



FIT FOR PURPOSE?

AN ANALYSIS OF DEVELOPMENT FINANCE INSTITUTIONS' MANAGEMENT OF HUMAN RIGHTS RISKS IN INTERMEDIATED FINANCE

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EXECUTIVE SUMMARY

Development Finance Institutions (DFIs) have traditionally provided financing directly to projects in diverse sectors such as infrastructure, energy, education across developing economies. This is referred to as direct finance. Since the early 2000s, and especially in the aftermath of the global financial crisis, DFIs have increasingly turned to indirect or intermediated finance - financing through financial intermediaries (FI) such as commercial banks and investment funds. Intermediated financing is considered an important tool for DFIs to enhance their development impact by reaching a much larger number of people and other types of clients than achievable through direct finance. Today most DFIs have large portfolios of FI financing, ranging from 30% to 50% of their total investment volumes or portfolios. Moreover, many DFIs have expanded the range and types of financial transactions supported via FIs, including by using complex financial products. All indications are that FI financing is here to stay as a privileged mode of financing for DFIs, and likely an area of increased emphasis given global calls for a larger role of private finance in development and climate efforts.

In parallel to this development, in the last decade civil society organisations (CSOs), and increasingly so DFIs' own grievance mechanisms - commonly called independent accountability mechanisms (IAMs) - have documented a range of negative impacts on people and the environment associated with FI financing. Such impacts include cases of displacement, pollution, threats to life and health, and impacts on Indigenous Peoples' land. Research and advocacy by CSOs have also focused on inadequate disclosure of information by DFIs about their FI financing, in particular in relation to sub-projects financed with DFI funding. Without disclosure, it is not possible for external stakeholders to understand the full extent of where DFI financing ends up, with significant implications for accountability and remedy.

This Report builds on these important findings and uses international business and human rights standards to provide a focused analysis of DFIs' approaches to the management of human rights risks as part of their environmental and social (E&S) risk management. Specifically, the Report focuses on the DFIs' E&S risk management policies in the context of FI financing referred to in this publication as "Safeguards".

The Report intends to contribute to ongoing discussions by asking these questions:

Are DFIs' policies and procedures for the management of environmental & social (E&S) risks, including human rights risks, in intermediated finance fit for purpose in light of international standards on business and human rights? If not, what improvements could be made to further align DFIs' policies and practice with such standards?

This Report has uncovered three **areas of concern**:

1. First, an increasing number of DFIs are adopting FI-specific Safeguards to manage environmental and social risks, including human rights risks, in FI financing. However, **a detailed look at DFIs' Safeguards uncovers exceptions and exemptions both explicit and implicit, caveated provisions and areas of ambiguity, which results in a complex and confusing picture about the scope of application of the Safeguards.** For example, most DFIs provide limited information on the application of their Safeguards to financial instruments that go beyond standard lending operations such as trade finance and capital market transactions, raising questions about the extent to which DFIs are equipped to adequately prevent and address risks across an increasingly diverse FI portfolio.
2. Second, the FI financing system operates on the principle of DFIs **delegating responsibility to FI clients for the management of E&S risks, including human rights risks.** This means the system is heavily dependent on the FI's commitment, capacity, and systems – in particular the FI's environmental and social management system (ESMS) - for assessing and managing risks in their portfolios. Most DFIs tend to take a rather formalistic focus on whether the FI's ESMS is in place (or being developed) rather than whether the system is adequate and effectively implemented throughout the investment cycle. **Limited DFI supervision and monitoring as well as human rights gaps in DFIs' E&S risk categorisation mean that DFIs and implicitly FIs may be and are missing important human rights risks related to their financing.** While some progress has been made towards more targeted and robust E&S risk management systems for FI lending/investing, it is comparatively little considering the complexity of what FI financing has become, the diversity of FI clients, and the vastness of the FI value chain.
3. Third, the Report documents **various barriers to accountability and access to remedy for stakeholders negatively impacted by FI financing,** including insufficient prioritisation of remedy considerations in DFIs' Safeguards and lack of specificity on the eligibility criteria for FI related complaints in the DFI IAMs' own policies. The limited disclosures by DFIs about their FI financing create challenges for civil society and affected people seeking to engage with relevant actors in the financial value chain about actual and potential human rights impacts. The increasing complexity of FI transactions can make it harder to untangle responsibility and may lead to (unwarranted) tension and/or blame-shifting between financial actors in the value chain about who is responsible for harm rather than prompting collaboration to solve issues.

With FI financing taking on more complex forms, it is time for DFIs to take stock and reconsider the adequacy of existing E&S risk management systems for managing human rights risks in intermediated finance. This Report offers concrete suggestions and recommendations to DFIs and other stakeholders to address some of the most obvious gaps in the system to work toward a more comprehensive, risk-based system fit to prevent and address negative human rights risks and impacts. Specifically, the Report identifies five principles for a more effective DFI system for the management of E&S risks, including human rights, in FI financing.

An effective FI E&S system:

1. **Is based on the specificity of FI financing.** This entails DFIs explicitly articulating the E&S risk management approaches for each of the various types of FIs or transactions, in light of the increased diversity of financial transactions covered under the term 'financial intermediaries'.
2. **Provides a range of tools and approaches to identify and prioritise risks and impacts using a risk-based approach.** These tools and approaches should be aligned with business and human rights standards and factor in the severity of risks and impacts for people.
3. **Provides a range of tools and approaches to increase the DFIs' leverage over their FI clients to prompt them to effectively respond to risks and impacts,** including through more proactive and closer supervision and monitoring of the FI value chain.
4. **Provides a consistent, minimum level of transparency and disclosure across all FI transactions.**
5. **Is an accountable system which requires remedy preparedness for those cases in which adverse impacts materialise.** This entails DFIs establishing clear expectations on remediation for themselves, FIs and FI clients and removing barriers that might prevent affected stakeholders from accessing DFIs' IAMs.

ABBREVIATIONS AND ACRONYMS

AfDB	African Development Bank Group
AIIB	Asian Infrastructure Investment Bank
BII (formerly CDC)	British International Investment
CAO	Compliance Advisor Ombudsman (of the IFC)
CPPs	Client Protection Principles
CSO	Civil Society Organisation
DFC (formerly OPIC)	US International Development Finance Corporation
DFI	Development Finance Institution
EBRD	European Bank for Reconstruction and Development
EDFI	European Development Finance Institutions
EIB	European Investment Bank
ESAP	Environmental and Social Action Plan
ESIA	Environmental and Social Impact Assessment
ESMS	Environmental and Social Management System
ESG	Environmental, Social and Governance
EU	European Union
E&S	Environmental and Social
FMO	Dutch Entrepreneurial Development Bank
FI	Financial Intermediary
HRDD	Human rights due diligence
IADB	Inter-American Development Bank
IAM	Independent Accountability Mechanism
IDA	International Development Association
IDB Invest	Inter-American Development Bank Invest (the private sector arm)
IFC	International Finance Corporation
IFC PS	IFC Performance Standards on Environmental and Social Sustainability
MIGA	Multilateral Investment Guarantee Agency
MSME	Micro, Small, and Medium-sized Enterprises
MSPs	Microfinance Service Providers
OECD	Organisation for Economic Cooperation and Development
OECD Guidelines	OECD Guidelines for Multinational Enterprises on Responsible Business Conduct
OHCHR	Office of the UN High Commissioner for Human Rights
PWYF	Publish What You Fund
SME	Small and Medium-sized Enterprises
UN	United Nations
UNGPs	United Nations Guiding Principles on Business and Human Rights
WB	World Bank

1 INTRODUCTION

1.1 OBJECTIVE AND FOCUS OF THIS REPORT

Development Finance Institutions (DFIs) are financial institutions that use public funds (or a mix of public and private funds or guarantees) to support sustainable development in a country or region, including through supporting the private sector. DFIs have traditionally provided financing directly to projects and programmes in sectors such as infrastructure, energy, health, or education. This is referred to as direct finance. **Since the early 2000s, and in particular after the global financial crisis of 2008-2009, DFIs have increasingly turned to indirect finance to achieve their development objectives.** Indirect finance covers providing financing to financial intermediaries (FIs) such as banks and investment funds that then on-lend or on-invest the DFI's financing.

Moreover, DFIs have expanded the range and types of indirect financing with and through new types of FIs and financial instruments, beyond the traditional commercial bank lending and equity investments, such as capital markets transactions, infrastructure investment trusts, and more complex financial structures, indicating a turn towards a financialised business model.¹ There has also been an increased focus on expanding the role of private financing in development that foreshadows even more financing through private sector FIs.² All indications are that FI financing is here to stay as a privileged mode of financing for DFIs – and potentially expanding.

In parallel to the increase in FI financing among many DFIs, concerns have been raised about the environmental, social and human rights risks associated with FI financing. Civil society organisations (CSOs) have focused in particular on the inadequate application of DFIs' environmental and social (E&S) requirements (referred to here as "Safeguards" – see Box 1) to FI financing, the lack of disclosure and transparency in FI financing and on DFIs' fossil fuel exposure, especially to coal, through such financing. Combined with evaluations carried out by DFIs' own independent evaluation departments and complaints handled and research carried out by their own grievance mechanisms – often referred to as Independent Accountability Mechanisms (IAMs)³, they have produced evidence that intermediated financing can be associated with environmental, social, and human rights harm (see also [subsection 2.4](#)).



BOX 1: EXPLANATION OF DFIs' E&S "SAFEGUARDS"

Safeguards set out specific requirements through which DFIs and their clients should prevent and address negative impacts on people and the environment. The Safeguards include:

- **DFI Sustainability Policies or E&S Policies** prescribe what the DFI itself will do in identifying, preventing and addressing E&S risks and impacts, including human rights, in projects and clients it finances. DFIs have often developed complementary Access to Information and Disclosure Policies. Some also have publicly available Environmental and Social Procedures.

- **Client E&S Requirements** (called Performance Standards by IFC, Performance Requirements by EBRD, etc) set out requirements that DFIs' clients (such as FIs) must meet. The E&S requirements cover both procedural and substantive expectations. Procedurally, clients are required to establish an adequate Environmental and Social Management System (ESMS) to prevent and address negative impacts on people and the environment. Substantively, the E&S requirements expect clients to ensure that their activities limit adverse impacts in respect to several environmental and social matters including specific human rights issues (e.g. working conditions, Indigenous Peoples' rights, etc). While the largest DFIs use their own in-house E&S standards, many of the bilateral, smaller DFIs have been using IFC's Performance Standards as their own, at times adding additional or more stringent requirements.

Against this backdrop this Report asks: **Are DFIs' policies and procedures for the management of E&S risks, including human rights risks, in intermediated finance fit for purpose in light of international standards on business and human rights? If not, what improvements could be made to further align DFIs' policies and practice with such standards?**

The Report aims to:

- Offer a brief state of play of DFI financing through FIs and an overview of the ways DFIs are currently addressing E&S risks, including human rights, in their FI financing policy and practice.
- Identify the most important human rights concerns in this regard and related good practices.
- Recommend how policy and practice could be improved.

1.2 AUDIENCE

The main audience for this report is DFIs themselves, as well as international and national policy makers working in the space of human rights, sustainable development, and development finance, and CSOs and academics working at the intersection of human rights and development finance. A secondary audience is various private financial institutions that receive financing from DFIs or other investors keen to improve approaches to investing responsibly in FIs.

1.3 METHODOLOGY

Primary research for this Report includes a textual analysis of FI-related Safeguards at several DFIs, as well as an analysis of IAM cases involving FIs. With a few exceptions⁴, the analysis did not include DFI guidance notes, guidelines or other documents developed to support the implementation of the Safeguards (see [Annex 1](#)). The Report draws on secondary sources such as evaluations from DFIs' independent evaluation departments and relevant analysis by the United Nations, as well as original research by CSOs with respect to investigations of environmental and human rights harms associated with DFI FI financing. The Report does not assess the DFIs' implementation of their respective Safeguards in specific FI related transactions and instead refers to and relies on the secondary sources to highlight specific trends in implementation.

A great number of DFIs exist today (see Box 2), both multilateral and bilateral.⁵ Research for this Report has focused on an illustrative sample of DFIs, as follows:

- Eight multilateral DFIs – African Development Bank (AfDB), Asian Infrastructure Investment Bank (AIIB), European Bank for Reconstruction and Development (EBRD), European Investment Bank (EIB), Inter-American Development Bank (IADB), Inter-American Development Bank Invest (IDB Invest), International Finance Corporation (IFC), and the World Bank (WB). The Asian Development Bank (ADB) was not considered as it was in the process of revising its Safeguards during the preparation of this Report.
- Three national/bilateral DFIs – British International Investment (BII and formerly CDC), the Dutch Entrepreneurial Development Bank (FMO) and US Development Finance Corporation (DFC and formerly OPIC), with some attention to other European DFIs where relevant.⁶



BOX 2: DEVELOPMENT FINANCE INSTITUTIONS: AN EXPLANATION

This report uses the term Development Finance Institutions (DFIs) as an encompassing term for various types of financial institutions including national or bilateral development banks and multilateral development banks, acknowledging there are differences in size, structure and ownership amongst them. While the DFIs' mandates and functions may differ, most DFIs use public funds (or a mix of public and private funds) to support sustainable development in a country or region, including through supporting the private sector within them. National DFIs can be state agencies, state-owned enterprises fully or partially owned by the government, or private companies with a public mandate or public guarantees, while multilateral development banks are owned by a range of governments and governed by a Board of Directors representing those government shareholders (such as the World Bank Group).

This Report aims to identify trends across the DFIs reviewed and elevate certain concerns that are of broader interest to the DFI community and their stakeholders.

Providing a comprehensive comparison across DFIs is not in the scope of the Report. Doing so would prove challenging, not least because of the different terminology and approaches used. To give just an example, some DFIs apply their E&S requirements to the FI, others apply requirements directly to the FI's own clients.⁷ It is also acknowledged that there are important institutional and scale differences between multilateral DFIs and bilateral DFIs as multilateral DFIs are far larger with a typically deeper and wider financing reach, which would make a precise comparison between them difficult.

As there are numerous reports by CSOs about IFC in particular and far more FI-related cases before the IFC IAM – the Compliance Advisor Ombudsman (CAO) – than any other IAM,⁸ the Report cites practices and cases in relation to IFC comparatively more than other DFIs, although attempts were made to diversify examples as much as possible. This is in no way to single out IFC or imply that there are no similar concerns at other DFIs. To the contrary, the intention is that all DFIs can use this Report to improve their policies and practices.

Finally, the Report focuses more on how DFIs are providing financing through FIs rather than what is being financed through FIs. It does include, however, for completeness, a brief summary of financial sector strategies at multilateral DFIs (See [Annex 8](#)). A human rights analysis of those strategies could be the focus of further research.

