

## **PART I. INTRODUCTION AND OVERVIEW**

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### **INTRODUCTION**

1. IFC's Policy and Performance Standards on Social and Environmental Sustainability and Policy on Disclosure of Information (Sustainability Framework) became effective on April 30, 2006. In July 2009, IFC reported to the Board's Committee on Development Effectiveness (CODE) on its experience from the past three years in implementing the Sustainability Framework. This report, entitled *IFC's Policy and Performance Standards on Social and Environmental Sustainability and Policy on Disclosure of Information: Report on the First Three Years of Application*, is available at IFC's Policy Review website.<sup>2</sup> CODE agreed with the plan to review and update the Sustainability Framework.
2. IFC issued the *Overview of Consultation and Engagement Process* report on August 26, 2009, which provided an overview of the proposed consultation and engagement process, outlined how stakeholders could participate, and provided a timeline for the review. This report also described the three consultation phases as follows: Phase I: consultation for 60 days to identify the key issues and challenges in the Sustainability Framework; Phase II: consultation for 60 days on the proposed revised text changes of the Sustainability Framework; and Phase III: consultation for 30 days on the proposed draft text changes of the Sustainability Framework prior to submission to the Board of Directors for its approval.
3. On September 8, 2009, IFC formally launched the review and update process. Phase I consultation was completed on November 13, 2009 and a public summary was issued on January 11, 2010. The results from Phase I consultation process along with feedback from the Compliance Advisor Ombudsman (CAO), the Independent Evaluation Group (IEG), the IFC's Sustainability Framework External Advisory Group, an IFC Investment Officer peer group, a technical peer review group from the IBRD and MIGA, and IFC's Legal Department have informed the first set of proposed revised documents.
4. Should CODE approve the documents for public release, Phase II consultation will begin June 2, 2010 and end July 31, 2010. This will be an intensive period of outreach to stakeholders through various channels including the media, a blog, live web chats, and face-to-face meetings including multi-stakeholder events in Bogota, Dakar, Accra, Istanbul and New Delhi, where IFC will invite clients, nongovernmental organizations (NGOs)/civil society organizations (CSOs), government authorities, and academia. In addition, IFC will hold meetings open for public participation in Europe, Manila, Moscow, Sao Paulo, and Washington, D.C. IFC will also consult with at least eight local communities (to supplement the five that were analyzed by the CAO) that were affected by projects that applied the Performance Standards. IFC will meet with the banking community including the Equator Principles Financial Institutions (EPFIs),

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<sup>2</sup> <http://www.ifc.org/policyreview>

European Development Financial Institutions (EDFIs), Export Credit Agencies, other Multilateral Banks and World Bank Group (WBG) colleagues. Phase III consultation is anticipated to be in October 2010 and will include additional regional consultation events. The intention is to present the revised IFC Sustainability Framework for approval by the Board of Directors in December 2010.

## **OVERVIEW OF THE DRIVERS OF PROPOSED CHANGES**

### **IFC'S CHANGING PRODUCT OFFERING**

5. The business environment in which the Performance Standards and the Policy on Disclosure of Information (Disclosure Policy) have been implemented over the four-year period has been dynamic. The first two and a half years were characterized by a rapid growth in IFC's business across most industry sectors and regions. During this period, industry sector growth was most rapid in infrastructure and financial markets and funds, while regional growth was more broad-based, although most pronounced in the Africa, Latin America, and South Asia regions. Furthermore, the nature of IFC's products, and the balance between them, has continued to evolve, with traditional project finance activities representing a smaller share of the new business. The role of equity and corporate finance in IFC's product mix has become more significant over time, as has trade finance. IFC continues to respond to market demand for new financial products and financing structures that are aligned with its private sector development mission and strategic objectives.

### **A CHANGING GLOBAL ENVIRONMENT**

6. The external context in which the Performance Standards have been applied since they were drafted has evolved rapidly in certain thematic areas, including increased attention to human rights, climate change, ecosystem services, and consent for Indigenous Peoples. Perhaps the most striking example of rapid development may be the issue of climate change. The WBG's involvement in the climate agenda has progressed significantly in the last three years, culminating in the report *Development and Climate Change: Strategic Framework for the World Bank Group*. This external context has led IFC to review the Sustainability Framework through the lens of each of these issues.

### **IFC'S FOUR YEARS OF IMPLEMENTATION EXPERIENCE**

7. The report entitled *IFC's Policy and Performance Standards on Social and Environmental Sustainability and Policy on Disclosure of Information: Report on the First Three Years of Application*, dated July 29, 2009 examined IFC's implementation experience of the Sustainability Policy and found that there were several areas where experience had demonstrated that change was needed, such as further clarifying when and what to do when examining supply chains, increasing disclosure requirements around individual projects, promoting more efficient use of water and energy, and reflecting IFC's changing product offering in the Sustainability Policy.

