# Environmental and Social Management System

# Policies and Procedures framework

IFC Private Equity Funds

###### Table of Contents

**1. Environmental and Social Policy**

**2. Investment Appraisal and Supervision Procedures**

1. Initial Screening and Notification

### 2. Due Diligence

3. E&S Conditions of Investment

4. Disbursement

 5. Monitoring

**3. Organization and Responsibilities**

**4. Reporting**

**Appendices**

Appendix A. E&S Language to be included in pre-investment agreements (i.e., Confidentiality Agreements, Mandate Letters, Memoranda of Understanding)

Appendix B. Terms of Reference – Environmental and Social Due Diligence and Supervision Consultants

Appendix C: E&S Due Diligence Findings Summary format

Appendix D: General Investment Agreement E&S Component Language

**1. Environmental and Social Policy**

*[The Fund Manager should provide an overarching statement of the environmental and social objectives and principles guiding the Fund’s investment activities to ensure sound E&S performance. The Policy should be concise – usually one page or less – and should be signed by top management and reflect the Fund’s investment philosophy regarding E&S matters.*

*At a minimum, the Policy statement should clearly indicate that the Fund will not finance any of the activities found on IFC’s* Exclusion List (<http://www.ifc.org/ifcext/sustainability.nsf/Content/IFCExclusionList>). *The statement should also specify that all projects in which the Fund invests will comply with all applicable E&S laws and regulations of the host country(ies) in which the projects are located and operated. In addition, it should explicitly indicate that it will seek to ensure that these same projects are operated in a manner consistent with IFC’s* Performance Standards on Environmental and Social Sustainability (http://www.ifc.org/ifcext/sustainability.nsf/Content/PerformanceStandards). *These eight standards establish clear requirements for investee performance and project outcomes. The Fund’s review of a prospective investment in relation to the IFC Performance Standards shall determine the scope of the E&S conditions of the Fund’s financing.*

*The Policy statement should indicate that the Fund Manager will assure conformance with the Policy, as well as identify the other parties to be designated from time-to-time who are responsible for its execution. The message of the Policy should be directed to prospective investees and the employees of the Fund Manager. It shall be externally communicated by presenting it in Fund statements and reports, and verbally communicating it to various stakeholders. The Policy shall be known and understood at all levels of the Fund Manager organization. It is vital that each employee is made conscious of the importance of their responsibility for implementing the policy.]*

**2. Investment Appraisal and Supervision Procedures**

*[The Fund Manager should articulate in this section the procedures it will undertake to implement its Environmental and Social Policy and ensure that the Policy’s objectives are achieved in all its investment activities. These procedures, covering both appraisal and supervision stages, should be integrated into the investment project cycle as suggested below. The Fund Manager is encouraged to tailor these suggestions and requirements to its own investment strategies and terminology. In your write-up, explain how these suggested actions will be carried out adequately, focusing on objectives, processes, roles and responsibilities, and key documents.]*

**(1). Initial Screening and Notification**

 *[At this stage, the Fund Manager should make an initial and preliminary evaluation of the potential for the project under consideration to meet the Policy requirements, for example, by identifying the major E&S risks and determining whether any potential gaps with the Fund’s requirements are surmountable and manageable within a reasonable period of time and subject to the Fund Manager’s leverage. For those prospective investments where risks present significant, adverse environmental and social issues of concern, including reputational risk, and may likely require a major commitment of Fund E&S resources, notify via internal memorandum the Fund investment committee. For decisions to proceed, the Fund Manager should endeavor to define the scope of the Environmental and Social Due Diligence (ESDD) commensurate with the project and identify the needs and qualifications of consultants to conduct the due diligence. The Fund Manager should notify the project sponsor about the Fund’s E&S policy requirements and information needs and seek the sponsor’s cooperation in the subsequent ESDD activities, for which a section on E&S matters in the Mandate Letter or Memorandum of Understanding or Confidentiality Agreement may be needed. Appendix A provides such sample language to be included in these pre-investment agreements.]*

**Records and Documentation:**

* Fund Investment Committee E&S risk notification memo for projects that present significant risks;
* E&S Policy Notification Wording for Mandate Letter, Memorandum of Understanding, and/or Confidentiality Agreement.