1.4 STRUCTURE OF THE REPORT

This Report is structured as follows:

- [Section 2](#) offers a **brief overview of FI financing** by DFIs and existing trends in this type of financing.
- [Section 3](#) presents a **human rights lens to development finance**, which is the foundation for the analysis in the following sections.
- [Sections 4, 5](#) and [6](#) present **three key human rights concerns** that arise from existing DFIs' E&S risk management approaches to FI financing.
- [Section 7](#) concludes with **high-level recommendations** for states who own or control DFIs, DFIs' management, and external stakeholders, and provides specific suggestions for improving the management of E&S risks, including human rights, in the context of FI lending and investment.

The Report also includes Annexes:

- [Annex 1](#) presents the relevant Safeguards related to FIs for the DFIs covered.
- [Annexes 2-7](#) provide a comparative overview of DFIs' Safeguards and IAM policies in relation to selected issues (namely ring-fencing approach, stakeholder engagement, disclosure requirements, grievance mechanisms requirements, IAM disclosure requirements, IAMS' eligibility criteria).
- [Annex 8](#) provides an overview of financial sector strategies at multilateral DFIs.

2 STATE OF PLAY ON DFI FI FINANCING

2.1 WHAT IS FI FINANCING?

Traditionally DFIs have provided loans or equity directly to the public and private sector for very concrete and visible projects – hospitals, dams, electricity grids, roads, water systems, etc. Over time, DFIs have shifted more and more of their financing to FIs that then on-lend or on-invest DFI funds. These FIs may also on-lend or on-invest into other FIs or financial instruments that then dispense the funds to the ultimate beneficiaries of the DFI financing (See Box 3). In some cases, the types of projects being financed by the DFIs remain the same. What changes then is not what is funded but the funding modality – from direct financing to indirect financing through an FI.

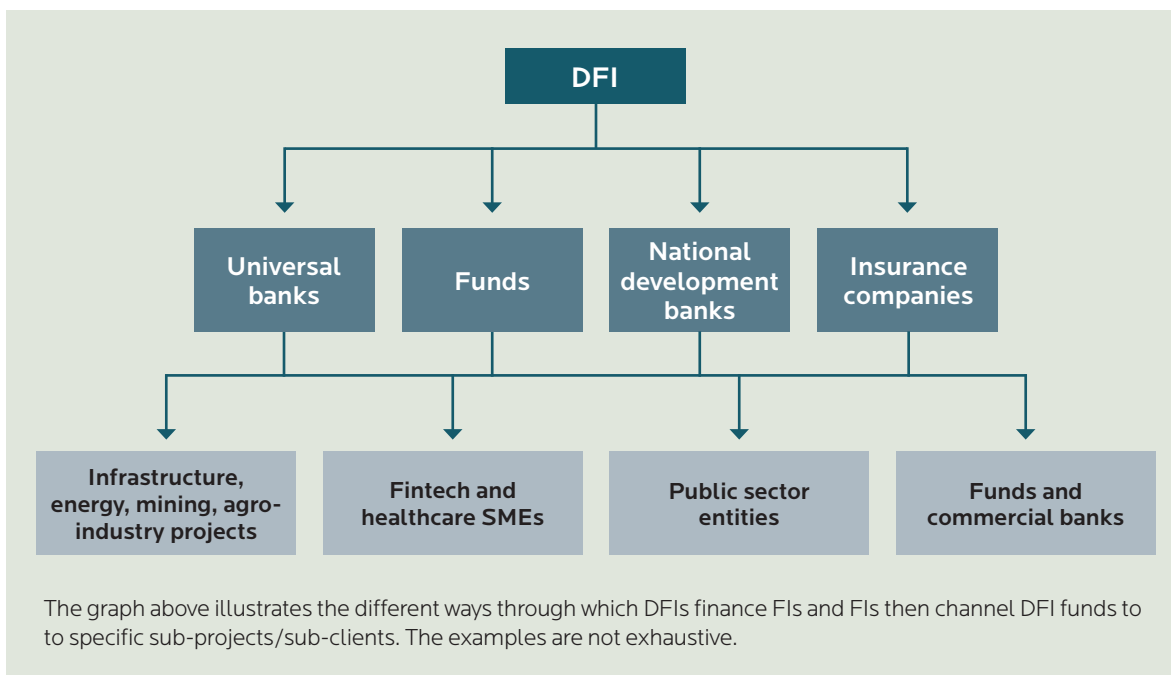
While FI financing may have started out as straightforward operations – such as lending funds to a bank that then on-lends those funds to specific sub-clients and/or sub-projects or investing in an investment fund that then invests in sub-clients and/or sub-projects – that is no longer always (or even often) the case.⁹ **DFI financing has become far more diversified, and DFIs are financing a range of types of FIs using various financial instruments that each serve different purposes** – including equity investment, project finance, corporate finance, medium and small enterprise finance, microfinance, consumer finance, housing finance, leasing, trade finance, mezzanine financing, debt, guarantee transactions, and other risk sharing facilities.¹⁰ Increasingly DFIs are expanding to other forms of financing such as using the capital markets for mobilisation of funds through publicly traded securities (stocks and bonds) and are accessing and leveraging new types of complex financial instruments that require specialist expertise to understand their mode of operation.



BOX 3: KEY DEFINITIONS

Financial Intermediaries (FIs): A financial intermediary is an entity that acts as the middleman between two parties in a financial transaction. The range of FIs financed by DFIs is wide: it includes universal banks, investment banks, investment funds, private equity funds, venture capital funds, debt funds, pension funds, microfinance institutions, leasing, factoring and insurance companies, national and regional development banks, finance companies, etc.

On-lending and on-investment: FIs “intermediate”- that is, they on-lend or on-invest DFI funds or use DFI guarantees for specific sub-clients or sub-projects or specific types of sub-transactions. FIs may also lend, invest or guarantee other FIs that then dispense the DFI funds to the ultimate beneficiaries (“sub-sub clients” or “sub-sub projects”), thus adding one or more layers between the DFI and the final beneficiaries.



2.2 TRENDS IN FI FINANCING

DFI financing to FIs has become a significant part of many DFIs' portfolios. **Data from 2022 shows percentages of FI financing ranging from 30% to over 50% of some DFI portfolios.** For instance, in 2022 IFC's FI lending (financial markets, funds, and trade finance) was 53% of portfolio exposure.¹¹ Earlier research conducted by Oxfam in 2018 showed that FI financing already represented 52% of CDC's (now BII) portfolio, and significant portions of the portfolios of the EIB (45%) and FMO (30%).¹² In the past few years, based on an analysis of the latest data presented in annual reports of major DFIs,¹³ the FI lending percentage appeared to have stabilised, with only one or two exceptions trending slightly downward.¹⁴

The actual portfolio of FI financing is not consistently reported by DFIs. This is an interesting finding, given the significant portion of DFI portfolios typically represented by FI financing. Methodologies and measurements used to assess the volumes or portfolio exposure of FI financing differ from one DFI to the other – some use percentage of total approved financing, while other DFIs measure by percentage of total projects. As a result, figures are not comparable across DFIs. There are also concerns about transparency and user friendliness at the aggregate level of reporting, meaning that information is often not easily accessible to skilled researchers, much less to the general public or affected stakeholders and their representatives. In addition, further difficulties arise in efficiently identifying FI sub-projects as some DFIs do not have clear classification or database for FI sub-projects.¹⁵ The Report discusses disclosure issues in more details in [subsection 6.5](#). Nonetheless, despite discrepancies and unclarity around accounting and disclosure methods, available data points to FI financing as a large portion of DFIs' portfolios. With the increasing calls amongst decision-makers to further catalyse private finance in development and climate efforts, DFIs' FI portfolios are likely to expand further.¹⁶

2.3 REASONS FOR THE SHIFT TO FI FINANCING

There are several reasons DFIs give for this significant shift from direct to indirect finance:

- DFIs are increasingly focused on **supporting the development of domestic financial markets and accessible finance**, recognising that they are important for economic development, growth, and poverty reduction. Developing and strengthening local and regional FIs is a core part of these strategies.
- Funding through FIs is seen as an **exercise in efficiency and reach**: it provides a way for DFIs to reach a whole new range of sub-clients through FIs, such as micro, small, and medium-sized enterprises (MSMEs), which are engines of local growth and which DFIs would not be able to reach through direct investments.
- Funding through FIs **can maximize DFIs' development impact** (see Box 4): DFIs can impact financial flows through FIs many times the size of their own lending and investments.¹⁷
- It supports a range of more **specific development objectives** from inclusive finance to supporting the uptake of fintech (see [Annex 8](#) for an overview of multilateral DFIs' financial sector strategies).
- Supporting local FIs to develop their management of environmental, social and governance (ESG) risks and impacts **accelerates sustainable financing practices in local markets**.



BOX 4: DEVELOPMENT IMPACT AT DFIs

Most DFIs have specialised teams and methodologies to measure the positive developmental impacts of their financing on the economy, people and the environment. For example, DFIs investing in the private sector claim to contribute to improved standards for people in low- and middle-income countries via employment creation, generation of taxes, improved access to goods and services and ultimately economic growth. Most DFIs report on these dimensions and disclose data on different socio-economic metrics (e.g. number of jobs created; improved access to water and sanitation, etc) which are usually mapped onto relevant Sustainable Development Goals (SDGs).

In respect to FI financing, DFIs' disclosures on development impact are very limited. In a review of practices across a range of DFIs, Publish What You Fund found that the disclosure of development impacts of DFI FI investments was "extremely limited" and found no disclosures whatsoever of development impacts at the sub-project level.¹⁸ It is unclear whether DFIs choose not to disclose the information or whether they simply do not collect development impact data at all.

From a human rights perspective, concerns have been raised that development impact methodologies tend to measure limited outcomes – such as the number but not the quality of jobs created – and are based on assumptions about positive impacts on poverty alleviation that are not borne out by data.¹⁹ As highlighted in a [publication](#) by the Danish Institute for Human Rights, development impact and E&S risk management approaches are frequently decoupled at many DFIs. A closer alignment can pave the way for a more holistic reporting of impacts on people reflecting well-established synergies between the SDGs and human rights.

2.4 CONCERNS OVER FI FINANCING

The growing volume of financing through FIs has been accompanied by **concerns that the current system of E&S risk management applied to FIs is not adequate to address the E&S risks and impacts, including human rights, that FI financing carries**, particularly across the increasing variety of financial transactions.

It has taken extensive and time-consuming research by CSOs to identify and demonstrate that poorly managed indirect financing can and does result in adverse human rights impacts. A landmark report in 2015 by Oxfam and other CSOs was instrumental in putting a human face to FI projects at IFC, showing through cases across sectors and geographies that the problem was not limited to a few 'bad apples' but was likely systemic.²⁰ Research conducted in 2016 to identify sub-projects associated with IFC FI investments revealed that approximately 150 IFC sub-clients and sub-projects were, in the CSOs' assessment, involved in a range of harmful activities around the world, including land and resource grabbing, intimidation and violence, pollution and environmental destruction.²¹ Other reports since have highlighted similar trends.²² Complaints to DFIs' own IAMs about FI financing, while still modest, have been increasing and reflect a range of adverse impacts related to indirect finance (such as pollution, health, resettlement, violence).²³

Reports by CSOs and evaluations by DFI independent evaluation departments have pointed to the challenges of securing sufficient or suitable insights into FI portfolios and actual impacts at the sub-project/sub-transaction level²⁴ – and thus of convincingly verifying and justifying the E&S performance and the claimed development impacts of such financing. CSOs also expressed concern about the principle of delegation of responsibility for E&S risks and impacts, including human rights, from DFI to FIs.²⁵ The justification for such delegation of responsibility appears to be underpinned by the misplaced assumption that there is less E&S risk, including human rights risks, in FI financing.²⁶

3 USING A HUMAN RIGHTS LENS IN DEVELOPMENT FINANCE

3.1 BUSINESS AND HUMAN RIGHTS – A DFI-ORIENTED INTRODUCTION

Human rights in this context focus on the people in financing value chains. How are people – those receiving microfinance, living next to large infrastructure, or using the services of a small fintech enterprise – impacted by financing provided by DFIs?

The present analysis is grounded in the international human rights framework to assess whether DFIs are able to meet their responsibilities to respect human rights in the way in which they approach FI financing. It draws in particular on the [United Nations Guiding Principles on Business and Human Rights](#) (UNGPs),²⁷ the authoritative normative standard on the duty of states to protect against business-related human rights abuses and the responsibility of business enterprises, including financial institutions, to respect human rights (see Box 5). The analysis also draws on the numerous authoritative interpretations on the human rights responsibility of financial institutions issued by the UN Office of the High Commissioner for Human Rights (OHCHR) and the Organization for Economic Cooperation and Development (OECD).²⁸



BOX 5: THE UNGPS AND THEIR INTEGRATION INTO LAW, POLICY, AND PRACTICE

While not legally binding per se, the UNGPs are based on the international law obligations of states and reflect international law standards applicable to business. Since their adoption in 2011, the UNGPs have been reflected in other standards – commonly referred to as “business and human rights” or “responsible business conduct” standards- notably the [OECD Guidelines for Multinational Enterprises](#) on Responsible Business Conduct (which include since 2011 a human rights chapter aligned with the UNGPs), as well as company policies and practices.

The UNGPs and OECD Guidelines have increasingly been referred to and/or incorporated into national laws which are legally binding on companies such as mandatory human rights due diligence laws in France, Germany and Norway.²⁹ They are also increasingly being used to inform sustainable finance policy and regulatory developments across different jurisdictions, and policy and practice at private sector financial institutions as well as DFIs.³⁰ There is also a growing community of practice among DFIs, commercial banks and investors, multi-stakeholder or sector initiatives and CSOs focused on ongoing integration of human rights into finance and specific sectoral challenges.³¹

These normative standards establish a **baseline expectation that all businesses, including financial institutions, irrespective of size, sector, operational context, ownership, and structure, respect human rights in their own activities and value chain.**

Under these standards DFIs have the responsibility to avoid and address negative impacts on human rights associated with their activities as all other business enterprises. Governments managing ownership of national DFIs have additional obligations to ensure such institutions respect human rights. In some cases, under international law, the conduct of DFIs that are state agencies and take on organisational forms that are considered governmental, might be attributed to the state.³² The Report does not provide a detailed analysis of the applicability of human rights to DFIs as publicly funded or mandated institutions, which has already been addressed in other publications,³³ but instead focuses on operational matters: how gaps in existing DFI E&S Safeguards and risk management processes can result in blind spots and undermine respect for human rights by DFIs, FIs and their clients and how these gaps can and are being filled with good policies and practices.

