objectives.

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<sup>5</sup> In this Policy, "business activity" and "business activities" are used interchangeably and may be those of an individual project or a portfolio of projects.

<sup>6</sup> In this Policy, the term Development Financial Institution "DFI" refers as a generic term to a national, international or multilateral financial institution, backed by state(s) with developed economies, with development goals and a mandate to providing finance to the public/private sector for investments that promote development, e.g. European Bank for Reconstruction and Development (EBRD), European Investment Bank (EIB), African Development Bank (AfDB), Asian Development Bank (ADB), Deutsche Investitions- und Entwicklungsgesellschaft (DEG), Promotion et Participation pour la Coopération Économique (Proparco), export credit agency(s), etc.

<sup>7</sup> New projects in this paragraph shall be those for which the Definitive Application was received by MIGA on or after this date, except as decided otherwise by MIGA management.

10. MIGA recognizes that climate change is a serious global challenge and that climate-related impacts may impede economic and social well-being and development efforts. Working with the private sector and other parties to address climate change is therefore a strategic priority for MIGA. Given the importance of the private sector's role in the reduction of greenhouse gas (GHG) emissions, MIGA will support innovative investments services to climate-friendly solutions.

11. MIGA's support for low-carbon economic development is one dimension of a balanced approach to development, including supporting access to modern, clean, and reliable energy services. MIGA also recognizes the importance of ecosystem services and their role in climate change mitigation as well as adaptation. It is committed to minimizing business activities-related impacts on areas providing such services. MIGA, in its efforts to support its climate-related commitments, will build on the World Bank Group (WBG) experience in energy efficiency, cleaner production, renewable energy, and carbon markets as well as in the development of GHG accounting and approaches to climate change risk assessment, to make available instruments and practices that allow its Clients to consider climate-related risks and opportunities in their investment decisions.<sup>8</sup> Finally, as the practice and tools for GHG accounting are mainstreamed, MIGA will require its Clients to include GHG emissions in their regular reporting to MIGA in accordance with the Performance Standard 3 quantification threshold. This will allow MIGA to quantify, manage and report on the carbon footprint of its portfolio in accordance with the emerging state of practice on accounting and reporting.

12. MIGA recognizes the responsibility of business to respect human rights<sup>9</sup>, independently of the state duties to respect, protect, and fulfill human rights. This responsibility means to avoid infringing on the human rights of others and to address adverse human rights impacts business may cause or contribute to. Meeting this responsibility also means creating access to an effective grievance mechanism that can facilitate early indication of, and prompt remediation of various project-related grievances. MIGA's Performance Standards support this responsibility of the private sector. Each of the Performance Standards has elements related to human rights dimensions that businesses may face in the course of their operations. Consistent with this responsibility, MIGA undertakes due diligence of the level and quality of the risks and impacts identification process carried out by its Clients against the requirements of the Performance Standards, informed by country, sector, and Client's knowledge.

13. MIGA believes that women have a crucial role in achieving sound economic growth and poverty reduction. They are an essential part of private sector development. MIGA expects its Clients to minimize gender-related risks from business activities and unintended gender differentiated impacts. Recognizing that women are often prevented from realizing their economic potential because of gender inequity, MIGA is committed to supporting business activities/projects that create opportunities for women.

14. MIGA seeks to provide accurate and timely information regarding its guarantee support as well as more general institutional information in accordance with its Access to Information Policy. MIGA also recognizes the importance of disclosure of information, both for itself and its Clients, as a means of managing environmental, social, and governance risks.

15. In order to accomplish its mission and achieve its commitments, MIGA endeavors to collaborate with Clients who identify and manage environmental and social risks and who pursue environmental and social opportunities and outcomes in their business activities with a view to continually improving their sustainability performance. MIGA recognizes the relationship between a strong culture of corporate integrity and governance and sustainability performance, and that a company's management and board of directors play important roles in driving risk management and sustainable growth. MIGA believes that this approach helps improve the financial, social, and environmental sustainability of investments, and enhances the public trust in its operations.

16. Finally, MIGA is committed to notifying countries potentially affected by the transboundary effects of proposed business activities, so they can determine whether the proposed business activity has the potential for causing adverse effects through air pollution or deprivation of water from, or pollution of international waterways.

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<sup>8</sup> The Sustainability Policy supports the implementation of the 2008 World Bank Group's "Strategic Framework for Development and Climate Change".