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### (2). Due Diligence

*[The level of E&S due diligence shall be based on the project’s E&S risk profile and potential impacts, for example, whether they are major (e.g., irreversible, unprecedented, involving large resettlement) and moderate (generally site-specific, largely reversible and mitigable). In most circumstances, the ESDD will be contracted to an external consultant or consultant team, for which the Fund Manager should prepare the Terms of References (ToR) to ensure that the necessary due diligences is conducted. Appendix B includes such a typical consultant ToR. The E&S due diligence shall typically consist of: (i) review of all relevant documents and information provided by the investee and other sources; and (ii) site reconnaissance comprising visual observations of relevant areas and meetings and interviews with relevant stakeholders (investee personnel, governmental officials, affected communities, etc.). Upon completion of the due diligence, the findings, conclusions, and recommendations shall be presented in the ESDD report. The recommendations should include the necessary actions which must be implemented for the proposed investment to proceed to financial closure. At a minimum, these shall consist of a set of mitigation, management, monitoring, and institutional measures to be taken during project implementation and operation to address any gaps with the Fund’s Environmental and Social Policy. Any mitigating actions addressed in the ESDD report (see indicative content requirements in Appendix C) should clearly indicate the (achievable) level of environmental compliance with the Policy, the existing performance gaps, and the corrective actions that need to be taken to close these gaps along with reasonable timelines (collectively, the action plan), and should be thoroughly discussed and agreed with the project sponsor. The Fund Manager should remain engaged in the due diligence process, and involve other investors or stakeholders in reviewing the due diligence report and determining the soundness of the action plan. Additional reviews or due diligence work may be triggered as a result of such stakeholder engagement. Finally, the results of the E&S due diligence should be presented to the Fund’s investment committee in concert with the results of the other due diligence conducted on the prospective investment.]*

**Records and Documentation:**

* Consultant Due Diligence ToR;
* Environmental and Social Due Diligence Report;
* E&S Due Diligence Summary Memo to Fund Investment Committee.

**(3). E&S Conditions of Investment**

*[The Fund Manager should negotiate and agree with the sponsor the E&S provisions and investment conditions in the termsheet and investment agreements. These typically consist of standard E&S terms applicable to all Fund investments, and project-specific conditions identified during the E&S due diligence of a proposed investment. They are represented in legal documents as general E&S definitions, representations and warranties, disbursement conditions, and/or covenants regarding compliance with the requirements as defined by the Fund’s Environmental and Social Policy. Critical mitigating actions that address gaps with the Fund’s Environmental and Social Policy must be included in the investment agreement as conditions of investment (See Appendix D for sample wording for this purpose.) These actions may be represented in an action plan, as appropriate. Post-investment reporting requirements for the investee, particularly on the status of the implementation of the mitigating measures (or action plan, as appropriate) should be include as covenants in the investment agreement as well. The investee should be provided with a format for the Annual Environmental and Social Performance Monitoring Report (AMR) to be submitted to the Fund Manager annually. ]*

**Records and Documentation:**

* Environmental and social investment conditions in the Termsheet and Investment Agreements;
* Annual Monitoring Report (AMR) template.