3.2 COMPARISON BETWEEN DFI SAFEGUARDS AND BUSINESS AND HUMAN RIGHTS STANDARDS

The UNGPs (and OECD Guidelines) set out a three-part framework for building respect for human rights by businesses into everyday operations that are used as the framework for this Report. Businesses, including financial institutions, are expected to: (i) adopt a policy commitment to respect human rights; (ii) implement an ongoing human rights due diligence process; and (iii) have procedures in place to provide and enable remedy in case adverse impacts materialise.³⁴ There are numerous areas of overlap in terms of procedural and substantive expectations between the UNGPs/OECD Guidelines and the DFIs' own Safeguards (see Box 6 on IFC Performance Safeguards). **Foundationally, both the Safeguard approach and the UNGPs/OECD Guidelines call for proportionate, risk-based approaches to assessing and addressing risks and impacts.** To a large extent, DFI Safeguards have informed the standard of due diligence outlined in the UNGPs given that due diligence approaches at some of the larger DFIs predates the adoption of the UNGPs in 2011. An increasing number of DFIs have begun to specifically incorporate human rights requirements into their Safeguards, with some setting out explicit requirements for private sector clients to respect human rights, drawing on the UNGPs.³⁵ Substantively, Safeguard E&S requirements expect clients to ensure that their activities do not undermine certain standards, some grounded partially in international human rights law, for example on workers' conditions, occupational health and safety, community health, safety and security, Indigenous Peoples, and resettlement. **Overall, robust implementation of DFIs' Safeguards can be a solid foundation in avoiding and addressing human rights risks.** In addition, several DFIs are taking explicit action to align approaches more explicitly with business and human rights standards, and there is therefore work to build on. However, more could and should be done to fill the gaps as they can potentially expose DFIs, their FIs, and importantly affected people, to human rights risks.



BOX 6: HOW DO THE IFC PERFORMANCE STANDARDS COMPARE TO HUMAN RIGHTS?

In light of the extensive use of IFC Safeguards (the Performance Standards on Environmental and Social Sustainability (IFC PS)) by IFC but also numerous bilateral DFIs, export credit agencies, the Equator Principles Banks, and others, OHCHR analysed the extent to which human rights standards, including the UNGPs, were integrated in the IFC PS. The analysis, developed with input from IFC, is set out in an annex to a broader study, the [Benchmarking Study of Development Finance Institutions' Safeguard Policies](#) (February 2023). The analysis is not exhaustive but seeks to answer the basic question about what human rights issues and approaches are included and what is missing.

The study concluded that “[i]n OHCHR’s view, the IFC PS provide a solid foundation for addressing human rights concerns in project risk management in line with business and human rights standards but do not do so comprehensively.”³⁶

The OECD’s 2022 guidance on [Responsible Business Conduct Due Diligence for Project and Asset finance transactions](#) also has an annex, developed with input from IFC, that includes a comparison between the OECD Guidelines’ due diligence expectations and the IFC Sustainability Policy and Performance Standards.

Remaining gaps or areas of misalignment highlighted in these reports include:

- **Incomplete coverage of human rights content** – e.g. including challenges faced by environmental and human rights defenders, gender based violence, freedom of expression and association, persons with disabilities, children and migrant workers, which are addressed only briefly, gaps in addressing rights in connection with digitalisation, climate change, land transactions that do not involve involuntary resettlement, rights of end users and consumers, incomplete coverage of Indigenous Peoples’ rights.
- **Shortcomings in the implementation of key UNGPs elements** around the scope of due diligence, particularly with respect to value chains, limitation of human rights due diligence to high-risk circumstances, risk classification processes that do not sufficiently prioritise impacts to people including from contextual risks, remediation processes.

Sections [4](#), [5](#) and [6](#) include discussion of three main concerns in respect to DFIs’ E&S risk management for FI financing that are informed by the expectations of business and human rights standards. Each section opens with an explanation box on the implications of business and human rights standards for DFIs’ Safeguards and risk management approaches. The explanations boxes are structured around the three-part business and human rights framework: policy commitment ([Box 7](#)), due diligence ([Box 21](#)) and remedy ([Box 29](#)).

4 HUMAN RIGHTS CONCERN 1 – SAFEGUARD POLICIES AND THEIR SCOPE OF APPLICATION

4.1 INTRODUCTION

DFIs' Safeguards set out specific requirements to implement the objective of identifying and addressing negative E&S risks and impacts, including human rights, associated with DFI financing. These Safeguards reflect DFIs' overall mandates to “do no harm,” serving the important purpose of restricting public funds from being used to finance projects with detrimental impacts on people and the environment. They therefore play a critical role in setting the boundaries around unacceptable impacts and how such impacts should be addressed in DFI-financed projects. DFI Safeguards were historically developed in response to large-footprint projects, such as infrastructure projects, directly financed by the DFI through project finance, which is still evident in the current framing and approach taken by DFIs.³⁷

The Safeguards are intended to provide a clear benchmark and specific guidance to both the DFI and their clients about the expected standard of conduct towards different stakeholder groups that might be affected by their operations. They are also intended to raise standards in countries where national laws are misaligned with international standards, where there are legal lacunas on human rights/environmental protection issues (e.g. no legislation on air pollution or protections against forced evictions or on the rights of Indigenous Peoples to free, prior, and informed consent for activity undertaken on their land) and/or where implementation of laws are generally weak because of poor enforcement.

Setting out clear requirements in Safeguards, including on their application to and by FIs and their clients, is key to their effectiveness. Box 7 includes a summary of the UNGPs expectations around human rights policy commitments and their implications for the scope of application of DFIs' Safeguard policies. The following sub-sections present the various gaps and challenges identified in relation to having clear and comprehensive Safeguards in the context of FI financing, while flagging emerging good practices.



BOX 7: POLICY COMMITMENT TO RESPECT HUMAN RIGHTS – EXPLANATION AND IMPLICATIONS FOR DFIs' SAFEGUARD POLICIES

The UNGPs and OECD Guidelines set the expectation that businesses should adopt policies to express their commitment to respect human rights. These policy commitments should steer the approach of businesses to identifying and addressing human rights impacts of their activities.

The UNGPs incorporate within the scope of business responsibility all interrelated business relationships – relationships in value chains (both upstream and downstream), as well as the customers to which a business provides its own goods or services. There is no exclusion of the financial sector or certain financial relationships from the scope of responsibility.

UNGP Elements on Policy Commitments	Implications for the scope of application of DFIs' Safeguards in respect to FIs
<ul style="list-style-type: none"> • No limitation of the scope of application to the financial sector: The UNGPs apply to financial institutions, their financial relationships, clients, and financial value chains. • Scope and reach of business responsibility: Covers the entire financing value chain. 	<ul style="list-style-type: none"> • Safeguards should apply to FI financing, including all types of FIs across the entire portfolio, and to the entire FI value chain including sub-sub-projects. • No type of financial transaction should be excluded from Safeguards, risk management or assessment of potential E&S risks and impacts, including human rights, and the DFI's link to them per se. The DFI should take a risk-based approach – meaning that while there can be graduated approaches with more specific requirements for higher risk projects or transactions, the approach should be grounded in a human rights risk-based analysis and should not exempt whole categories of financial transactions without considering risks.
<ul style="list-style-type: none"> • Scope of human rights coverage: Policy should cover all human rights. 	<ul style="list-style-type: none"> • Safeguards should cover the full range of human rights, noting that existing Safeguards typically cover a limited range of human rights (and at times a limited scope of those rights), such as labour rights, Indigenous Peoples' rights, etc. (See Box 6).
<ul style="list-style-type: none"> • Specificity: Policy should be specific to the actual activities and value chain. 	<ul style="list-style-type: none"> • Safeguards should address and be adapted to all forms of FIs and FI transactions.
<ul style="list-style-type: none"> • Clarity: Policy should set clear expectations on actions and behaviour by DFI personnel, FIs, and sub-clients in their value chain. 	<ul style="list-style-type: none"> • DFIs should provide clarity in their Safeguards on the principles for and application of their Safeguards to different types of FI transactions³⁸ and the respective roles and responsibilities of DFIs, FIs and sub-clients.

4.2 LACK OF FI SPECIFIC SAFEGUARDS AND/OR HUMAN RIGHTS REQUIREMENTS IN FI SPECIFIC SAFEGUARDS

Given the substantial differences between direct and intermediated finance and the diversity of transactions covered by the latter, **it is concerning that there are still DFIs that do not have FI-specific Safeguards** to guide management of FI lending/ investment (see [Box 8](#) and [Annex 1](#)). Separate FI-specific Safeguards have numerous advantages and can:

- Draw attention to how distinct this type of lending and investment is, indicating that the DFI has reflected on the differences in this important part of its portfolio and is prepared to dedicate specific expertise and resources. The difference between funding a road and on-lending funding to support micro-enterprises is so stark that separate, tailored Safeguards are necessary.
- Provide for a tailored approach that takes account of the specificities of FI investment, thus providing greater clarity to FIs and stakeholders on expected E&S requirements.
- Provide a framework for graduated requirements for FIs and their clients.



BOX 8: RANGE OF SAFEGUARDS' APPROACHES ON FI FINANCING

FI-specific Safeguards	AfDB, EBRD, EIB, FMO, WB
FI-specific sections within E&S Safeguards	AIIB, DFC, IDB Invest
Very limited FI-specific sections within E&S Safeguards	IADB
FI-specific Guidance Note only – not Board approved	IFC
No FI-specific provisions in Safeguards	BII ³⁹

The Safeguards reviewed required FIs to apply Safeguards on labour rights to their own workers which is welcomed. However, beyond these references, from those DFIs reviewed which adopted FI Safeguards, **only two specifically refer to human rights in their FI Safeguards** (see Box 9). Explicit human rights requirements provide a basis for DFIs to support FI capacity building to meeting not only Safeguards but also internationally authoritative standards such as the UNGPs and OECD Guidelines. The latter standards have been used to inform sustainable finance policy and regulatory developments such as in the context of the EU sustainable finance taxonomy.⁴⁰ Without specific guidance on human rights, human rights risks can easily be missed by FIs and their clients, especially those that are new to addressing E&S issues. This can expose DFIs, their FIs, and importantly affected people to human rights risks.⁴¹



BOX 9: EMERGING GOOD PRACTICES ON REFERRING TO HUMAN RIGHTS IN FI SAFEGUARDS

- **FMO** acknowledges that FI sub-projects may result in adverse impacts on human rights and commits to use its leverage to stop such adverse impacts.⁴² Its Position Statement further elaborates how human rights are integrated into its ESG Risk Management.⁴³ It is also the only DFI to specifically address the application of UNGP concepts to its FI financing.⁴⁴
- **EIB** refers to the UNGPs to identify persons affected by sub-projects – workers, local communities.⁴⁵

4.3 AMBIGUITIES, LOOPHOLES, COMPLEXITIES AND LACK OF CLARITY

OHCHR and OECD have clarified that the scope of application of the UNGPs and OECD Guidelines includes the financial sector.⁴⁶ OHCHR noted that excluding certain financing relationships from the scope of the business responsibility to respect human rights could create incentives to conduct transactions in certain formats to avoid scrutiny and accountability.⁴⁷ In contrast, **DFI Safeguards typically contain a range of loopholes and caveats that obscure the responsibilities of DFIs, FIs, FI sub-clients in their value chains.** Select examples of lack of clarity in relation to scope of application of Safeguards to FIs are provided below:

- **Sub-projects or financing activities:** Some DFIs refer to “sub-projects” in their Safeguards to define the scope of application of their Safeguards, but many types of financial transactions by FIs do not fit neatly into the term “sub-project”⁴⁸ – such as trade finance or microfinance, much less some of the more complex financing structures, raising questions about applicability. Some DFIs do refer to financing “activities” supported by their FI financing.
- **Sub-projects or also sub-sub projects:** How far down the financing value chain do Safeguards apply? Some DFIs are clear that any Safeguard requirements apply down the financing value chain to sub-sub-projects,⁴⁹ while others remain silent⁵⁰ and one uses confusing terms.⁵¹ However, even for DFIs that refer to different levels of financing in their Safeguards, it remains unclear what this means in practice. Does it mean layers upon layers of due diligence of due diligence - e.g. the DFI doing due diligence on the FI’s due diligence on the sub-project’s due diligence? Or does it require both the DFI and the FI to gain direct insights into the actual E&S risks, including human rights, of sub-projects (or sub-sub projects) - e.g. would the DFI and FI conduct site visits at sub-sub projects? Would the DFI and FI get involved if the sub-sub project caused severe negative impacts? Irrespective of how DFIs decide to cascade their E&S requirements down the financing value chain, in accordance with the UNGPs, DFIs retain a responsibility to use their leverage to prevent and address adverse human rights impacts they might be involved with through their business relationships, even when several tiers down the downstream value chain.
- **Caveated application:** Safeguards are often heavily caveated about whether they apply to FI transactions, noting that application is subject to consideration of numerous factors. For instance, IDB Invest’s requirements and the scope of their application “depend on the investment type, the use of proceeds, the tenor, the level of risk associated with the FI’s portfolio and/or asset class, and the FI’s categorization.”⁵² However, there is rarely a follow-up explanation of how the factors are applied and how they are weighed against each other, particularly when implementing a risk management approach to a specific type of investment. In relation to the common factor of “tenor” (i.e. the length of time for the repayment of the loan), IFC recognises in its FI Guidance Note that the “tenor of financing influences the leverage of a FI to apply E&S requirements (particularly within the loan term) but does not change the underlying E&S risk.”⁵³ It does not go on to explain how higher risk, but short tenor, transactions are dealt with.

Such caveats can prevent external stakeholders, including potentially affected people, from using the Safeguards to understand who is responsible for what and ultimately who can be held accountable for potential adverse impacts. Internally, unclear policies leave a lot of discretion to staff and FIs, potentially leading to inconsistent and arbitrary application but also stresses on staff to decide on application. Such ambiguities and increased complexity may also lead to perverse incentives – enabling either by omission or design the dilution of the DFI’s and FI’s responsibility for E&S impacts, including human rights.

These caveats are presumably based on the assumption that DFIs will not have leverage to address issues or impose requirements in particular types of transactions or particular situations. Based on the UNGPs, while the leverage of DFIs to influence different business relationships in its value chain might vary significantly across FI transactions (e.g. minority shareholdings, part of large financing syndication, provision of a small loan to a large client), that leverage should not be used as a criterion to restrict a priori the application of its Safeguards. While aspects related to investment type, tenor, and scale might indeed affect how DFIs and FIs can conduct their due diligence and exercise leverage with clients, those specificities do not affect their baseline responsibility under the UNGPs to prevent and address adverse impacts they might be involved with in relation to a financial transaction. The discussion **should rather be about how the Safeguards can be implemented in a meaningful manner across these different financial modalities and instruments, and not whether they should be implemented in the first place.**

4.4 CARVE-OUTS OF SPECIFIC TRANSACTIONS AND INSTRUMENTS

Another concern relates to the explicit or implicit carving out of certain financial instruments and transactions from the scope of Safeguards, especially those outside the more traditional loan and equity investment structures. For example, several of the more detailed FI Safeguards exempt from their scope certain transactions such as risk-sharing facilities, partial credit guarantees, short-term trade finance products, or ‘fund-like structures’.⁵⁴ These exemptions, often buried in footnotes, are not explained nor justified. Moreover, very few DFIs provide information in their Safeguards about how and whether the Safeguards apply to certain financial instruments – some of them widely used, such as trade finance (See Box 10) or risk sharing guarantees, insurance or leasing.⁵⁵ There are a few exceptions, such as AfDB’s updated 2023 Safeguards which explain their application to certain types of transactions and hopefully point the way towards even more clarity in future Safeguards (see Box 11).⁵⁶ Some DFIs provide additional information in guidance documents.⁵⁷ IFC’s updated 2023 Guidance Note provides some welcome, further information on application to certain types of transactions, but to fewer types of transactions, and significantly, not to trade finance.⁵⁸ These approaches raise the question of whether there are other types of transactions that are in practice exempted from the application of Safeguards but are not noted at all.