<sup>9</sup> For purposes of this policy, MIGA will be guided by the International Bill of Human Rights and the eight core conventions of the International Labour Organization (ILO).

### III. MIGA's Roles and Responsibilities

17. MIGA assumes several roles and responsibilities under this Policy. With respect to any particular investment, the level of MIGA's engagement and the appropriate type and extent of due diligence and monitoring activities is determined by the nature and scope of the proposed guarantee, the environmental and social risks and anticipated impacts, the involvement of the World Bank, IFC, or other entities, and the specific circumstances of the collaboration and relationship with the Client. While MIGA generally conducts due diligence and/or monitoring activities at the Project Enterprise level for all financial and non-financial sector projects,<sup>10</sup> MIGA may choose to limit such activities to the level of the Guarantee Holder and/or a subset of the portfolio of active projects. MIGA considers the risks and impacts of the proposed project, and how supporting such project can be expected to contribute to the development of the host country and to broadly benefit its relevant stakeholders in economic, social, and/or environmental terms. There are several types of activities that MIGA does not support. These activities are set out in the MIGA Exclusion List.<sup>11</sup>

#### Environmental and Social Due Diligence

##### *Overall Approach for all Business Activities*

18. MIGA's environmental and social due diligence is integrated into MIGA's overall due diligence of the business activity under consideration, including the review of financial and reputational risks. MIGA weighs the costs and benefits of proposed business activities and articulates its rationale and specific conditions for the proposed guarantee. These are provided to MIGA's Board of Directors for those guarantees requiring Board approval.

19. MIGA does not provide guarantee support for projects that cannot be expected to meet the requirements of the Performance Standards within a reasonable period of time. Persistent delays in meeting these requirements can lead to loss of coverage from MIGA.

20. At times, the Client's ability to achieve environmental or social outcomes consistent with the Performance Standards will be dependent on third party actions. A third party may be a government agency in a regulator capacity or contract party, a principal contractor or primary supplier with whom the project has a substantial involvement, or an operator of an associated facility (as defined in Performance Standard 1).

21. MIGA, as part of its own due diligence process, will review Clients' identification of third party risks, and will determine whether such risks are manageable, when the Client has control or influence over the actions and if so under what conditions. MIGA seeks to ensure that the projects it supports through guarantees achieve outcomes consistent with the Performance Standards, even if the outcomes are dependent upon the performance of a third party. Certain risks may require MIGA to refrain from supporting the proposed project.

22. MIGA's contractual agreements pertaining to Clients' activities include specific provisions with which Clients undertake to comply. These include complying with the applicable requirements of the Performance Standards and specific conditions included in action plans, as well as relevant provisions for environmental and social reporting, and consent to monitoring visits by MIGA staff or representatives, as appropriate. If the Client fails to comply with its environmental and social commitments as expressed in the legal agreements and associated documents, MIGA will work with the Client to bring it back into compliance, and if the Client fails to reestablish compliance, MIGA may exercise its rights and remedies, as appropriate.

23. MIGA requires that Clients inform MIGA when there is a material change<sup>12</sup> in the project supported by MIGA or when they plan to enter into a new business area that is materially different from what was represented when MIGA obtained Board approval. In such circumstances, MIGA will assess whether the material change or new business area poses environmental and/or social risks and/or impacts, and if so, MIGA will require the Client to adjust its Environmental and Social Management System (ESMS) in a manner consistent with (i) potential environmental and/or social risks and/or impacts associated with material changes or new businesses; (ii) this policy; and (iii)

<sup>10</sup> The exceptions to this are private equity funds and portfolios of non-financial sector projects. For these types of investments, MIGA's due diligence and monitoring activities may be directed at the Guarantee Holder level and/or Project Enterprise level as appropriate and as per MIGA Environmental and Social Review Procedures (ESRP).

<sup>11</sup> The MIGA Exclusion List may be found at [www.miga.org/sustainability](http://www.miga.org/sustainability)

<sup>12</sup> Material change may include change in environmental and/or social risk profile, and/or change(s) to the scope or nature of the business activity.



applicable requirements of the Performance Standards. MIGA may request the Client to provide results of its environmental and social due diligence for activities supported with respect to the project changes or in these new businesses areas.