## **INTERNAL STAKEHOLDER ENGAGEMENT**

8. Ongoing engagement with IFC staff has been a central part of the update process since its beginning and has helped to ensure that the proposed changes reflect the realities of IFC's business activities and incorporate lessons learned from the four years of experience. Consultations have been held throughout the drafting process with relevant IFC departments, an Investment Officer peer review group, and IFC's Legal Department. This has enabled the revised drafts to fully reflect an institutional approach.

9. To ensure that the proposed changes are broadly harmonized at the principle level with the WBG Safeguard Policies, and that the draft Disclosure Policy is consistent with the principles outlined in the IBRD's new Access to Information Policy, IFC had ongoing discussions with its WBG counterpoints. IBRD's Operational Policy and Country Services, specialists, and legal staff have been involved in the review process. IFC acknowledges our IBRD and MIGA colleagues' time, collegiality, and willingness to contribute to the improvement of IFC's Sustainability Framework.

## **EXTERNAL STAKEHOLDER ENGAGEMENT**

10. Phase I consultation (September 15–November 13, 2009) was focused on soliciting stakeholder comments in three main areas:

- Clarity of Language: How can IFC increase clarity and reduce ambiguity in language;
- Implementation Effectiveness: Provide suggestions on how to improve the implementation of the Sustainability Framework, especially from those who have implemented the Performance Standards on projects, and/or from those who have been directly impacted by projects that implemented the Performance Standards; and
- Gaps in Current Coverage: Help identify areas that are not currently addressed in the Sustainability Framework, and provide accompanying guidance on ways to implement new requirements on the ground.

11. IFC engaged with stakeholders through a combination of web-based tools (IFC's Policy Review website, e-mail, a blog, and live web chats), teleconferences, and face-to-face consultations to receive input.

12. During Phase I, IFC consulted with a wide group of stakeholders from various regions that included: multilateral banks, bilateral banks, commercial financial institutions including the Steering Committee of EPFIs, trade unions, select UN agencies, Indigenous Peoples, conservation organizations, governments who refer to the Performance Standards, business associations, our clients and other private sector users of the Performance Standards, the NGO and CSO community, WBG colleagues, and the External Advisory Group. This phase also benefited from recent extensive global (Brazil, India, Malaysia, South Africa, U.K., and

Washington, D.C.) consultations that IFC conducted on issues related to gender in conjunction with Global Reporting Initiative (GRI).

13. In total, IFC held over 58 meetings, and three open sessions in Brussels, Istanbul, and Washington, D.C., consulting over 700 external stakeholders. Meeting summaries from the three open sessions and from a meeting with the EPFI steering committee are posted on IFC's Policy Review website. IFC organized two live webchats during which the review team answered more than 30 specific questions related to the review process and the scale of the update exercise. The questions and answers from these sessions are posted on the website. IFC also disclosed publicly its methodology for selecting and consulting communities affected by projects financed by IFC, and in total, received over 60 detailed written comments from external stakeholders through IFC's Policy Review website or separately through e-mails directly to staff.

14. IFC established an External Advisory Group to provide an independent view throughout the review and update process. The Advisory Group is intended to be one of many forums through which IFC can better understand and seek expert guidance on existing and emerging issues related to the Performance Standards. The group is comprised of individuals that have diverse and relevant backgrounds in some of the focus areas where IFC is interested in seeking additional views. The Advisory Group's members provide their individual views and not those of their affiliations. The individuals and their affiliations are as follows: Salil Tripathi (Institute for Human Rights and Business); Jane Nelson (Kennedy School of Government, Harvard University); Kit Armstrong (Independent Environmental Consultant); David McLaughlin (World Wildlife Fund); John Laidlaw (HSBC); and Linda Broekhuizen (Netherlands Development Financial Company (FMO)). This group has contributed to the process through several conference calls and a three-day working session. An additional face-to-face working session will be held near the end of Phase II consultation to once again obtain their advice on any process changes or content suggestions to the Sustainability Framework.

15. The nature of comments received was broad in scope and ranged from very detailed to more general, and have been summarized in the report *IFC Policy and Performance Standards on Social and Environmental Sustainability and Policy on Disclosure of Information, Review and Update, Progress Report on Phase I of Consultation*, dated January 11, 2010. This summary, along with the notes from individual consultation meetings, are posted on IFC's Policy Review website, and constitute the total summary of comments. IFC also received general comments that did not request a change but that were supportive of the Sustainability Framework and acknowledged that it has had an impact on market practices and has converged the social and environmental standards in global financial markets.