BOX 10: HIGHLIGHT ON TRADE FINANCE

Trade Finance covers a range of financial instruments and products that are used to facilitate international trade and commerce, making trade transactions feasible for importers and exporters. Trade finance is usually short-term, covering the period of time to complete the trade transaction, typically three to five months. The function of trade finance is to introduce a third-party to transactions to remove the payment and the supply risks. Trade finance provides the exporter with receivables or payment according to an agreement, while the importer might be extended credit to fulfil the trade order.

For some DFIs, trade finance can represent a significant part of their portfolio – the most notable is IFC where trade finance reported represented \$9.7 billion out of a total portfolio of \$32.8 billion – a remarkable 33.8% of the total IFC portfolio of committed investments in 2022, with nearly 75% invested in IDA (International Development Association) countries and countries affected by fragility, conflict or violence.⁵⁹ A CSO estimated that in the last three years (FY2021-23), IFC provided even more trade finance – over \$40 billion - although IFC disputes these figures.⁶⁰ IFC noted the importance of continued DFI commitment to keeping import/export businesses operating, particularly during and post-Covid 19, as commercial banks were stepping back from trade finance.⁶¹ IADB and EBRD have also announced increased volumes in trade finance in 2022, with \$2.2 billion in trade for IADB and trade deals worth €3.6 billion for EBRD.⁶²

While the actual activity of importing and exporting may contain little E&S risk the production of traded commodities can have serious E&S impacts, including human rights impacts. The IADB evaluation department⁶³ has for instance highlighted that the Latin American Caribbean region exports many primary products (such as soybeans, sugar, palm oil and minerals) and that producing these export commodities can carry significant E&S risk. Thus, trade finance can reinforce – or alternatively help to reduce – adverse E&S impacts, including human rights impacts in the value chain. It is thus important that this type of financing is within scope for Safeguards, and not just covered by FI-specific Exclusion Lists (see [Box 14](#)) for those DFIs that have such lists.⁶⁴

There is a real lack of clarity about how Safeguards apply to trade finance – if at all:

- **AfDB, Word Bank:** include trade finance within the scope of application,⁶⁵ so do not exclude it, but do not specify how Safeguards apply.
- **IFC** states that its asset class approach does not apply to “short-term Trade Finance products offered by IFC.”⁶⁶ Nowhere else in its updated 2023 Guidance Note does it mention whether or how an E&S risk management approach is applied to short-term trade finance, how “short-term” is defined or whether and how other Safeguards provisions apply to long-term trade finance. IFC’s Exclusion List has a small section on trade finance (prohibiting trade of weapons for instance),⁶⁷ but given the significance of IFC’s trade finance transactions the lack of clarity about whether IFC Safeguards apply at all to trade finance in IFC-financed transactions and if so how, is a significant gap.
- **EIB, EBRD, FMO, IADB, IDB Invest, US DFC** do not mention trade finance in their Safeguards.



BOX 11: EMERGING GOOD PRACTICES ON TRADE FINANCE

In contrast to other DFIs, **AfDB** has specific requirements for trade finance. Confusingly, they are not in or cross-referenced in its FI-specific standard, but instead are in E&S Operational Standard 1. For trade finance it requires the FI to have an environmental and social management system (ESMS), screen against its Exclusion List, risk rate the transaction, apply its Safeguards to transactions of medium and high risk and over two years tenor, notify of material incidents and provide annual environmental and social monitoring reports.⁶⁸

These explicit or implicit carve outs are problematic because they appear to be based on the type of instrument or transaction, rather than an assessment of the E&S risks, including human rights, involved. An approach whereby certain transactions are ex-ante excluded from the scope of DFIs' due diligence departs from the UNGPs, which expect that prioritisation efforts are risk-based (considering the severity of risks to people), and adequately justified and documented.⁶⁹

In addition, in other cases, while DFIs state that their Safeguards apply to specific FI transactions, when reading the explanation about how the Safeguards should be implemented it becomes apparent that they are not applying the Safeguards. For example, in capital market transactions some DFIs are applying a very abbreviated version of ESG screening which is not equivalent to or a substitute for Safeguards⁷⁰ (See Box 12).



BOX 12: HIGHLIGHT ON CAPITAL MARKET TRANSACTIONS

The term 'capital market' is an umbrella term used to refer to both in person and digital venues where financial instruments are exchanged in a variety of sometimes complex transactions. The stock market, the bond market and foreign exchange markets, for example, are all venues where capital market transactions take place. As IFC notes, "capital markets offer a whole range of sometimes complicated products which allow businesses and banks not just to raise capital but also to hedge (or protect) against risks."⁷¹ Under the UNGPs and OECD Guidelines, that increased complexity does not dilute responsibility.

- **AIIB** refers to applying an "appropriate ESG framework against which environmental and social risks can be addressed" by an asset manager, to a proposed investment of the Bank's funds in publicly traded securities, based on an analysis of publicly available information and targeted engagement with securities' issuers.⁷² However, despite repeated references to an "ESG framework," there is no further clarification of what it entails, or whether it will be a standardised approach or left to each asset manager to decide.
- **IFC** recognises in its Guidance Note that certain types of FI transactions such as capital market transactions do not permit the application of Safeguards but nonetheless calls for upfront screening based on publicly available information on the application of Safeguards.⁷³
- **Other DFIs** do not address at all how they apply Safeguards to capital market transactions even though their FIs are involved with such transactions.



BOX 13: EMERGING GOOD PRACTICE ON CAPITAL MARKET TRANSACTIONS

In contrast to other DFI policies, **AfDB** requires FIs to carry out an initial assessment of “potential risks and impacts of the transaction on the basis of publicly available information and knowledge of the inherent environmental and social risks, impacts and liabilities of the business activity or economic sector concerned and the capacity of regulatory agencies to carry out their responsibilities” followed by studies “to characterize environmental and social risk, impacts and liabilities and prepare an action plan to address them in accordance with relevant parts of the Operational Safeguards” once the capital market transaction is concluded.⁷⁴

4.5 BINARY APPROACHES

Given the large number of business relationships in intermediated finance, the need to prioritise DFIs’ E&S risk management efforts is a practical necessity. DFI financing needs to hit the appropriate balance between providing assurances that significant risks and impacts on the use of the DFI financing are addressed in line with the DFIs’ Safeguards, while not overburdening less risky FI transactions.

This has resulted in another layer of limitations on the application of Safeguards whereby **DFIs narrow down the universe of FI sub-projects that should apply the Safeguards. The DFIs reviewed⁷⁵ use a binary, rather than graduated, approach which is based on the identification of sub-projects/transactions that are “higher risk.”** The system operates as follows: (i) all FI sub-projects are required to comply with national law and DFI Exclusion Lists (See [Box 14](#)) that set out projects that may not be financed using DFI funds; and (ii) only “high(er) risk” FI sub-projects/transactions are required to apply the DFI’s Safeguards.

It would be useful to know what percentage of DFI-funded sub-projects apply national law versus the percentage that apply Safeguards for several reasons:

- One, from a DFI governance perspective, it is important to understand what “additionality”⁷⁶ DFIs are bringing to their FI portfolios beyond finance. One of the key roles DFIs play is to bring additionality through their higher standards and capacity building. If large portions of DFI portfolios were required to meet only national law, this raises questions about the value add of DFI financing. The assumption is that the vast majority of a DFI’s FI portfolio is indeed required to meet national law (rather than Safeguards) – something they are required to do anyway by virtue of national law. Clients’ meeting of national law may also not be subject to verification, only client self-reporting. The only additionality then is the application of DFIs’ Exclusion Lists. While DFIs’ Exclusion Lists can provide important carve outs aligned with international law requirements, current practice shows that they are far less used to exclude projects on human rights grounds compared to other grounds⁷⁷ and may also rely on client self-reporting.⁷⁸
- Two, Safeguards are intended to provide consistent E&S protections across all lending jurisdictions, especially in countries with legislative frameworks that may not protect all human rights. DFIs may not conduct a gap analysis between national law and Safeguards or more to the point, national law and international law to identify gaps in national law frameworks that may create contextual risks.



BOX 14: DFI (FI) EXCLUSION LISTS

Almost all DFIs use Exclusion Lists that prohibit their funds from being used for certain illegal, or morally unacceptable activities. Exclusion lists consist of activities that DFIs and their FI clients are prohibited from financing including those that harm the environment, those considered ethically unacceptable, such as gambling, weapons, alcohol, and tobacco, and certain, those that result in human rights harm, usually child labour and forced labour. An increasing number of DFIs are updating their exclusions to target high carbon emitting activities more specifically, such as coal related investments or hydropower or highly risky Category A sub-projects.⁷⁹

Some DFIs have a range of Exclusion Lists:

- General Exclusion Lists for all clients
- FI Exclusion Lists for all FI clients
- FI Exclusion Lists for specific FI transactions – such as micro-finance or trade finance.

Exclusion Lists thus appear to be a useful tool that can be modified to create specific requirements for specific types of financing transactions, as new transactions or issues arise.

This major distinction between requiring compliance with national law versus requiring compliance with Safeguards is one of the most significant features in the current approaches by DFIs to managing E&S risks, including human rights, in FI financing. Given the significance, Safeguards should be absolutely clear about which types of activities require the application of Safeguards and which do not. This is not always the case today. Box 15 below summarises the various Safeguard provisions regarding the identification of and Safeguard application to “high(er) risk sub-projects.” As shown below, the range of approaches in place and the triggers for the application of Safeguards to sub-projects differ in their specificity. In addition, there are also examples of risk mis-categorisation that means that higher risk projects are not subject to application of Safeguards⁸⁰ which raises the question of whether a more graduated system or at least a more encompassing system would be appropriate, rather than a binary one.



BOX 15: RANGE OF TRIGGERS FOR APPLYING SAFEGUARDS TO SUB-PROJECTS

Below are listed the different approaches taken by DFIs starting from the most restrictive to the most encompassing.

- **Lacking clear requirements:** FMO refers to “requiring clients to commit to and implement robust ESG and human rights practices bases on good industry standards and commensurate to the risk profile of the (or expected) portfolio.”⁸¹ While it is positive to see references to human rights, the framing lacks specificity. It also refers to industry standards rather than international normative standards such as the UNGPs and thus does not provide a clear standard, even for high-risk transactions.

- **Pre-determining limitations:** IFC's approach is perhaps the least straightforward and most caveated. Its 2023 updated Guidance Note states that Safeguards apply to transactions that are "higher risk" but those "Higher Risk Transactions" are only for longer-term financing – over 36 months, excluding potentially a very wide range of transactions and de facto narrowing the application of Board-approved Safeguards through a management-approved Guidance Note.⁸² The "Higher Risk Transactions" are also defined by reference to a list of E&S risks including involuntary resettlement, adverse impacts on Indigenous People, community health, significant retrenchment and occupational, health and safety risks.⁸³ The earlier IFC Interpretation Note for FIs heavily caveated the application of its Safeguards on a project-by-project basis, depending on the FI's leverage and access to information.⁸⁴ That created uncertainty for all and undermined the point of having clear Safeguards. That has been removed in its updated 2023 Guidance Note's description of "Higher Risk" but re-appears in another part of the Guidance Note that brings back in these limitations.⁸⁵ It is positive to see that IFC has retained the provision that indicates that transactions can be Higher Risk Transactions based on contextual risks.⁸⁶ However, the 2023 revised Guidance Note remains heavily caveated and not straightforward.
- **Double triggers:** IDB Invest has double triggers: in order to be covered by Safeguards, sub-projects must be (i) "higher risk" (defined as corporate or project finance with potentially significant adverse environmental or social risks and impacts, though not limited only to Category A); and (ii) at higher risk FIs.⁸⁷
- **Identified list of projects:** EBRD requires the application of its Safeguards to sub-projects that meet the criteria of Category A projects listed in an appendix.⁸⁸ The list is biased towards environmental impacts: 30 out of 32 categories are focused on environmental risks and impacts. One of the remaining categories is resettlement and the final is a general catch-all category on social impacts which does not provide the type of helpful specificity that the list aims to serve in the first place.
- **Identified Safeguard E&S risks:** The WB and AfDB highlight specific types of risks and impacts that correspond to topics in the Safeguards – resettlement, adverse risks to Indigenous Peoples⁸⁹ significant risks or adverse impacts on the environment, community health and safety, labour and working conditions, biodiversity or cultural heritage.⁹⁰ Any sub-project with these risks will be required to apply the relevant Safeguard.
- **Identified Safeguard E&S risks Plus (+):** The AIIB uses a double-layered approach, requiring that: (i) any Category A sub-project activities; and (ii) selected Category B sub-project activities that may result in a list of risks and impacts similar to the AfDB and WB must apply Safeguards. It also adds "significant retrenchment" and "significant occupational health and safety risks" to the WB and AfDB list.⁹¹
- **Broad scope of significant adverse impacts:** US DFC has a broad, but very general category that potentially provides for a wide trigger. This would allow for a wider range of risks to be considered, including human rights which is helpful, but at the same time, it does not provide much clarity for DFC staff, their FI clients or stakeholders: "Where Financial Intermediary operations and related investments could have significant adverse environmental or social impacts, the Financial Intermediary shall cause, or in the case of non-controlling minority positions use commercially reasonable efforts to cause, such investments to (a) identify potential environmental and social risks and mitigants through an environmental/

social impact assessment, and (b) require appropriate actions to ensure Subproject's operations are in compliance with DFC policies."⁹²

- **All FI sub-projects outside the EU:** The EIB takes the most encompassing approach, requiring that all sub-projects outside the EU apply relevant E&S Safeguards.⁹³ However, there is a lack of clarity on what, if anything, applies to sub-projects in the EU. Presumably these are left to EU member states' supervision on the assumption that member state laws are as robust if not more so than the Safeguards.