### Guarantee in support of Sectors other than Financial Intermediaries<sup>13</sup>

24. MIGA's environmental and social due diligence is commensurate with the nature, scale, and stage of the project, and with the level of environmental and social risks and impacts. MIGA conducts due diligence of all new projects that are being considered for MIGA support, whether in the design, construction, or operational stage. If the proposed use of funds and/or guarantee is not fully defined at the time of the due diligence, MIGA's environmental and social due diligence may be expanded to review other business activities of the Client as part of MIGA's environmental and social risk management considerations. Where there are significant environmental or social impacts associated with the business activity, including past or present adverse impacts caused by others, MIGA works with its Client to determine possible remediation measures.

25. The timing of issuance of a MIGA guarantee in relation to a Client's business activity varies from transaction to transaction. MIGA's engagement often occurs well after the business activity is conceived, with the site selected and development started. In such cases, MIGA will review the ESMS and risk management practices already in place, as well as the environmental and social assessment and community engagement undertaken by the Client and/or any third party before MIGA's consideration of the guarantee. When MIGA's involvement occurs in the early stages of project design, depending on the nature of the business activity MIGA may be able to support the Client more effectively in anticipating and addressing specific risks and impacts; in identifying opportunities; and in managing these throughout the life of the project.

26. MIGA's environmental and social due diligence generally includes the following components: (i) reviewing all available information, records, and documentation related to the environmental and social risks and/or impacts of the business activity/project; (ii) conducting site inspection(s) and interview(s) of Client's personnel and relevant stakeholders, where appropriate; (iii) analyzing the business activity's environmental and social performance in relation to the requirements of the Performance Standards and provisions of the World Bank Group Environmental, Health and Safety Guidelines or other internationally recognized sources, as appropriate; and (iv) identifying any gaps between the performance and the requirements, and corresponding additional measures and actions beyond those identified by the Client's in-place management practices. To ensure the business activity meets the Performance Standards, MIGA makes these supplemental actions, in the form of an Environmental and Social Action Plan, necessary conditions of MIGA's guarantee as per an agreed time frame.

27. In cases of business activities with a defined use of proceeds for MIGA's guarantee and a clearly defined environmental and social footprint, MIGA's requirements regarding environmental and social risk management will apply to the business activities covered by MIGA's guarantee. However, MIGA encourages its Clients to manage environmental and social risks consistently in all their operations.

28. In cases where the business activity to be guaranteed is likely to generate potential significant adverse impacts on communities (i.e., Affected Communities) or is likely to generate potential adverse impacts on Indigenous Peoples, MIGA expects Clients to engage in a process of Informed Consultation and Participation (ICP)<sup>14</sup>. In such cases, through its own investigation, MIGA will determine whether the Client's community engagement is one that involves ICP and enables the participation of the Affected Communities, leading to Broad Community Support (BCS) for the business activity by Affected Communities. Broad Community Support is a collection of expressions by Affected Communities, through individuals or their recognized representatives, in support of the proposed business activity. There may be BCS even if some individuals or groups object to the business activity. After MIGA's Board approval of the guarantee to the business activity, MIGA continues to monitor the Client's community engagement process as part of its portfolio monitoring on environmental and social performance.

29. In addition, where a proposed business activity triggers the Performance Standard 7 requirement of Free, Prior, and Informed Consent (FPIC) of Indigenous Peoples, MIGA will undertake an in-depth review of the process

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<sup>13</sup> Throughout the Policy reference to non-financial sector/sectors other than financial intermediaries refer to business activities that are not on MIGA's exclusion list and correspond to activities supported by MIGA guarantee(s) in sectors including agribusiness, manufacturing, services, telecommunication, infrastructure, oil, gas, mining and chemicals.

<sup>14</sup> In accordance with Performance Standard 1.

conducted by the Client as part of its environmental and social due diligence.

### *Guarantee in support of Financial Intermediaries*

30. MIGA is committed to supporting sustainable capital markets and financial sector development. To this end, MIGA has developed a significant program of support to investments that is implemented through financial intermediaries (FIs). Through this program, MIGA helps strengthen domestic capital and financial markets that support economic development at a scale of project enterprise that is smaller than would be possible through direct MIGA guarantees. For purposes of this Policy, FIs include guarantee holders and/or project enterprises providing funding/investment to multiple sub-projects. This may include, without limitation, microfinance institutions, leasing companies, brokers, on-lending financial institutions to SMEs and/or Corporates, and private equity funds. MIGA may also provide guarantee(s) to collective portfolio(s) of sub-projects of FIs<sup>15</sup>. FIs may carry out a diverse range of activities including private equity, medium and small enterprise finance, microfinance, leasing, trade finance, housing finance, consumer finance, corporate finance, and project finance, each with its own environmental and social risk profile.