**(4). Disbursement**

*[The Fund Manager should develop and implement a review process mechanism to ensure that any Conditions of Investment tied to disbursement of funds, as specified in the investment agreement, are met before disbursing funds. This sometimes necessitates further E&S evaluations or even site visits. Under certain circumstances, the project sponsor may request waivers or extensions of some or all these conditions. The Fund Manager should be extremely careful in granting such exceptions and make sure all other stakeholders are properly informed and such waivers or extensions will not significantly affect the project sponsor/company’s commitment to mitigation of the project’s E&S risks, as well as the project’s ability to perform consistently with the Fund’s policy requirements.]*

**Records and Documentation:**

* Disbursement Memo to Investment Committee indicating status of compliance with CODs, additional corrective actions, or waiver justification, as necessary;

**(5). Monitoring**

*[The Fund Manager should actively supervise and monitor the E&S performances of each of its portfolio projects. As noted above, the investment agreements should require the investee to report periodically (at least once a year) on its E&S performance according to a pre-agreed AMR form. The Fund Manager should also require timely reports from the investee regarding the implementation of the critical mitigating actions and any significant E&S incidents. Based on this reporting, the Fund Manager should discuss with the investee any outstanding or potential E&S performance issues and if needed, agree to additional measures to address them. During construction and at project completion the Fund Manager should make supervision site visits to confirm that all related E&S requirements are being implemented. From time to time during the operation phase, the Fund Manager should also make supervision site visits and consider making independent E&S audits (involving external consultants if necessary, see the sample ToR in Appendix B) as part of its overall supervision and monitoring process. A Supervision Report (see Annex C for an example) should be prepared after each of such visits or audits. In certain cases, a pre-divestment environmental and social audit may be needed to determine whether there are any potential issues requiring attention prior to disposal.]*

**Records and Documentation:**

* Consultant supervision ToR;
* Supervision Reports;
* Communications to investee requiring additional corrective actions or requirements.

**3. Organization and Responsibilities**

*[The Fund Manager should establish appropriate organizational structures, roles and responsibilities, and capacity to ensure the policies and procedures described above will be duly implemented. It should appoint an* Environmental Manager *from the Fund Manager’s senior management who will assume responsibility for overseeing all E&S matters, ensure resources are made available for the E&S management, and sign the Fund’s Annual Environmental and Social Performance Report to investors or similar reports to other stakeholders. Depending on the needs, the Environmental Manager can be supported by an* Environmental Coordinator*, who should be technically qualified, to implement and oversee project-level and day-to-day E&S due diligence and supervision activities. The Environmental Manager and/or coordinator should ensure the Fund Manager’s investment teams (particularly the Investment Transaction Leaders or Investment Officers) and legal counsels are all trained on the E&S Policy and Procedures, and can call for Fund-wide meetings to discuss any policy or project related issues. The Fund Manager should build and maintain a file of qualified E&S consultants who can be called upon to assist E&S due diligence or reviews. It is strongly recommended that E&S responsibilities and outcomes be included in Fund employees’ performance measurement system.]*

*[It would be useful to include the Fund’s organization charts that identify units, line management and the individuals having environmental and social performance and compliance responsibilities. Job descriptions of key E&S personnel should be included as well.]*

4. Reporting (Internal and External)

*[The results of project-specific due diligence and performance monitoring should be periodically aggregated and summarized for senior management of the Fund. The Fund Manager should require its Environmental Manager/Coordinator along with the Investment Transaction Leaders/Officers to prepare periodic reports on the E&S issues of the Fund’s pipeline and portfolio projects. It should develop and maintain a* ***watch list*** *of portfolio projects with significant E&S performance issues and regularly provide their status updates to the Fund’s senior management team.*

*The Fund Manager should also provide proper and periodic E&S reports to its investors and other stakeholders. These reports should properly document its E&S due diligence and supervision activities, which should include all the E&S related information collected during the project life.*

*These internal and external reports can also form the basis of the reports which the Fund Manager is required to prepare annually or periodically to IFC. Internally and in addition to the annual external investor/stakeholder report, the Fund Manager should use all these opportunities to review and adjust its E&S policies and procedures and identify areas for improving their implementations.]*

###### APPENDICES

**A.** E&S Language to be Included in Pre-Investment Agreements (i.e., Confidentiality Agreements, Mandate Letters, Memoranda of Understanding)