4.6 RING-FENCING OF FI LENDING

In an attempt to limit the E&S risks, including human rights, in FI financing, some DFIs have adopted a "ring-fencing" approach to loans to FIs, as opposed to a portfolio-wide approach.⁹⁴ This is an issue specific to loans as compared to equity which generally exposes the DFI to the entire portfolio of the FI. This means that the DFI chooses to target its lending through FIs to a particular sector (such as SMEs support) and consequently only requires the FI client to implement its Safeguards in relation to that specific portfolio or, in an even more limited approach, only to the specific financed assets and only if the triggers set out in [Box 15](#) above are met. Importantly, **a ring-fencing approach means that the DFI does not take responsibility for the remainder of the FI's portfolio that may include other types of on-lending and asset classes which may contain higher risk projects.** By contrast, some DFIs take the "portfolio-wide" approach which requires FIs to apply the DFIs' Safeguards to their entire portfolio (where application of the Safeguards is triggered).

Specific Safeguard provisions on this vary and are addressed in more detail in [Annex 2](#). Box 16 below provides a summary overview of existing DFIs' practices.



BOX 16: SPECTRUM OF DFIS' APPROACHES ON RING-FENCING VS PORTFOLIO

Predominantly Ring Fenced	IFC⁹⁵
Portfolio Wide	European DFIs
Both approaches	EBRD, IDB Invest, and, since 2022, FMO

Whether ring-fencing loans to FIs is an appropriate and effective tool to manage E&S risks, including human rights risks – or an appropriate one for DFIs – has been the subject of much discussion amongst DFIs, their IAMS and evaluation departments, and CSOs. Some have argued that ring-fencing may be a more honest and realistic position in the short-term, especially for smaller DFIs with limited resources and leverage to build and/or strengthen their FI clients' E&S capacity and ensure their compliance with Safeguards. However, it has also been noted that there are practical challenges in ensuring that DFI financing is only used for specific sub-projects. For example, the EIB evaluation department noted the difficulty and even impossibility to trace EIB financing to specific sub-loans for specific enterprises or projects, noting

that intermediated loans “are by nature fungible in the FI’s balance sheet.”⁹⁶ There are pluses and minuses to each approach, with implications for the DFIs, the FIs and importantly, affected stakeholders. In addition, under the UNGPs, ring-fencing is not necessarily determinative of responsibility in financing value chains; instead, such responsibility depends on whether the DFIs has a connection to a harm through a business relationship via its products and services that might require looking beyond contractual or financial structures.

The following highlights several human rights concerns related to choosing ring-fencing over a portfolio-wide approach:

- **Missed opportunity to improve FI practices and increase the development impact of financing – particularly in high-risk settings.** Ring-fencing means that at least in some cases, the DFI takes what are commonly considered lower risk projects into its own portfolio while leaving the FI to deal with higher risk investments, without the requirements nor the support or supervision in relation to improving the E&S management of the FI’s other projects that bear higher risks of E&S harms, including human rights harms. In other words, DFIs can be seen to take the “easy way out” while leaving local FIs to deal with larger risks that may result in impacts on local communities or workers. By contrast, as argued by some CSOs and the UN, a general portfolio approach is more likely to translate into “a positive catalytic effect” of a DFI’s investment by strengthening the FI’s environmental and social management system (ESMS) and overall performance across their entire portfolios and eventually culture change in the institution.⁹⁷ This positive impact is however not automatic as it is dependent on a range of other factors including in particular implementation by the FI and due diligence and supervision by the DFI – which are arguably not evident in existing practices.
- **Narrower protection for affected people.** Once DFI financing is ring-fenced, stakeholders affected by other sub-projects/sub-clients in the FI’s portfolio that are outside the ring-fence no longer benefit from DFI appraisal and supervision of the FI’s overall ESMS.
- **Eliminating accountability.** Ring-fencing narrows the accessibility of affected individuals and communities to a DFI’s IAM to the precisely targeted ring-fenced sector rather than sub-projects in the general portfolio of the FI.
- **Inconsistencies in development impact.** There may be inconsistencies in the purported development impacts of a ring-fenced investment and the overall portfolio of the FI – for instance, contradictions between renewable energy ring-fenced loans while the FI retains a large coal portfolio.⁹⁸
- **Reputational risks.** DFIs may still be exposed to reputational risks when sub-project affected communities bear actual human rights risks,⁹⁹ even when the sub-project was outside the ring-fence and affected communities did not have formal recourse to the DFI or the DFI’s accountability mechanism. For example, several CSO investigations have raised concerns about the harmful impacts of DFIs’ continued funding of coal projects via FI transactions, even where DFI financing to FI specifically excluded coal financing.¹⁰⁰



BOX 17: COMPLAINT TO DEG/PROPARCO/FMO ACCOUNTABILITY MECHANISM ON FI LENDING TO A MINE

In 2021, the FMO, DEG and Proparco IAM (i.e. the Independent Complaints Mechanism) accepted a complaint in relation to alleged impacts associated with a gold mine in Liberia, funded through their investments in South Africa's FirstRand Bank. FirstRand, a long-standing client of the three DFIs, participated in project loans of \$110 million total to develop the mine while it was their client. While the DFIs targeted their lending to FirstRand to particular categories of on-lending such as SMEs, complainants argued that the DFIs applied a portfolio-wide approach, which requires clients like FirstRand to apply Safeguards to all of their high-risk clients regardless of the actual target of the loan. Complainants argued that for this portfolio-wide approach to have meaning, it must also give affected communities access to the IAM complaint process.¹⁰¹ In its admissibility decision in 2021, the IAM accepted the complaint on the basis of the DFIs' portfolio-wide approach to FIs, and the respective credit agreements between the DFIs and FirstRand, which required Category A sub-projects to apply IFC PS. The IAM found that in this case, as the mine is a Category A project, the IFC PS should have applied.¹⁰² The case is currently under dispute resolution.

FMO's new ring-fencing option under its FI Safeguard appears to have been influenced by this case.

4.7 FUNDS AND FUNDS OF FUNDS

DFIs invest in numerous types of funds that then on-invest in assets or projects, or in other funds (funds of funds).¹⁰³ These can take on a range of forms – funds with public funding and specific mandates, private equity funds,¹⁰⁴ venture capital funds, and infrastructure investment funds or trusts, etc. In addition, at least two DFIs have their own funds that then on-invest – but with very different approaches to applying Safeguards.¹⁰⁵

These funds can play an important role in supporting innovation, expanding access to long-term capital, providing debt restructuring through private capital mobilisation, etc. DFI investment programmes may also focus on particular sectors or themes that typically provide both access to capital, as well as capacity building support and expertise; for example, many DFIs have a focus on supporting investment in SMEs and on gender.

From a Safeguards implementation perspective, financing through funds raise several issues:

- **Lack of clarity on equivalence between Safeguards and asset managers' ESG systems.** It is unclear from most Safeguards whether DFIs are accepting asset managers' ESG or sustainability frameworks as a substitute for Safeguards application and whether there is an equivalency test applied. This is especially concerning for DFIs which do not either review higher risk investments in advance or require asset managers to refer higher risk projects to the DFI. This is also to be viewed in the context of criticism of ESG index providers and their inability

to adequately capture adverse human rights impacts, in effect 'green washing' companies' impacts.¹⁰⁶

- **Contradictions and Loopholes:** Research on particular investments in and by FIs have highlighted that DFI exclusions and ring-fencing are not watertight, and that financing through funds for instance makes it harder to implement such exclusions. CSOs have produced a wealth of case studies on coal financing, uncovering over the years a range of loopholes in the implementation of DFI commitments to exclude coal from their portfolios and highlighting coal projects financed through DFIs' own asset management company or through funds.¹⁰⁷ But coal is not the only area where such contradictions exist – research in other areas have highlighted examples where DFIs decided not to fund particular projects on E&S grounds but funds in which it invests have done so.¹⁰⁸ Unless claims are brought to an IAM there do not appear to be consequences for doing so other than (bad) publicity for the DFI when such cases are disclosed.
- **Retroactive application of Safeguards:** Other concerns relate to the retroactive application of Safeguards to investments that are already operational – such as brownfield infrastructure projects. For example, CSO research on DFI investments in infrastructure investment trusts (InvITs) (investment vehicles used to refinance existing infrastructure such as roads and energy projects)¹⁰⁹ highlighted concerns about the retroactive management of the typically significant high risks of E&S impacts, including human rights, in infrastructure projects such as loss of livelihood, inadequate compensation and consultation and impacts on Indigenous Peoples and biodiversity.¹¹⁰ As DFIs invest in such investment trusts only after the infrastructure is completed and several projects are bundled into an investment vehicle, this raises significant questions about whether it is possible to fully mitigate and remediate certain impacts in retrospect – such as implementation of Free, Prior, and Informed Consent, land restitution, or large impacts on biodiversity. If DFIs are to expand further into this mode of financing, they must be able to answer how they can guarantee that their Safeguards will be applied in retrospect.
- **Lack of supervision:** Some banks, such as the EIB, specifically note that they take a “hands off” approach to supervising investment funds.¹¹¹

4.8 END-CONSUMERS

Many of the DFIs reviewed can and do positively impact retail or end-consumers through FIs, such as through microfinance institutions or fintech, both of which are seen as modalities to boost financial inclusion among under-served groups.¹¹² End-consumers – of microfinance, digital finance, fintech, retail finance - are the human face of finance, where financial services are delivered to people who need them. Some of these clients may be marginalised and particularly vulnerable to abuse, so in need of particular attention and protection. However, **only two DFIs are explicit in their Safeguards about protection of end-consumers** (See [Box 18](#)) while for the rest, it is not clear, leading to the conclusion that they may not be covered. In contrast, several commercial banks are recognising and addressing human rights impacts on end-consumers.¹¹³



BOX 18: EMERGING GOOD PRACTICES ON END-CONSUMERS

- **EIB:** “Since the Microfinance Service Providers (‘MSPs’) typically focus on clients from the poorest socioeconomic groups, who are usually vulnerable to social impacts and risks, they shall operate in alignment with strict client protection principles.”¹¹⁴
- **FMO:** “As part of our risk management, FMO works towards the protection of the most vulnerable end-beneficiaries as they access financial services. FMO promotes responsible financial inclusion by endorsing the [Client Protection Principles](#).”¹¹⁵

While DFIs play a significant role in improving financial inclusion around the world, there are a number of concerns that must be addressed:

- **Misplaced assumptions about risks to end-consumers:** The lack of explicit focus on end-consumers might be explained by an assumption that retail financing does not carry E&S risks, including human rights risks (see also subsection 5.5.3. on categorisation). For example, in its recent Guidance Note, IFC draws the conclusion that retail financing does not include “any E&S risks” (emphasis added).¹¹⁶ However, CSOs, the UN and the media have documented cases of risks and adverse impacts microfinance consumers. For instance: discriminative practices restricting access to finance, abusive debt collection practices and over-indebtedness have been associated with microfinance borrowing, the effect being of pushing people further into poverty and hardship, in some contexts leading to increased suicide rates.¹¹⁷
- **New types of risks to end-consumers that are not acknowledged:** As more and more DFIs support fintech and digital finance, end-customers may also be exposed to a whole new set of risks that have no clear coverage in the Safeguards – from lack of protection of their privacy through inadequate data protection to active misuse of their data, to discriminatory artificial intelligence or machine learning credit risk models.¹¹⁸
- **Separate frameworks but without accountability:** Several DFIs have helpfully endorsed separate frameworks that deal explicitly with consumer protection in finance. For example, DFIs such as FMO¹¹⁹ have committed to the Client Protection Principles¹²⁰ and the updated Client Protection Pathway and others such as BII have developed their own set of principles.¹²¹ IFC supports and hosts the Investor Guidelines for Responsible Investing in Digital Financial Services.¹²² These principles focus on protecting clients, particularly vulnerable clients, and start from the same premise as the Safeguards and the responsibility to respect human rights – do no harm. However, without explicit links to Safeguards, accountability for harm against end-consumers is currently lacking – at least at most DFIs. This is a live issue given a recent complaint to CAO about an IFC micro-finance lending/ investment in Cambodia, where IFC initially argued that its Performance Standards do not extend to end beneficiaries such as micro-finance borrowers (see [Box 19](#)).



BOX 19: THE APPLICATION OF SAFEGUARDS TO MICROFINANCE END BENEFICIARIES – COMPLAINT TO CAO

A complaint to the CAO in 2023 alleged serious harm to microfinance borrowers in Cambodia through IFC clients (microfinance institutions), arguing that IFC Performance Standards apply to microfinance borrowers. IFC initially objected to CAO's jurisdiction to address the complaint: it presented the view that microfinance borrowers fell outside the scope of its Safeguards as they are not referenced in the IFC Sustainability Policy or Performance Standards as a category of stakeholder to which E&S risk mitigation measures apply and because its Sustainability Framework applies to potential E&S risks and impacts of the supported “business activity” on the “surrounding community and workers” but not to the E&S impacts on sub-clients themselves (in this case, microfinance borrowers). In contrast, CAO concluded that project impacts on microfinance borrowers are covered by the Safeguards because they are not specifically excluded. After a discussion at the IFC Board, IFC withdrew its objections and CAO started its investigation.¹²³

4.9 CONCLUSION AND GOOD PRACTICES

This section highlighted various concerns about DFI Safeguards and their application to FIs. A broad conclusion is that **it is difficult and at times impossible to gain an overall picture of the way in which DFIs do or do not apply their Safeguards to FI financing**. Despite a few good practices (see Box 20), the scope of application of Safeguards to FIs, FI clients and sub-clients are far from clear overall. As noted in [section 3](#) and recalled in [Box 6](#) above, the UNGPs calls for a robust policy commitment that sets out an organisation's commitment to respecting human rights and covers all human rights and the entire value chain of a financial institution.



BOX 20: DFI SAFEGUARD POLICIES: SUMMARY OF SELECTED GOOD PRACTICES

- Existence of Board-approved FI-specific Safeguards
- Explicit referral to human rights in FI Safeguards
- Detailed E&S requirements for different types of financial transactions
- Clear procedure in place to trigger application of Safeguards to sub-projects with wide scope
- Application of DFI Safeguards to a wider range of higher risk sub-projects/ transactions
- Explicit position that end-beneficiaries are covered by Safeguards and commitment to Client Protection Principles and updated Client Protection Pathway.

The general lack of clarity makes it difficult to understand what DFIs expect of their staff, FIs and sub-clients in their financing value chain, and ultimately undermines their objective to safeguard against possible harm. In addition, a significant loophole pertains to the limited information on the application of Safeguards - if at all - to financial instruments that go beyond standard lending (such as trade finance, capital

market transactions, complex fund structures). If DFIs are not able to clarify how Safeguards apply to these transactions, it raises questions about the ability of DFIs to adapt and maintain an E&S risk management system fit for the complexity associated with the newer forms of intermediated finance. Because the Safeguards were originally designed to address project finance, they still unduly reflect a project finance mindset and are therefore not well suited to address the increasingly wide range of FI transactions.