31. Through its engagement in the financial sector, MIGA supports the capacity development of banks and other financial institutions and entities to manage environmental and social risks. This is achieved in part through requiring the project enterprise(s) to develop and implement an Environmental and Social Management System (ESMS), and where necessary to enhance the FI's in-house capacity for the day-to-day management of portfolio risks, including environmental and social risk. Environmental and social risk management is part of the responsibilities that the FI<sup>16</sup> assumes. MIGA requires that FI Project Enterprise(s) and/or Guarantee Holder(s) carry out individual transaction appraisal and monitoring as well as overall portfolio management in accordance with the environmental and social risk profile of its activities and that of individual transactions.

32. In order to appropriately identify the environmental and social risks related to FI guarantees during the due diligence process, MIGA reviews the existing portfolio and prospective business activities of the FI customers<sup>17</sup> to identify activities where the FIs and MIGA could be exposed to risks as a result of their support, and defines requirements for managing these risks. MIGA reviews the implementation capacity of FIs as well as their ESMS, as required by Performance Standard 1.

33. MIGA's requirements and the scope of their application for FI projects depend on MIGA's guarantee, the use of proceeds covered by MIGA's guarantee, and the level of risk associated with the FI's portfolio. In particular:

- FIs are required to develop and operate an ESMS that is commensurate with the level of environmental and social risks in its portfolio, and prospective business activities. The ESMS<sup>18</sup> should incorporate relevant principles of Performance Standard 1;
- FIs are required to apply relevant aspects of Performance Standard 2 to their workers;
- FIs will apply the MIGA Exclusion List and follow relevant national laws; and
- FIs with portfolio and/or prospective business activities that present moderate to high environmental or social risks (i.e., Category FI-1 and FI-2) will require the higher risk business activities<sup>19</sup> they support to apply relevant requirements of the Performance Standards, subject to paras.34-35 below.

34. In cases where MIGA's guarantee is targeted to a specified end use (e.g., the guaranteed funds will be used by a bank to provide trade finance), MIGA's requirements regarding environmental and social risk management as described in paragraph 31 will cover the specified end use and the entire asset class of which the specified end use is a part (e.g., the entire trade finance portfolio, where MIGA provides coverage for specific trade finance activities). MIGA also encourages its Clients to manage environmental and social risks throughout their entire portfolio.

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<sup>15</sup> MIGA's approach to environmental and social due diligence and monitoring of private equity fund projects or portfolio of FIs is governed by this Policy and procedures are presented in MIGA's Environmental and Social Review Procedures (ESRP).

<sup>16</sup> The use of "FI" or "FIs" throughout this Policy interchangeably refers to the Guarantee Holder(s) or the Project Enterprise(s). The environmental and social requirements are generally the responsibility of the Project Enterprise(s), while in case of guarantee support to private equity funds and/or portfolio of FI projects, the Guarantee Holder will be the ultimate responsible party of the environmental and social responsibility of the Project Enterprise(s).

<sup>17</sup> FI Customer(s) in this section refers to recipients of FI loans/investments, i.e. FI borrower(s), or lessee(s), or investee company(s).

<sup>18</sup> In the case of FIs categorized as FI-3, this principle will be limited to the screening of supported business activities against the MIGA Exclusion List and national environmental and social law(s) and/or regulation(s).

<sup>19</sup> As used by IFC in its Interpretation Note on Financial Intermediaries.

35. In cases where MIGA provides a guarantee covering funds intended for general purposes, without a specified end use, MIGA requirements regarding environmental and social risk management as described in paragraph 31 will apply to the entire portfolio of the FI Project Enterprise. The ESMS developed by the Project Enterprise will ensure that applicable requirements correspond to the potential environmental and social risks and higher risk business activities are screened and monitored against the Performance Standards.

### *Overall Approach for Advisory/Technical Assistance Services*

36. MIGA may provide limited advisory/technical assistance services to Clients either through direct funding or leveraging funds from donor-funded facilities. MIGA's environmental and social due diligence is integrated into MIGA's overall due diligence of the advisory/technical assistance activity under consideration, including the review of financial and reputational risks. MIGA weighs the costs and benefits of proposed advisory activities and articulates its rationale and project-specific conditions for the proposed activity. These are provided to MIGA management when the advisory/technical assistance activity is presented for approval.