**B.** Consultant Terms of Reference – Environmental and Social Due Diligence and Supervision

**C.** E&S Due Diligence and Supervision Findings Summary Format

**D.** General Investment Agreement E&S Conditions Language

**A. E&S Language to be Included in Pre-Investment Agreements with Prospective Investees**

“When a project is proposed for financing, the Fund’s appraisal team conducts a Environmental and Social review as part of its overall due diligence. This review will be appropriate to the nature and scale of the investment, and commensurate with the level of Environmental and Social risks and impacts. The purpose of the review is to ensure that the project conforms to the Fund’s Environmental and Social Policy. This specifically includes compliance with all applicable E&S laws and regulations of the host country in which the project is located and operated, as well as with IFC’s “Performance Standards on Environmental and Social Sustainability” (<http://www.ifc.org/ifcext/sustainability.nsf/Content/PerformanceStandards>). The Fund’s Environmental and Social review is integrated into the Fund’s overall appraisal of the project, including the evaluation of financial risks.

“To conduct its review, the Fund may request project-specific information be provided. This information will be treated in accordance with the terms of this agreement.

“The Fund does not finance new business activity that cannot be expected to meet the Environmental and Social Policy over a reasonable period of time. In addition, there are several types of activities that the Fund does not finance. A list of these activities can be found in IFC’s “Exclusion List” (http://www.ifc.org/ifcext/sustainability.nsf/Content/IFCExclusionList).”

**B. Consultant Terms of Reference – Environmental and Social Due Diligence and Supervision**

*[This template can be used as a guide for developing a Terms of Reference (ToR) for a Consultant to perform certain aspects of the E&S appraisal of prospective investments of the Fund, as well as ongoing supervision of the investment portfolio.]*

**“Introduction**

The purpose of this Terms of Reference is to ensure that the Consultant performs the environmental and social review of a prospective investment, and later, the ongoing evaluation and supervision of portfolio projects according to the Fund’s Environmental and Social management policies and procedures.

It is the Fund Manager’s policy that *[provide a summary statement of the E&S Policy, including a reference to that all projects in which the Fund invests will comply with all applicable E&S laws and regulations of the host country(ies) in which the project is located and operated. In addition, it should explicitly indicate that it will seek to ensure that these same projects are operated in a manner consistent with IFC’s* Performance Standards on Environmental and Social Sustainability. *These eight standards establish clear requirements for investee performance and project outcomes. The Fund’s review of a prospective investment in relation to the IFC Performance Standards shall determine the scope of the E&S conditions of the Fund’s financing.]*

**“Consultant Qualifications**

The Consultant must have substantial experience in the E&S review of projects located in [Africa], with particular focus on the support of project finance activities. He/she must be thoroughly knowledgeable of the Fund’s Environmental and Social management policies and procedures, including the IFC Performance Standards.

**“Scope of Work**

The Consultant will conduct the E&S appraisal of a prospective project, as well as the ongoing supervision of E&S performance of a portfolio project consistent with the Fund’s policies and procedures. For **new project appraisals**, the four tasks include:

1. Preliminary Review. Review all available information and documentation related to project environmental and social impacts and risks. Prepare a list of additional information and/or questions that will be needed to continue the appraisal.
2. Site Visit and Further Review. Conduct site inspections, review facility-based records, and interview key staff, including both sponsor personnel and relevant stakeholders (regulatory officials, community leaders, suppliers, and customers).
3. E&S Performance Gaps and Necessary Corrective Actions Analyses. Analyze project environmental and social performance in relation to the Fund’s Environmental and Social policy, including IFC Performance Standards. Identify these gaps and any corresponding corrective actions that will be necessary. Prioritize these and recommend acceptable and justified implementation schedules.
4. Due Diligence Documentation. Prepare a report (see Appendix ) summarizing the results of the E&S due diligence (ESDD). The ESDD report shall include a summary of the impacts and risks associated with the project, including the related performance gaps and corresponding correction actions that will be necessary in order for the Fund to invest.