5 HUMAN RIGHTS CONCERN 2 – MANAGEMENT OF E&S RISKS, INCLUDING HUMAN RIGHTS RISKS

5.1 INTRODUCTION: A SYSTEM OF DELEGATED RESPONSIBILITY

For direct investments, it is the DFIs themselves who appraise and supervise their real economy or non-financial clients. **For FI financing, DFIs for the most part appraise and supervise their FI client and it is then the FI client that is responsible for appraising and supervising the onward lending or onward investment of DFI funds. This is referred to as the concept of “delegated responsibility”.** DFIs use this approach because of efficiency (e.g. the FI is closer to the sub-client/sub-project), cost reasons (e.g. taking an active role in the due diligence on a huge range of FI sub-projects/sub-transactions after investment approval would be cost prohibitive in many cases) and practical reasons (e.g. no or little information on FI end clients at the screening and appraisal stage of preparing the financing). However, inherent in this FI model is a loss of control by the DFI: when a DFI lends to a FI it frequently has very limited control over the on-lending. DFIs can set the parameters on the use of their funds (e.g. for SMEs, no coal etc), but they very rarely know what their financing has supported until after it has been used by the FI (with the possible exception of private equity funds where DFIs may have more visibility into the portfolio companies and a role in fund governance).

The approach requires several layers of risk management that result in a multi-layered system:

- DFIs assess the FI and its portfolio in respect to: (i) existing E&S policies and procedures and the FI's commitment, capacity, and track record to implement them; (ii) E&S issues associated with the current and likely future portfolio; and (iii) measures necessary to establish or strengthen the FI's ESMS. Some DFIs use a classification system to identify higher risk FIs and sub-project transactions. Some DFIs, once they have approved financing, delegate almost all responsibility for risk management to FIs while others take a more active approach, particularly by screening and/or providing some additional verification on the management of E&S risks, including human rights, for higher risk FI sub-projects.
- FIs establish or strengthen their ESMS commensurate with the level of E&S risks, including human rights, in its portfolio and prospective activities. They are responsible for the appraisal and supervision of their sub-projects. They apply a binary approach to the standards applied to their on-lending or on-investment of DFI financing, essentially applying national law to lower risk sub-projects and Safeguards to higher risk sub-projects. There is supervision (to varying degrees) and reporting back to DFIs on their portfolios.

The sub-sections below outline several areas of concern in respect to how DFIs implement their E&S risk management system in relation to their FI clients against the backdrop of UNGPs expectations on human rights due diligence. Box 21 below

includes an overview of the human rights due diligence expectations and their implications for DFIs' risk management systems.



BOX 21: HUMAN RIGHTS DUE DILIGENCE – EXPLANATION AND IMPLICATIONS FOR DFIS' E&S RISK MANAGEMENT SYSTEM

The UNGPs and the OECD Guidelines frameworks set out a risk-based approach to due diligence¹²⁴ to identify, prevent, mitigate, and account for risks and impacts on human rights. It is similar to the Safeguards approach in that it prompts DFIs and their clients to look at the risks and impacts of operations on people rather than impacts on the DFI or FI itself with an important difference - the UNGPs make it clear that risks to people is the primary element of risk management rather than one factor amongst many, which characterize some of DFIs' approaches.¹²⁵

UNGP Elements on Human Rights Due Diligence (HRDD)	Implications for DFIs' E&S Risk Management System for FI Financing
<ul style="list-style-type: none"> • Embedding: HRDD processes should be embedded into management systems, processes, and oversight bodies. 	<ul style="list-style-type: none"> • DFIs already require FI clients to put in place organisational capacity and competency to oversee their ESMS. An HRDD approach would encourage more systematic DFI support for and oversight of clients to implement these systems appropriately in relation to human rights risks.
<ul style="list-style-type: none"> • Focus: HRDD focuses on processes and outcomes. 	<ul style="list-style-type: none"> • DFIs' appraisal and supervision should focus not only on the existence of an ESMS and related procedures but also on the actual outcomes such ESMS is leading to – in other words, is the ESMS effective at preventing, mitigating, and remediating human rights risks and impacts? And how does the FI adapt the ESMS in response to gaps identified?

<ul style="list-style-type: none"> • Assessment followed by prioritisation where necessary: HRDD processes require an assessment of risks and impacts to people followed, where necessary, by a prioritisation process to prioritise the most severe risks based on the scale, scope and irremediability of such risks. • The scale and complexity of a DFI’s HRDD processes and tools should depend on the size of the FI, the nature and context of its operations and the severity of its potential adverse human rights impacts across its portfolios. 	<ul style="list-style-type: none"> • During the appraisal process, DFIs identify clients for prioritised attention and typically “categorise” those clients into different groupings depending on an assessment of risks associated with the client (and also based on the type of transaction – see subsection 5.3 categorisation below). While prioritisation of risk management measures is needed in a DFI context given DFIs’ extensive portfolios of FI clients, that prioritisation should have as starting point an assessment of the severity of risks for people and the environment in the specific transaction rather than excluding whole types of transactions/funding models from assessment based solely on the type of transaction. • DFI sub-projects and sub-transactions that present higher risks for people and their human rights should be prioritised for appraisal and supervision.
<ul style="list-style-type: none"> • Distinct Responsibilities: All businesses in a value chain have distinct responsibilities to prevent and address human rights impacts. The UNGPs do not intend to shift the burden of responsibility for the impact from the business enterprise causing the impact, but instead highlight the different responses required from each business partner depending on their type of “involvement” with the adverse human rights impact. 	<ul style="list-style-type: none"> • In complex business relationships such as those entailed in FI scenarios, the responsibility to respect human rights cannot be discharged by transferring or delegating responsibility to FIs. Instead, the expectation is that each business (i.e. DFI, FI and sub-client) discharges their responsibility according to how they are “involved with” the adverse human rights impact in UNGP terms (e.g. depending on if they have “caused,” “contributed” to or are “directly linked” to the adverse impact).¹²⁶ Thus, collaboration between the DFI and FIs should be expected rather than full delegation of all responsibilities to the FIs. • DFIs should ensure that FIs prompt their clients to respect human rights and carry out HRDD.

<ul style="list-style-type: none"> • Iterative, not one off: HRDD is a dynamic process rather than a one-off process so that risks and impacts are assessed periodically and as needed. 	<ul style="list-style-type: none"> • DFIs' monitoring/supervision should include a) regularly assessing whether the FI's ESMS is adequate and proportionate to the changing risks in the FI's portfolios and b) responding to incidents and reports of human rights impacts among FI's clients. • DFIs should ensure that FIs are regularly monitoring the effectiveness of their ESMS and updating it to be able to identify and capture new risks in their portfolio and activities.
<ul style="list-style-type: none"> • Stakeholder engagement is a central element of HRDD and enables business enterprises to assess their human rights risks and impacts accurately in a manner informed by those potentially and actually affected. 	<ul style="list-style-type: none"> • DFIs should a) require FIs to a conduct engagement with affected stakeholders and or their representatives in relation to the development and implementation of the ESMS and in relation to high-risk projects and b) require higher risk sub-clients to conduct stakeholder engagement too.

5.2 THE ENVIRONMENTAL AND SOCIAL MANAGEMENT SYSTEM OF FIs – FORM OVER FUNCTION

DFI Safeguards require that FIs have or put in place an ESMS (see Box 22) where the portfolios to be financed present E&S risks, including human rights risks. This is typically reinforced through a requirement in the legal agreement between the DFI and FI. The ESMS should be commensurate with the E&S, including human rights, risks in the FI portfolio. In order to judge whether the ESMS is likely to meet the test of being “commensurate”, the DFI and FI should have a solid overview of the types of risks in the portfolio or are likely to be in the portfolio. These risks and impacts are identified through both the DFI's and FI's due diligence as discussed in [subsections 5.3](#) and [5.4](#) below.



BOX 22: FIS AND ENVIRONMENTAL AND SOCIAL MANAGEMENT SYSTEMS

An ESMS refers to a framework or set of policies, procedures, and tools through which FIs incorporate E&S, including human rights, risk management into their business processes and activities. In broad strokes and with different emphasis across DFIs Safeguards, most DFIs require FIs to have in place the following as part of their ESMS:

- **E&S Policy** that is appropriate to the risk profile of its portfolio defining the E&S objectives and principles to guide sound E&S performance.
- **Internal Organisational Capacity and Competency** that defines roles, responsibilities, and authority to implement the ESMS.

- **E&S Due Diligence processes** to identify and assess risks in its portfolio and design appropriate E&S Action Plans (ESAPs).
- **Monitoring, reviewing and reporting on of its portfolio** to keep and regularly update environmental and social information on FI sub-projects.
- **Establishing a grievance mechanism and processes for external communication.**
- **Meaningful stakeholder engagement**, including requiring the FI sub-project to conduct stakeholder engagement in a manner proportionate to the risks and impacts of the FI sub-project.

The ESMS is the main tool through which FIs implement DFI Safeguard requirements and in turn, for DFIs to supervise FIs' management of their E&S risks and impacts, including human rights. The ESMS thus takes on significantly increased importance in an FI context. Whereas a direct client's ESMS has to manage the impacts of just one operation, or a project, an FI's ESMS is supposed to manage E&S risks and impacts, including human rights, across the FI's entire portfolio (or at least the portion financed by the DFI). It is thus important that DFIs' Safeguards are specific about the ESMS's content.

Safeguard requirements on ESMS have generally been quite limited¹²⁷ except for IFC,¹²⁸ the WB,¹²⁹ and EBRD,¹³⁰ though there is increasing specificity in newer FI Safeguards about the types of steps that an ESMS must include with some important exceptions.¹³¹

A number of concerns over the structure and implementation of ESMS have been highlighted:

- **Too much focus on process over outcome:** A CAO audit report points to a core concern regarding the implementation of ESMS: both the DFI and the FI client can become too focused on the process of establishing and reporting on the ESMS, rather than on the outcomes it produces.¹³² The lack of any systematic measurement of impacts or outcomes at the sub-project/sub-client level means that DFIs are unable to measure the actual effectiveness of ESMS on the ground.¹³³ In many cases the DFI's verification of FI's compliance with the ESMS tends to be primarily focused on ascertaining whether certain policies and procedures are in place at the expense of assessing whether those processes are effective in preventing and addressing potential adverse impacts.
- **Limited attention to the lynchpin of the system:** FI capacity to manage impacts. Given the reliance on FI capacity to exercise delegated authority to process most projects (and for some DFIs all sub-projects) without further DFI supervision, FI capacity to take on that responsibility is a lynchpin of the system. However, Safeguards provide little insight into how an FI's capacity is to be assessed.¹³⁴
- **Underestimating the change management process:** Committing to sustainable finance and implementing DFI Safeguard requirements is often part of an extensive change management process within an FI, with the attendant costs, and not merely a technical exercise. This objective should be communicated clearly to clients from the outset.¹³⁵ FI clients – whether commercial banks, private equity, or infrastructure

investment funds – are by nature profit-driven financial actors which may have not prioritized E&S or human rights issues at all until a DFI's offer of investment. The FIs' drivers are different to a DFI's and as a result may influence the FIs' capacity and manner in which they can and will implement DFIs' Safeguards. This has been a concern of CSOs, who have recommended that DFIs prioritise support to FIs with a strong focus on responsible finance and poverty alleviation outlook and capacity.¹³⁶ All in all, DFIs may be underestimating the significant effort and resources to transform a commercial bank's due diligence and monitoring capacity and systems,¹³⁷ particularly where they are operating in contexts where there are not broader market forces reinforcing the importance of attention to sustainability issues.

- **Extended time frames to implement this core capacity:** While most DFIs have requirements for FIs to establish internal management oversight and day-to-day responsibilities as part of their ESMS, few indicate when these important capacities need to be fully operational. IAM FI cases have demonstrated a lack of attention on the part of the DFI to client capacity to implement an agreed ESMS from the time of appraisal (pre-investment) and during supervision.¹³⁸ These cases have also demonstrated that client capacity may never be fully operational.¹³⁹ DFI independent evaluations have highlighted that clients struggle to implement requirements.¹⁴⁰
- **Lack of review clauses of ESMS:** While a few DFI Safeguards have review clauses, others have no mention at all, reinforcing the point, or at least the perception, that once the ESMS is in place, there is little further supervision.



BOX 23: EMERGING GOOD PRACTICES ON ASSESSING FI CAPACITY

IFC has established [FIRST \(Resources, Institutions and Tools\) Toolkit](#) and [Environmental and Social Management System Diagnostic Tool for FIs](#) to assess the quality of an ESMS and benchmark it against IFC's Performance Standard 1 and good market practices.

5.3 EXISTING DFIs' CATEGORISATION PROCESSES DO NOT ADEQUATELY CAPTURE ALL E&S RISKS, INCLUDING HUMAN RIGHTS, LINKED TO FIs

DFIs' initial appraisal exist to help identify areas where the DFI and FI could themselves be exposed to E&S risks, including human rights, through the FI's portfolio and to help the DFI prioritise projects and clients for additional due diligence. The appraisal feeds into risk categorisation that classify FIs according to the E&S risks and impacts, including human rights, in their portfolio. Generally, high risk transactions receive more attention from DFI staff across the investment life cycle and come with additional requirements for clients, including reporting back to DFIs. Several DFIs have a specific categorisation system for FIs, categorising the FI based on risks across its existing portfolio (typically using FI-1, FI-2, and FI-3 that mirrors the categorisation used by many DFIs for direct projects of Category A, B, and C with the Categories FI-1 and A being the highest risk, and Category C and FI-3 being the lowest risk).¹⁴¹ European DFIs have a Category B+ that can raise the importance of Category B projects. A few DFIs

Safeguards are unclear about whether the DFIs categorise the FIs, or only the sub-project/transaction, while some do not address the issue at all. Even among DFIs with FI categorisation, Safeguards often do not provide a lot of detail about the scope of the categorisation review.