37. MIGA screens each advisory activity against the MIGA Exclusion List. MIGA also reviews each proposed advisory activity for environmental and social risks. Should the review result in the identification of environmental and/or social risks, the advice provided to Clients shall be consistent with the Performance Standards as a framework of good international industry practice (GIIP)<sup>20</sup> in environmental and social risk management. MIGA also recognizes that it can work with advisory Clients to achieve positive improvements in environmental and social performance, and help Clients move towards greater consistency with the Performance Standards, although MIGA does not require compliance with the Performance Standards for its advisory activity.

### **Environmental and Social Categorization**

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38. As part of the review of environmental and social risks and impacts of a proposed guarantee, MIGA uses a process of environmental and social categorization to reflect the magnitude of risks and impacts. The resulting category also specifies MIGA's institutional requirements for disclosure in accordance with MIGA's Access to Information Policy. These categories are:

- **Category A:** Business activities with potential significant adverse environmental or social risks and/or impacts that are diverse, irreversible, or unprecedented.
- **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.
- **Category C:** Business activities with minimal or no adverse environmental or social risks and/or impacts.
- **Category FI:** Business activities undertaken by FIs or through delivery mechanisms involving financial intermediation. This category is further divided into:
  - FI-1: when existing or proposed portfolio expected to include substantial business activities with potential significant adverse environmental or social risks or impacts that are diverse, irreversible, or unprecedented.
  - FI-2: when existing or proposed portfolio expected to include business activities 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 business activities with potential significant adverse environmental or social risks or impacts that are diverse, irreversible, or unprecedented.
  - FI-3: when existing or proposed portfolio expected to include business activities that predominantly have minimal or no adverse environmental or social impacts.

39. Where MIGA guarantees funds intended for a specified end use, the category will be based on the risks associated with that use. Where the guaranteed funds are for general use, the entire or prospective portfolio of the FI will be considered. MIGA will consider the Project Enterprise' portfolio for tenor, size, type of investment and sector exposure of investments in the determination of FI-1, FI-2, or FI-3 designation.

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<sup>20</sup> Defined as the exercise of professional skill, diligence, prudence, and foresight that would reasonably be expected from skilled and experienced professionals engaged in the same type of undertaking under the same or similar circumstances globally or regionally.

40. MIGA recognizes that the various investment activities it considers for guarantees have different levels of information available at the time of MIGA's due diligence. In some cases, the use of proceeds covered by MIGA's guarantee, and the associated environmental and social footprint are known and largely understood at the time of MIGA's decision to provide coverage. In other cases however, MIGA's guarantee is not directed at specific physical assets or will lead to future investments and the use of proceeds and the environmental and social footprint are therefore largely indeterminate at the time of MIGA's decision to provide coverage.

41. Where the use of proceeds covered by MIGA's guarantee and the associated environmental and social footprint of the business activity are known at the time of the decision to provide coverage, MIGA will determine the business activity's environmental and social category based on its potential environmental and social risks and/or impacts. For an existing operation, this will include its known operational impacts. In its determination of the risk category, MIGA will also consider inherent environmental and social risks<sup>21</sup> related to a particular sector as well as the context of the business activity's setting.

42. Where the use of proceeds covered by MIGA's guarantee and the environmental and social footprint of the business activity are not fully specified at the time of MIGA due diligence, or MIGA provide overall coverage in a pre-development phase of a business activity, MIGA will determine the category based on risks inherent to the particular sector and the context of the business activity's setting. Furthermore, in such circumstances, there is often very limited information available on the physical footprint and associated risks and/or impacts for consideration by MIGA's Board of Directors because the relevant studies and assessments and/or the process of consultation, where required, are in very early stages or have not yet been launched. In such cases MIGA will complete its environmental and social due diligence after Board approval on the basis of relevant environmental and social documentation as well as evidence of consultation, where required, provided by the Client once the footprint and risks and/or impacts are better understood. The outcome of the due diligence will inform MIGA's decisions going forward. Disclosure of business activity-related information post-Board commitment will be done in accordance with the requirements of the Access to Information Policy.