For **supervision** of the Fund’s portfolio projects, the three tasks include:

1. Review Monitoring Reports. Review periodic documentation submitted by the project sponsor regarding implementation of any corrective actions included as conditions of investment, as well as overall environmental and social performance. Also, review information submitted by the sponsor concerning significant incidents or fatalities. Identify any follow-up corrective actions that might be necessary.
2. Site Visit and Further Review (Optional). Where directed by the Fund Manager, conduct site visit to confirm E&S performance and/or to investigate incidents. Identify any follow-up corrective actions that might be necessary.
3. Supervision Documentation. Prepare a report summarizing the findings of the supervision activity.

**“Schedule**

The Consultant shall submit a draft *[Due Diligence/Supervision]* Report by *[insert date].* The final Report shall be submitted within 2 weeks after receiving comments from the Fund Manager on the draft report. All reports should be written and prepared in English and delivered in electronic and hard copy.”

**C. E&S Due Diligence and Supervision Findings Summary Formats**

**Due Diligence Summary Report**

1. Project Description (including the site and environmental and social setting, surrounding land uses)
2. Company Environmental and Social Management Systems (the processes by which the Company manages environmental and social performance, including community engagement activities)
3. Significant Environmental and Social Impacts and Risks (summarized according to the topics covered by the applicable IFC Performance Standards – Labor and Working Conditions; Pollution Prevention and Abatement; Community Health Safety and Security; Land Acquisition and Involuntary Resettlement; Biodiversity Conservation and Sustainable Natural Resource Management; Indigenous Peoples; Cultural Heritage)
4. Recommended Corrective Actions (for performance gaps, recommend corrective actions corresponding schedules, indicate priorities, and advise as to how to incorporate these into the Investment Agreement)

**Supervision Report**

1. Project Business Status (i.e., construction, operation, expansion, shut-down)
2. Status of E&S Corrective Action Implementation
3. E&S Performance (ongoing compliance with host country laws, IFC Performance Standards)
4. Significant Incidents and Other Issues

**D. General Investment Agreement E&S Conditions Language**

“The Borrower has not received nor is aware of any existing or threatened complaint, order, directive, claim, citation or notice from any Authority under applicable *[specify country]* law and local requirements which has, or could reasonably be expected to have, a Material Adverse Effect or any material impact on the implementation or operation of the Project”;

“Design, construct, operate, maintain and monitor the project in compliance with the Government of *[specify country]* and local requirements, as well as the Fund’s Environmental and Social Policy”;

“Use all reasonable efforts to ensure the Environmental and Social performance of the Project is in compliance with the Fund’s Environmental and Social Policy”;

“Implement the environmental mitigation and management measures specified in the [*Corrective Action Plan*]”;

*“[Specify any particular conditions of disbursement addressing certain corrective actions recommended for the project]”*;

“Within [90] days after the end of each Financial Year, deliver to the Fund the Annual Monitoring Report consistent with the requirements of this Agreement confirming compliance with the Action Plan, the Environmental and Social covenants set forth in Section \_\_, or, as the case may be, identifying any non-compliance or failure, and the actions being taken to remedy any such deficiency”;

“Within three days after its occurrence, notify the Fund of any social, labor, health and safety, security or environmental incident, accident or circumstance having, or which could reasonably be expected to have, any material impact on the implementation or operation of the Project in compliance with the Fund’s Environmental and Social Policy or a Material Adverse Effect, specifying in each case the nature of the incident, accident, or circumstance and the impact or effect arising or likely to arise therefrom, and the measures the Borrower is taking or plans to take to address them and to prevent any future similar event; and keep the Fund informed of the on-going implementation of those measures”;

*“[Specify additional covenants – e.g., additional monitoring or reporting requirements, or provisions addressing certain corrective actions recommended for the project]”*;