16. During this Phase I, IFC benchmarked its Sustainability Framework against other International Financial Institutions' policies to study the differences. In some cases differences

were discussed with the other institutions to learn about their implementation experience so that IFC can better understand where it might want to incorporate some of the differences.

## **CAO REVIEW**

17. CAO initiated a review of IFC's experience with the implementation of the Sustainability Policy and Performance Standards. A draft of CAO's Advisory Note was shared with IFC to allow it to consider findings and recommendations that may have a bearing on the direction of the review and update of the Sustainability Policy and Performance Standards. As with IEG recommendations, IFC is engaging with CAO on the implementation-level recommendation and is in the process of formulating a comprehensive response which will be finalized once CAO's recommendations are final.

18. CAO divided its recommendations into policy-level and implementation-level. The implementation-level recommendations were further divided into three broad categories covering: (i) the need to improve predictability for host communities and client companies; (ii) the suitability of the Performance Standards in the context of IFC's changing business environment; and (iii) opportunities to further strengthen IFC's management systems and information disclosure practice.

19. CAO's draft policy-level recommendations are presented in Table 1. Overall, there is significant alignment between IFC's proposed enhancements to the Policy and Performance Standards and CAO's policy-level recommendations. In its report to CODE on the first three years of application of the Sustainability Policy and Performance Standards (July 2009), IFC recognized the evolving nature of IFC's business and the need to consider these developments in the review and update of the Sustainability Framework. CAO has confirmed the need for such adjustments in the Sustainability Framework. The proposed revisions should also provide better clarity on dealing with low impact projects, including the recognition of financial (in particular short-tenor products) and advisory services that are inherently low risk. The proposed categorization approach for FIs includes three risk levels, with FI-Low representing the lowest risk requiring the application of the IFC's Exclusion List and the host country's national law. Proposed revisions to Performance Standard 2 include a reference to migrant workers, an issue which has received considerable attention by IFC in the last two years.

20. IFC's proposed changes to the Disclosure Policy are also responsive to the CAO's draft recommendations. IFC recognizes the demands from its stakeholders to disclose more information, particularly project-level disclosure as well as post-approval disclosure, two areas being addressed under proposed enhancements to the Disclosure Policy so that disclosure of relevant information is achieved over the investment lifecycle. Consistent with this approach, IFC will create more opportunities to update project information to ensure it is accurate and up to date.

<b>Table 1: CAO's Draft Findings and Recommendations Related to Policy</b>	
<b><u>Findings:</u></b>	<b><u>Recommendations:</u></b>
<p><b>Policy</b></p> <ul style="list-style-type: none"> <li>• IFC's Policy established the application of the Performance Standards to all of IFC's direct investments, without specifying IFC's approach in more detail.</li> <li>• There is a lack of clarity regarding application of the Performance Standards to Advisory Services.</li> </ul>	<p><b>Policy</b></p> <ol style="list-style-type: none"> <li>1. Clarify application of the Performance Standards to different product types and to Advisory Services.</li> </ol>
<p><b>Performance Standards</b></p> <ul style="list-style-type: none"> <li>• IFC can play an important role in demystifying local approval processes.</li> <li>• Concern about migrant workers is a priority for host communities.</li> </ul>	<p><b>Performance Standards</b></p> <ol style="list-style-type: none"> <li>2. Performance Standard 1: Present a clearer framework for which different environmental and social (E&amp;S) risk and impact factors trigger different levels of engagement.</li> <li>3. Performance Standard 1: Clarify engagement requirements for low-impact projects.</li> <li>4. Performance Standard 2: Address migrant workers.</li> </ol>
<p><b>Disclosure Policy</b></p> <ul style="list-style-type: none"> <li>• The stipulations of the current Policy on Disclosure of Information undermine its presumption in favor of disclosure.</li> <li>• IFC does not routinely update public information about its investments.</li> </ul>	<p><b>Disclosure Policy</b></p> <ol style="list-style-type: none"> <li>5. Change approach to implement a presumption in favor of disclosure in practice.</li> <li>6. Routinely update IFC's website with current project information.</li> <li>7. Ensure basic IFC information and project information is available in relevant languages.</li> </ol>

## **IEG REVIEW**

21. IEG has initiated a review and evaluation of the WBG's Safeguards<sup>3</sup> and IFC's Sustainability Policy and Performance Standards, as well as MIGA's Sustainability Framework. IEG provided IFC with an extract of its upcoming report as well as a summary of preliminary recommendations to allow IFC to consider these in the preparation of the draft revisions of its Sustainability Policy and Performance Standards before the discussion with CODE. IEG findings are presented in two broad categories: compliance and performance, while recommendations are presented in three categories: thematic coverage of Safeguards and Performance Standards; consistency in project categorization; and policy guidelines, instruments, and incentives.