The risk categorisation/prioritisation exercise is important because: (i) it indicates that the DFI and FI have undertaken a systematic review to gain an overview of potential and actual risks across the FI's portfolio; (ii) it should help drive a core requirement for FIs discussed below – establishing the depth and complexity of the ESMS required to manage the risks in the portfolio. Without a good understanding of the risks associated with a FI's portfolio, DFIs will not have sufficient information to gauge whether the ESMS is like to be effective. Investigations by CSOs and cases lodged with IAMS have revealed that stakeholders are being exposed to a range of harmful sub-projects through DFIs' FI investments, not all of which were categorised as high-risk.¹⁴²

The picture across DFIs is mixed and illustrates the need for heightened awareness and oversight in relation to identifying and categorising E&S risks and in particular human rights risks in FI lending. Below are a few concerns regarding the DFI practice of risk categorisation in respect to FI investments. A recurring concern is that current approaches may lead to a whole range of FI transactions or projects being unduly categorised as low-risk¹⁴³ and therefore subject only to minimal review and requirements:

- **The type of lending – such as trade finance, microfinance or MSME lending – is being taken as the primary indicator of E&S risks, including human rights. This is leading to an automatic categorisation of low-risk based on assumptions about a particular sector or financial instrument.** This was especially noted in the External Review of IFC/MIGA (Multilateral Investment Guarantee Agency) E&S Accountability¹⁴⁴ but is a recognisable pattern across many DFIs.
- **Misplaced assumption that all SME and MSME FI financing is low-risk.** MSMEs are highly heterogeneous, and their E&S risks, including human rights, can range from low to high. In some contexts, MSMEs may have high levels of informality and may not be captured well by E&S regulations and thus may be engaged in harmful, but unregulated actions.¹⁴⁵ The definitions of MSMEs used by DFIs vary but are generally considered broad enough to expose both the DFI and FI to medium to high risk. For example, small hydro-projects or small exploratory mining activities, which can have adverse E&S impacts, including human rights, may qualify as SMEs.¹⁴⁶ In addition, FIs may characterise sub-projects/sub-clients as SMEs simply on the basis of the loan size and/or loan tenor. This was the case for one large commercial bank in which IFC invested, which at one point was classifying loans to coal-fired power plants as SMEs due to loan size/tenor.¹⁴⁷
- **As mentioned earlier, micro-finance in particular, long assumed to be low-risk,¹⁴⁸ is no longer considered so,** at least not in certain contexts.¹⁴⁹ Other types of finance provided to **retail customers** can entail similar risks, just as sectors such as **housing finance**¹⁵⁰ or **education finance**¹⁵¹ have been shown to pose risks.

- **DFIs may be missing certain human rights risks:** While several Safeguards do align with some human rights, as noted above, there remain significant gaps,¹⁵² which means that when assessing risks as part of the categorisation exercise, DFIs are likely not considering all human rights risks that may arise in FI portfolios. For instance, DFIs may be missing the human rights risks associated with the **digital dimensions of financing**, including fintech. It is unclear whether and how such risks are being addressed, if at all.¹⁵³
- **Risk categorisation frameworks** at many DFIs **remain biased towards capturing environmental impacts** and tend to be static and insufficiently factor in contextual human rights risks (see Box 24) across the investment life cycle.¹⁵⁴



BOX 24: EMERGING GOOD PRACTICES ON CONTEXTUAL RISKS

Some DFIs are looking at contextual risks that highlight operating environments that create or contribute to enhanced E&S risks, including human rights risks. Contextual risk analyses can support E&S risk and human rights risk assessments and the design of appropriate prevention and mitigation steps.

- **FMO:** “To integrate human rights explicitly into our investment process for Financial Intermediaries and to determine the level of due diligence required, FMO has included a contextual risk analysis of country- specific risks, including human rights risks and investment-related human rights risks, in its initial ESG screening process...”¹⁵⁵
- **IFC:** “The E&S risks associated with an FI’s lending/investment activities depend on factors such as the contextual risk associated with the countries and regions where the FI operates...”¹⁵⁶

5.4 NO OR LIMITED DFI INVOLVEMENT IN HIGHER RISK SUB-PROJECT/ SUB-TRANSACTION APPRAISAL

For sub-projects/sub-transactions that are high(er) risk, there is good practice among some DFIs of requiring a referral of those projects to the DFI for review and in some cases, approval as set out in [Box 25](#) below.¹⁵⁷ This provides access to DFI expertise in handling higher risk projects while simultaneously helping build FI capacity to carry out their own review. This is one of the most important tools that DFIs have at their disposal to increase the rigour of FI-related E&S management and capacity building of FIs.

Some DFIs reviewed, however, have no referral process, meaning that the entire responsibility for managing even high-risk sub-projects/sub-transactions is left to their FI clients, apart from general DFI supervision which can be quite limited as noted in [subsection 5.5](#).



BOX 25: SAFEGUARD PROVISIONS ON REFERRAL OF SUB-PROJECTS TO THE DFI FOR REVIEW/APPROVAL

No referrals for review	Neither BII, FMO, IFC, nor IDB Invest have referral provisions in their Safeguards.
Referral of only sub-projects requiring an ESIA & only an early sampling	AfDB will review a sample of ESIA's produced for sub-projects categorized as high-risk early in the project's life and thereafter, as and when required by the Bank. ¹⁵⁸
Referral of only sub-projects requiring an ESIA	EIB requires referral for those projects that require an ESIA. ¹⁵⁹ However, similar to concerns with the AfDB approach, ESIA requirements across the world are heavily focused on environmental rather than social impacts and would not be triggered by human rights impacts.
Referral only of sub-projects deemed "High Risk or Substantial Risk" until capacity is built	The WB requires prior review and approval of FI sub-projects until it is "established that adequate capacity within the FI exists" to categorise and assess sub-projects involving specified E&S risks, including human rights risks. ¹⁶⁰ No specific benchmark for how the WB measures "adequate capacity" is publicly available.
Referral only of sub-projects on a specific list	EBRD has developed a specific list of FI sub-projects for referral. ¹⁶¹ The list is essentially a sub-set of triggers set out in its Safeguards which provides helpful specificity for FIs but does not account for projects where contextual risks may be high, or where business models are problematic. EBRD approval is mandatory for Category A sub-projects but not others where it only makes recommendations and final approval is for the FI. ¹⁶²
Referral only of sub-projects deemed "high risk" (category A sub-projects)	IADB requires referral for sub-projects considered Category A but does not specify whether the FI requires its approval of the sub-project once it is reviewed. ¹⁶³
Referral only of sub-projects deemed "Higher Risk"	AIIB requires prior AIIB approval of "higher risk" activities – all Category A and selected Category B activities that may potentially result in a specified set of E&S risks, including human rights risks. ¹⁶⁴ AIIB is the most specific about when and how FIs must refer higher risk transactions. Such transactions require AIIB's prior review and approval that is based on the FI's "detailed environmental and social due diligence assessment and instruments." ¹⁶⁵

5.5 LIMITED SUPERVISION AND MONITORING

Adverse impacts are most likely to materialise after a financing agreement between DFI and FI has been concluded and the FIs engage in transactions with their clients. Monitoring how the FI implements the ESMS after financing approval is critical to gauging its effectiveness in practice and identifying potential gaps that need further attention.

Despite some emerging good practices (see Box 26), FI supervision sections of DFI Safeguards are typically quite minimal¹⁶⁶ which can translate into limited visibility by DFIs into the end use of much of their financing. Supervision provisions range from a minimalistic approach of DFIs reviewing FI annual reports to more active supervision of higher risk sub-projects (See [Box 25](#) above). Evaluations of FI practices at IADB and EIB homed in on concerns about allowing FIs to self-select sub-projects to be reported on, with risks of “cherry-picking,” rather than requiring a representative sample of the relevant portfolio.¹⁶⁷ Concerns have been raised about whether DFIs’ appraisal and supervision of their FI clients is sufficient to know whether clients’ ESMS are effective.¹⁶⁸



BOX 26: EMERGING GOOD PRACTICES ON SUPERVISION

- **Access to sub-project records:** DFC specifically requires access to sub-project E&S records, and more importantly, project affected peoples in connection with sub-project supervision¹⁶⁹ and IADB appears to do so as well.¹⁷⁰
- **Site visits:** EBRD is the only one that requires the FI to conduct site visits for high-risk investments and strongly encourages it for medium-risk investments.¹⁷¹
- **Enhanced requirements for higher-risk investments:** AIIB’s revised Environmental and Social Framework highlights increased AIIB staff responsibility for monitoring and supervision of ‘Higher Risk Activities’ funded via FIs.¹⁷² IFC and EBRD provide more details on FI monitoring in their FI Guidance Notes.
- **Requirement for the FI to retain 3rd party experts for the review of higher risk projects** – for example IFC¹⁷³ and EBRD¹⁷⁴.
- **Specific triggers for regular reviews by the DFI or the FI of the ESMS** as well as review based on changes in the portfolio conditions ranging from “significant changes in the portfolio” (AfDB)¹⁷⁵ to “material changes in portfolios of equity/ quasi-equity FI clients” (IFC).¹⁷⁶
- **Dynamic monitoring and reporting requirements in case of incidents or risk profile changes:** Some DFIs require more dynamic monitoring and reporting from their FIs – AfDB has requirements around notification of specific E&S incidents at sub-projects.¹⁷⁷ The World Bank requires notification to the DFI where the risk profile of a FI sub-project increases significantly and that relevant Safeguards should be triggered if the risk profile of the sub-project increases significantly.¹⁷⁸ IFC notes that ESAPs may need to be supplemented in response to monitoring.¹⁷⁹

Insights from FI-related cases (over 90% of which have been to CAO) illustrate various omissions and difficulties in supervising FI clients (see [Box 27](#)). Even with some specific good policies in place, DFI staffing levels, other priorities, and the challenges of supervising wide portfolios - particularly where FI clients lack capacity or interest in doing so themselves - highlight the on-going challenges.



BOX 27: CHALLENGES IN SUPERVISING DFIs' FI CLIENTS – INSIGHTS FROM FI CASES BEFORE CAO

- **Lack of oversight in ensuring the FI was implementing an adequate ESMS to assess and monitor risks and impacts in sub-projects** (for instance a hydropower dam in areas populated by Indigenous Peoples).¹⁸⁰
- **Lack of supervision and documentary evidence in ensuring the FI's ESMS reflected the investment agreement** (namely to require that all sub-projects implement Safeguards).¹⁸¹
- **Superficial understanding of the E&S risks in the FI's client base**, partly due to the inadequacy of the E&S reporting format in terms of the detail required regarding the performance of sub-clients, in particular those with high E&S risks.¹⁸²
- **Lack of adequate response to serious reported incidents at sub-project level** and lack of measures taken to ensure the FI was applying Safeguard requirements and that its response to incidents was appropriate.¹⁸³
- The specific **hurdles faced in supervising FI clients in the case of complex on-lending and on-investment** – for instance syndicated lending structures where the DFI is not engaged with the other participants in the lender group. In one case investigated by CAO, IFC made equity and loan investments in a commercial bank which went on to on-lend as one of multiple syndicated lenders to 10 coal-fired power plants, with limited leverage.¹⁸⁴
- **Lack of FI supervision of sub-projects** once the FI has agreed on financing.

5.6 LIMITED ATTENTION TO STAKEHOLDER ENGAGEMENT IN ASSESSING RISKS

Engagement with affected stakeholders or their legitimate representatives provides processes through which information related to the DFI involvement, E&S risks, including human rights, related to FI financing, and access to IAMs and grievance mechanisms can be shared with potentially affected individuals and groups (e.g. workers, communities), and for these people to share information about risks with the DFIs and FIs. It is the red thread that runs throughout Safeguards with multiple benefits recognised by the DFI community¹⁸⁵ and responsible business conduct standards. To date, there has been little attention to how this issue is addressed with and by FIs.¹⁸⁶

Newer Safeguards offer improved clarity and specificity on stakeholder engagement, though there remain wide discrepancies across DFIs – from no requirement at all to specific requirements for FIs to conduct stakeholder engagement or require sub-projects/sub-clients to do so (see [Annex 3](#)).¹⁸⁷ There is still some way to go to ensure appropriate requirements in Safeguards across all DFIs and even more so, to strengthen policy and practice on stakeholder engagement at the FI and even more so, at sub-project levels.

5.7 CONCLUSION AND GOOD PRACTICES

As noted in sub-section 6.1, the UNGPs call for the implementation of an effective human rights due diligence process that can adequately prevent and address risks to people based on an assessment of the severity of those risks. This section highlighted concerns about the adequacy of the tools used by DFIs to ensure appropriate E&S risk management by their FI clients, such as a categorization process that may be overlooking human rights risks or the lack of use of stakeholder engagement to identify adverse impacts. **A central issue remains the significant focus on the formal existence of an ESMS, and insufficient focus on client capacity, implementation and outcomes.**

These concerns are compounded by the DFIs' lack of control over what the FI ultimately finances, and the limited time and resources available to DFIs to adequately supervise FI clients, particularly those starting with no E&S awareness and/or in challenging markets. Against this backdrop it is critical that meaningful and robust supervision and monitoring by DFIs should be put in place. This would also ensure that the impacts on people are addressed and that resulting learnings are fed back into the due diligence process for institutional learning. Positively, there are some good practice examples (see Box 28), but the practice remains patchy, with a few DFIs worryingly delegating almost all responsibility to their FI clients for managing the on-lending and on-investment of DFI funds, without a complementary focus on capacity.



BOX 28: DFIs' MANAGEMENT OF E&S RISKS IN FI FINANCING: SUMMARY OF SELECTED GOOD PRACTICES

- Procedure to raise the importance of Category B projects (or FI-2)
- Consideration of contextual human rights risks in the risk categorisation process
- Supporting FIs to build their capacity to manage E&S risks, including human rights, in their portfolios
- Requirement for the FI to retain third-party experts for the review of higher risk projects
- Requirements for FIs to conduct site visits for higher risk projects
- Requirement for DFIs to access sub-project E&S records, and sub-project affected people in connection with sub-project supervision
- Referral of higher risk sub-projects/transactions for review and in some cases approval by the DFI
- Enhanced DFI supervision for higher risk projects, including through site visits and increased capacity.

6 HUMAN RIGHTS CONCERN 3 – ACCOUNTABILITY AND REMEDY

6.1 INTRODUCTION: A REMEDY GAP

CSO reports, the UN, and evaluations of DFIs point towards a ‘remedy gap’ in development finance, which means that individuals and groups adversely affected by DFI financing receive no or inadequate remediation for the harms experienced.¹⁸⁸ It has taken sustained advocacy over years by CSOs representing community members affected by DFI funded projects, and the IFC CAO External Review¹⁸⁹ to put remedying harms in DFI projects squarely on the agenda. However, most of the advocacy and resulting limited discussion within DFIs and their Boards about addressing adverse impacts of FI financing specifically has taken place around individual complaints brought to IAMs, rather than about the broader issues of remedy in FI portfolios.

The limited access to remedy is even more significant in relation to FI financing compared to direct finance. **FI financing poses a distinctive challenge for access to remedy given the limited visibility of DFIs into the end use of much of their financing and the even more limited visibility to stakeholders of that DFI involvement.** The exclusions, exceptions, and limitations in Safeguards highlighted in section 4 exacerbate this challenge and may (and in many cases do) result in limiting accountability and remedy around FI transactions.

Informed by the UNGPs expectations on remedy (see Box 29), the following sub-sections highlight specific concerns regarding access to remedy in FI financing.