### **Project Monitoring**

43. After MIGA issues a Contract of Guarantee, MIGA carries out the following actions to monitor projects as part of its portfolio monitoring program:

#### *Guarantee in support of Sectors other than Financial Intermediaries*

- Implement a regular program of monitoring for business activities with environmental and social risks and/or impacts in accordance with the requirements of MIGA's Environmental and Social Review Procedures (ESRP).
- Review implementation performance, as reported in the Client's Annual Monitoring Report and updates on the Environmental and Social Action Plan,<sup>22</sup> against the environmental and social conditions for guarantee and the Client's commitments. Where relevant, identify and review opportunities for further improving Client performance on the sustainability front.
- If changed business activity circumstances might result in altered or adverse environmental or social impacts, MIGA will work with the Client to address them.

#### *Guarantee in support of Financial Intermediaries*

- Implement a regular program of monitoring of guarantees in support of FI Project Enterprises' with environmental and social risks and/or impacts in accordance with the requirements of MIGA's Environmental and Social Review Procedures (ESRP).
- To determine the effectiveness of an FI's ESMS, MIGA will periodically review the process and the results of the environmental and social due diligence conducted by the FI for its investments. In addition, as part of its monitoring efforts, MIGA periodically reviews a sample of other FI investments, especially for business activities with significant environmental and social risks. MIGA monitoring may include visits at the FI level, as well as to recipients of FI loans/investments, particularly high risk subprojects. The frequency and focus of monitoring visits is commensurate with the identified risks. MIGA works with its Clients to help them address any shortcomings in their ESMS.

<sup>21</sup> Inherent environmental and social risk is the environmental and social risk related to generic aspects of an industrial sector or commercial activity without consideration of management or mitigation measures.

<sup>22</sup> Not all projects have an Environmental and Social Action Plan or reporting requirements (e.g., Category C projects do not).



### IV. Collaboration with Partners

#### Collaboration and Liaison with Public and Private Sector Institutions

44. MIGA, as part of the World Bank Group, collaborates with foreign private investment, together with its extensive network of private sector insurance agencies and international financial institutions, public sector stakeholders to promote a dialogue on sustainable private sector development in developing countries. Examples of MIGA's collaboration and liaison role include:

- Identifying standards and supporting sector-wide standard-setting initiatives focused on management of environmental and social risks and impacts by private sector companies and financial institutions;
- Collaborating on identifying and disseminating private sector GIIP in the area of financial, environmental and social sustainability;
- Playing the role of the lead insurer on environmental and social matters in guarantees involving co-insurance and re-insurance, as well as joint projects involving other Development Financial Institutions (DFIs), and promoting close coordination and harmonization among the participating institutions, and in cases of projects involving MIGA covered investors seeking loans or investments from DFIs, cooperating with the DFIs to reach a common understanding on the findings of their respective due diligence processes and on the supplementary environmental and social actions required sustainability of private sector projects;
- Liaising and coordinating with the World Bank and IFC, as appropriate, on advisory products provided to the public sector;
- Liaising with relevant DFIs and/or national agencies on strategic, regional, and/or sectoral environmental assessment, where appropriate, for private sector business activities with significant environmental or social issues; and
- Liaising and coordinating with external partners and initiatives, such as UN Global Compact, to enhance the environmental and social sustainability of private sector projects.

#### Additional Reference and Supporting Documents for Policy Implementation

45. In addition to this Policy, MIGA makes reference to other materials to assist its staff and Clients, including.<sup>23</sup>

- MIGA's Access to Information Policy, which details MIGA's institutional requirements for disclosure of information;
- MIGA's Environmental and Social Review Procedures (ESRP), which document internal procedures for environmental and social due diligence;
- MIGA's Performance Standards;
- IFC's Guidance Notes to Performance Standards, IFC's Interpretation Note on Financial Intermediaries and IFC's Interpretation Note on Small & Medium Enterprises, which are accompanying documents to the Performance Standards that offer helpful guidance on the requirements contained in the Performance Standards (including reference materials) as well as good sustainability practices to improve business performance and development outcomes;
- The World Bank Group Environmental, Health and Safety Guidelines on sector and industry practices and performance levels consistent with Performance Standard 3; and
- Good practice notes, handbooks, and other materials that provide examples of GIIP and reference information about these practices.

### V. Sector Specific Initiatives on Governance and Disclosure

#### Sector-Specific Initiatives on Governance and Disclosure

46. In the extractive industries and infrastructure sectors in particular, where a business activity can have potentially broader implications for the public at large, MIGA recognizes the importance of assessment of governance risks and disclosure of information as a means to manage such risks. Accordingly, subject to applicable legal restrictions, MIGA

<sup>23</sup> These materials are available at: ([www.MIGA.org/sustainability](http://www.MIGA.org/sustainability))

has the following sector-specific initiatives on disclosure of business activity-related information, in addition to the disclosure requirements specified in Performance Standard 1.