22. IFC considered the initial set of recommendations and concluded that only a few had policy implications. These recommendations are presented in Table 2. Most of IEG's recommendations

<sup>3</sup> The review includes IFC's application of its Safeguard policies before the introduction of the Performance Standards in 2006.

are operational in nature and IFC is in the process of considering these and will respond comprehensively through the formal review process with IEG.

**Table 2: Preliminary IEG Recommendations with Policy Implications**

**1. *Thematic Coverage of Safeguards and Performance Standards***

- Strengthen the provisions on sustainability within the Sustainability Framework by integrating approaches to address emerging issues such as supply chains and their certification, and climate change.
- Develop an Environmental, Health, and Safety Guideline for safety of dams to replace OP 4.37.

**2. *Consistency in Project Categorization***

- Develop clear guidelines and risk assessment criteria for project categorization and ensure consistency across the WBG.

**3. *Policy guidelines, instruments and incentives***

- Develop a more robust approach to implement Performance Standards in Financial Intermediary (FI) projects, listed equities, and trade finance.
- Strengthen policies and practices on local disclosure.
- Define areas of influence and requirements for supply chains to better address supply chain risks and opportunities
- Use independent evaluations more often for projects with involuntary resettlement.

23. IFC Management welcomes these recommendations and is confident that significant policy-related issues have been considered in this revision of the Sustainability Framework that CODE is considering. Key proposed changes that are responsive to IEG recommendations include:

- Strengthen the commitment to climate change in the Sustainability Policy;
- Provide additional clarity to supply chain requirements;
- Recognize a wider range of investment and Advisory Services products in the Sustainability Policy and the scope of application of the Performance Standards as well as the nature of IFC’s due diligence in cases where the nature of assets or use of funds is not known at time of approval;
- Provide a clearer reference to risk as the basis for categorization; and
- Introduce a reference in Performance Standard 5 to the use of external completion audits of Resettlement of Compensation Plan to assess whether the provisions have been met.

24. All of these drivers—IFC’s changing product offering, a changing global environment, IFC’s implementation experience, internal stakeholder engagement, external stakeholder engagement, CAO recommendations, and IEG recommendations—have contributed to the development of the proposed changes to the Sustainability Framework. What has not changed,

because it is working well, is the way that the Sustainability Policy, the Performance Standards, and the Disclosure Policy work together as the Sustainability Framework. This structure clearly delineates the roles and responsibilities of IFC and of our clients, the structure of the modular approach of the Performance Standards, and how they are applied to projects. Therefore, the span of Performance Standards is recommended to remain as it currently is, with eight Performance Standards.

#### **REQUEST OF THE COMMITTEE OF DEVELOPMENT EFFECTIVENESS**

25. Following discussion with CODE, and taking into consideration CODE's comments received, IFC will publically release this CODE package (paper and annexes). The draft of the Sustainability Policy and Performance Standards, and the draft Disclosure Policy, will also be translated into the WBG's six official languages and disclosed. In conjunction with such public release, and to provide additional helpful background information, IFC also plans to release the draft Guidance Notes.<sup>4</sup>

26. IFC's Management proposes a 60-day public comment period on the Sustainability Framework during June and July 2010 to enable sufficient time for document review and further comments from various stakeholder groups.

27. The 60-day public consultation period will be an intensive time of outreach to stakeholders through various channels including the media, a blog, live web chats, and face-to-face meetings including multi-stakeholder events in Accra, Bogota, Dakar, Istanbul, and New Delhi, where IFC will invite clients, NGOs/CSOs, government and academia. In addition, IFC will hold open house meetings where anyone can participate in Washington, Moscow, Manila, Europe, and Sao Paulo. IFC will also consult with at least eight communities, to supplement the five that were analyzed by the CAO, that were affected by projects that applied the Performance Standards and IFC will meet with the finance community including the EPFIs, EDFIs, Export Credit Agencies, other Multilateral Banks and our World Bank colleagues.

28. In the event that comments are sent to an Executive Director's office, IFC would request that, these comments are forwarded to IFC to include for consideration in the next set of proposed changes and for their inclusion in the summary of comments. IFC will prepare a summary of all comments received after the Phase II consultation period closes and make these available in IFC's Policy Review website. IFC is implementing a comprehensive communications strategy to respond to important concerns of external audiences.

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<sup>4</sup> The Guidance Notes will be updated following CODE's endorsement of the proposed policy level changes in the Performance Standards.