### Extractive Industry Projects

47. When MIGA insures investments in extractive industry business activities (oil, gas, and mining), MIGA assesses the governance risks to expected benefits. The expected net benefits and the risks to these business activities as a result of weak governance are reviewed. Where the risks supersede benefits, MIGA does not support such projects. MIGA also promotes transparency of revenue payments from extractive industry projects to host governments. Accordingly, MIGA requires that Clients publicly disclose their material project payments to the host government (such as royalties, taxes, and profit sharing). Such disclosure shall be made on a project basis or on a corporate basis, depending on what is most appropriate given country taxation and corporate arrangements.

48. MIGA will encourage governments and corporations to make extractive industry contracts public, and commencing two years from the date of its Board approval of this policy MIGA will require, in the case of extractive industries projects it guarantees, that the principal contract with government that sets out the key terms and conditions under which a resource will be exploited, and any significant amendments to that contract, be made public. MIGA will allow the redaction of commercially sensitive information that is not essential to understand the terms and conditions under which the resource is developed.

49. MIGA may accept, in lieu of contract disclosure, the publication by the Client of a summary of the key terms and conditions under which the resource is being developed. This summary shall include: the term of the contract; any material payments due to government made under it; other material fiscal terms and conditions; and a summary of any significant stabilization clauses.

50. In cases where MIGA provides a guarantee supporting multiple corporate purposes rather than one specific project, the requirement for contract disclosure shall only apply to the principal investment for which the coverage is to be used.

### Infrastructure Projects

51. When MIGA insures investments in projects involving the final delivery of essential services, such as the retail distribution of water, electricity, piped gas, and telecommunications to the general public under monopoly conditions, MIGA encourages the public disclosure of information relating to household tariffs and tariff adjustment mechanisms, service standards, investment obligations, and the form and extent of any ongoing government support. If MIGA provides a guarantee for the privatization of such distribution services, MIGA also encourages the public disclosure of concession fees or privatization proceeds. Such disclosures may be made by the responsible government entity (such as the relevant regulatory authority) or by the Client.

## **VI. Compliance Advisor/Ombudsman**

52. MIGA supports its Clients in addressing environmental and social issues arising from their business activities/ by requiring them to set up and administer appropriate mechanisms and/or procedures to address related grievances and complaints from affected communities. In addition to these mechanisms and procedures, the role of administrative and/or legal procedures available in the host country should also be considered. Nonetheless, there may be cases where grievances and complaints from those affected by MIGA-supported business activities/projects are not fully resolved at the business activity level or through other established mechanisms.

53. Recognizing the importance of accountability and that the concerns and complaints of Affected Communities should be addressed in a manner that is fair, objective, and constructive, a mechanism has been established through the Compliance Advisor/Ombudsman (CAO) to enable individuals and communities affected by MIGA-supported business activities/projects to raise their concerns to an independent oversight authority.

54. The CAO is independent of MIGA management and reports directly to the President of the World Bank Group. The CAO responds to complaints from those affected by MIGA-supported business activities/projects with the goal of enhancing environmental and social outcomes on the ground and fostering greater public accountability of MIGA. The CAO works to resolve complaints using a flexible problem-solving approach through the CAO's dispute resolution arm. Through its compliance arm, the CAO oversees project-level audits of MIGA's environmental and social performance in accordance with the CAO's operational guidelines.

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55. Complaints may relate to any aspect of MIGA-supported business activities/projects that is within the mandate of the CAO. They can be made by any individual, group, community, entity, or other party affected or likely to be affected by the environmental or social impacts of a MIGA supported business activity/project. Complaints should be submitted to the CAO in writing to the address below:

Compliance Advisor/Ombudsman  
International Finance Corporation  
2121 Pennsylvania Avenue NW  
Room F11K-232  
Washington, DC 20433 USA  
Tel: 1 202 458 1973  
Fax: 1 202 522 7400  
E-mail: [cao-compliance@ifc.org](mailto:cao-compliance@ifc.org)

56. The CAO receives and addresses complaints in line with the criteria set out in its Operational Guidelines for the CAO which are available at: [www.cao-ombudsman.org](http://www.cao-ombudsman.org)