BOX 29: RESPONSIBILITY FOR REMEDY – EXPLANATION AND IMPLICATIONS FOR DFIs’ ACCOUNTABILITY SYSTEM

International human rights law sets out the basic principle that if someone’s human rights have been harmed, they should have access to remedy that can redress the harms. That includes an appropriate process to address the harm and appropriate actions to redress the harms. The UNGPs and OECD Guidelines provide a widely accepted framework for assessing the remedial responsibilities of DFIs and their FI clients, considering their respective involvement in negative human rights impacts. Engagement of affected stakeholders is a core part of the process and is underpinned by disclosure of information.

UNGPs Remedy Elements	Explanation and Implications for DFIs' Accountability and Remedy System for FI financing
<ul style="list-style-type: none"> • Appropriate action in response to harms requires: <ul style="list-style-type: none"> • Use of leverage to enable actions to remediate harms if the business, including financial institution, is “directly linked” to harm through e.g. its financing • Action to remedy harm if the business, including financial institution, has “caused” or “contributed” to harm through e.g. its financing. 	<ul style="list-style-type: none"> • DFIs will often be “directly linked”¹⁹⁰ to adverse human rights risks and impacts through their FI financing, in which case they should use their leverage with their FI clients to prompt the FI to address and remedy the problem with their sub-clients. This is already in principle part of DFI practice at most but not all DFIs. Thus, while this may require renewed attention with FI clients on the importance of addressing harms, it is not a new practice. • If the DFI is “contributing” to the harm by incentivising or facilitating the harm through its own actions or omissions alongside the FI or at the sub-project level, the DFI, alongside the FI and/or sub-client, would be expected to contribute to remedy in some way.
<ul style="list-style-type: none"> • Grievance mechanisms to deal with harms: Businesses should establish operational level grievance mechanisms so they are prepared to respond effectively to grievances if they do arise, in line with the UNGPs’ “effectiveness criteria.” 	<ul style="list-style-type: none"> • DFIs should establish IAMs, drawing on established good practices.¹⁹¹ IAMs structures and processes should be designed to reflect the UNGPs’ effectiveness criteria for grievance mechanisms.¹⁹² • IAMs should have a mandate to accept FI-related complaints. • DFIs should require FIs and sub-clients to establish operational grievance mechanisms in line with the UNGPs’ effectiveness criteria.
<ul style="list-style-type: none"> • Consulting with and involving those harmed in deciding on remedial action is considered a core requirement in addressing grievances. 	<ul style="list-style-type: none"> • Where grievances have been brought to IAMs or DFIs about FI-related negative impacts, IAMs and DFIs should engage with affected communities to understand the grievances. • DFIs should consider providing support, advice and/or technical assistance to their FI clients in handling more serious grievances.

6.2 INSUFFICIENT PRIORITISATION OF REMEDY IN DFI POLICIES AND SAFEGUARDS

DFI mandates to “do no harm” and to contribute to sustainable development and poverty reduction should mean that addressing any harm that actually materialises is seen as a natural counterpart to those mandates. Remedy in this light is part and parcel of DFI mandates, and an important dimension of accountability. DFI Safeguards require

clients to engage with stakeholders and put in place grievance mechanisms. These are key components of the process dimensions of remedy under the UNGPs (see Box 30). DFI Safeguards also incorporate some of the substantive dimensions of remedy. Indeed, many DFI Safeguards already include various dimensions of reparations – for example almost all DFIs include a mitigation hierarchy that provides for compensation if adverse impacts cannot be prevented or mitigated, most Safeguards on labour provide for remedies if forced labour or child labour is found in supply chains, Safeguards on resettlement provide for replacement land in certain cases of involuntary resettlement.



BOX 30: WHAT IS REMEDY?

The adoption of the UNGPs and updated OECD Guidelines and the related guidance on human rights and the financial sector,¹⁹³ has generated an agreed, common understanding of remedy as applied to business enterprises and financial institutions more specifically. This understanding, grounded in international human rights law, recognises that remedy is about **making adversely affected people “whole.”** It is about both:

- the **processes** involved in providing remedies, recognising that good stakeholder engagement processes that involve recognising harms and discussing ways to address them with affected stakeholders can go a long way in and of themselves in beginning to address concerns.
- the **outcomes** of the process, including the reparations provided to repair and redress harms. Reparations can take many forms including restitution, compensation, rehabilitation, satisfaction and promises or commitments to non-repetition.¹⁹⁴ As such remedy has both a backward- and forward-looking component.

Nonetheless, despite the clear underpinnings in DFI mandates, policies, and practice, **many of the multilateral DFIs have been reluctant to engage in discussions about what remedy means for working with clients, and even more so what this means for the DFI’s own role in harms and their remediation.** The DFIs’ reluctance has now, awkwardly, put them behind commercial banks on this issue: the Equator Principles banks that use the IFC Performance Standards as their benchmark have been quicker than the DFIs to commit to engaging with remedy with clients and cooperating and contributing to remedy themselves (where relevant) in response to human rights harms.¹⁹⁵

IFC is the exception among multilateral DFIs. In response to the IFC/MIGA Accountability External Review, the IFC Board prompted the institution to develop a position on remedy. IFC issued a draft Remedial Action Approach on remedy (and responsible exit) in February 2023.¹⁹⁶ While welcoming the discussions, many stakeholders considered the proposed approach too limited, particularly with respect to IFC’s own role in remediation.¹⁹⁷ Notwithstanding the numerous FI cases before CAO, the long-running CAO audit on IFC’s FI approach,¹⁹⁸ the draft IFC Remedial Action Approach specifically excluded application of the framework to FIs during the proposed four-year period of its application, without providing justifications. This may send a worrying signal to other DFIs that remedy for FI lending/investment may be too complicated or difficult. While it is hoped that IFC will reconsider its position, learning

may also come through test cases before CAO.¹⁹⁹ Just as DFIs to some degree have tailored their risk management system to FIs, so may they need to tailor their remedy approach to the specificities of FI financing, taking into consideration the types of leverage associated with various forms of financing between the DFI and FI on the one hand, and between the FI and the sub-clients on the other. It does not mean the issue is too complex or should be ignored.



BOX 31: EMERGING GOOD PRACTICES ON REMEDY IN SAFEGUARDS

FMO is the only DFI reviewed that specifically and repeatedly refers to remedy in its FI Position Statement and does so in a variety of ways; however, a commitment to contribute to remedy if it has contributed to harm is notably absent in its FI policy.²⁰⁰

Some of the newer Safeguards, particularly among European DFIs such as the Belgian and Swedish bilateral DFIs, are more explicit about human rights, the UNGPs, and some even refer to remedy, both by clients and the DFI itself and to contributing to remedy where appropriate.²⁰¹

6.3 NEED TO STRENGTHEN GRIEVANCE MECHANISMS AT FI AND SUB-CLIENT LEVELS

Since the earliest days of Safeguards, DFIs have required directly financed projects to have grievance mechanisms in place where projects have adverse E&S impacts, including human rights, recognising that prompt resolution of concerns is important. It has taken more time for DFIs to recognize that there is a need for the establishment of such mechanisms in FI financing. This is consistent with the UNGPs that all business enterprises, including financial institutions, establish operational grievance mechanisms to identify and address human rights impacts in their operations.

Some DFIs require FI clients to establish a grievance mechanism (See Box 32). By contrast, IFC and several other DFIs only require their FI clients to put in place an 'external communication mechanism' (ECM) to receive and respond to inquiries and complaints, unless the FI's own operations create E&S adverse impacts.²⁰²



BOX 32: EMERGING GOOD PRACTICES ON DFIs REQUIRING GRIEVANCE MECHANISMS

- **AIIB** specifically refers to grievance redress mechanisms at the FI level.²⁰³
- **DFC**²⁰⁴ and **EBRD**²⁰⁵ require all FIs to have grievance mechanisms.

As for grievance mechanisms at the sub-project level, there is often a lack of clarity in policy and practice as to whether DFIs require the FIs to ensure its clients establish a grievance mechanism. (See [Annex 5](#) for an overview of DFIs' requirements in relation to FI and sub-project level grievance mechanisms).

It is unclear to what extent DFIs assess in practice the actual quality and effectiveness of any of those mechanisms for grievance handling.²⁰⁶ The test for an effective grievance mechanism is articulated in Principle 31 of the UNGPs as follows: “A grievance mechanism can only serve its purpose if the people it is intended to serve know about it, trust it and are able to use it.” As DFIs work with their FI clients to establish grievance mechanisms and require sub-clients to do so, they should look at available guidance for financial institutions, including the Equator Principles.²⁰⁷

6.4 BARRIERS IN ACCESS TO DFIs’ IAMs FOR FI-RELATED COMPLAINTS

At the level of the DFI, IAMs play an important role in enabling remedy as the institution’s grievance mechanism (or one of them).²⁰⁸ All the multilateral DFIs have IAMs that are established to receive and address complaints about DFI-funded projects, while national DFIs are increasingly establishing their own mechanism or joint ones.²⁰⁹ Some though not all IAMs have an explicit remedy mandate and/or can require that harms are remediated.²¹⁰

While IAMs have the mandate to receive complaints in relation to FIs, in practice there have been very few cases about FIs compared to direct finance projects. Complaint handling related to FIs has been limited to a few IAMs, notably CAO.²¹¹ In the database of cases filed with IAMs managed by the CSO Accountability Counsel – the Accountability Console – of the current 1804 complaints logged in the Console as of mid-2023, only 22 complaints or .012% involved FIs.²¹² Thus, while there may be access in principle to IAMs, there appear to be barriers in practice.

Two of the most significant barriers revolve around:

- **Inadequate disclosure of the existence of the DFI funding and of its IAM at sub-project level.** A recent CAO publication noted that complaints related to IFC investments through FIs took longer to reach CAO than complaints related to direct finance. CAO commented that this was likely related to access to information about IFC’s involvement.²¹³ This makes it very difficult for affected stakeholders to track the financial flows from the DFI to the sub-project. Some, but too few, DFIs and IAMs have requirements to disclose the existence of grievance mechanisms at the sub-project, FI and DFI IAM levels (see Annexes 5 and 6).²¹⁴
- **IAM eligibility criteria.** Most IAMs have quite generic eligibility criteria, with no guidance on how to apply these criteria to FI cases (See [Annex 7](#)). Amongst the DFIs reviewed, the IFC CAO is the only IAM that specifies additional eligibility criteria in relation to FIs in its Policy. The CAO Policy provides for three additional criteria for FI cases: (i) the complaint pertains to a sub-project of the FI client with which IFC/ MIGA have a financial agreement;²¹⁵ (ii) there is a ‘material link’ between the FI client and its sub-client; and (iii) there are indications of a plausible link to harm or risk of harm related to the sub-project.²¹⁶

An overview of the very few FI cases considered eligible by IAMs (and mainly by CAO which has around 90% of the FI cases amongst IAMs²¹⁷) shows that a core factor for eligibility is the financial relationship between the FI and the sub-project, and more specifically the nature, type, tenor, and timeline of that financial relationship. IAMs have

found complaints eligible for consideration when the financial relationship was one related to project finance,²¹⁸ to working capital loans,²¹⁹ equity in portfolio companies,²²⁰ and to what was considered by the IAM as general corporate loans.²²¹ By contrast, IAMs have found ineligible complaints when the financial relationship was one of corporate bond underwriting,²²² trade finance,²²³ overdraft facility to the parent company,²²⁴ or when the investment was ring-fenced.²²⁵

However, because most IAMs publish little information about the reasoning behind an eligibility decision it is difficult to understand the precise set of criteria used for each case.²²⁶ In addition, the vast majority of cases being with CAO, care must be taken in not overly generalising from what remains only a small sample of complaints. With that proviso, the overall impression is that compared to the UNGP approach of focusing on the type of involvement with an adverse impact²²⁷, IAMs' policy and practice on eligibility may be narrower than the UNGPs and more focused on pragmatic considerations related to the nature of the financial relationships. This may unduly narrow the pool of eligible complaints.²²⁸

All of this is based on experiences to date where there are identifiable sub-projects and sub-clients. It is far more difficult to understand whether and how other types of financial instruments, such as capital market transactions, come within the scope of Safeguards, and importantly, also within the scope of accountability at IAMs. Understanding, identifying, and articulating harms associated with this type of financing requires a very sophisticated understanding of how these financial instruments work.²²⁹

6.5 DISCLOSURE AS A PREREQUISITE FOR ACCOUNTABILITY AND REMEDY

People (potentially) impacted by FI financing do not have access to complex financial data needed to trace a sub-project back to its financiers. **Without disclosure from the DFI, the FI and/or the sub-client it is near impossible for people (potentially) affected by an FI sub-project/transaction, or by CSOs representing them, to know whether it involves DFI financing, and thus to be able to know where to raise their concerns.** Such lack of transparency about what is financed, who finances it, what standards are guaranteed by the financier, what avenues for recourse are available, runs counter to meaningful stakeholder engagement (see [subsection 5.6](#) above) and accountability commitments made by DFIs, and effectively denies potential complainants their right to access information and remedy, including timely access to IAMs. The nexus between accountability and concerns on transparency was in fact one of the reasons for CAO to start its FI audit of IFC's FI portfolio.²³⁰ The first complaints to CAO in relation to FIs were related to equity investments as this was the only area of FI financing where there was sufficient disclosure to trace the sub-investment back to IFC.

Disclosure of information by DFIs about their FI lending and investment has been the focus of long-standing research and advocacy, notably by Publish What You Fund (PWYF).²³¹ The research points to several disclosure gaps and emerging trends:

- **Lower disclosure by the DFIs of FI clients' information**, compared to direct finance.

- **Inadequate disclosure by the DFIs of sub-projects.** PWYF noted that disclosure is “exceedingly uncommon and limited at the level of sub-investments.”²³² In the PWYF DFI 2023 Transparency Index only one DFI – IFC – was found to disclose the identity of FI sub-investments from bank investments, although such disclosure is in the early stage and does not seem comprehensive.²³³
- **Inadequate disclosures about E&S risks,** as well as development impact data related to the FI client. At the sub-project level, PWYF found it was close to non-existent.²³⁴
- **Absence of disclosure of the existence and access to IAMs for affected people at the sub-project level.**²³⁵ This means that in most investments of the research sample, project and sub-project affected stakeholders would not have access to information about recourse through an IAM. Recent research in relation to AIIB’s IAM for instance identified that over 80% of AIIB’s FI clients did not fulfil the Safeguard requirement to disclose the IAM on their websites.²³⁶

To counter this lack of disclosure, CSOs have conducted their own research to track sub-projects back to DFIs. In 2021, a coalition of organisations published a [database](#) of “high-risk” sub-projects that involve 318 FI clients of FMO and IFC demonstrating that such information can be reported by DFIs.²³⁷

PWYF’s first global DFI [Transparency Index](#), launched in 2023, notes an overall low level of transparency (for both direct and indirect finance)²³⁸ but highlights good disclosure practices among DFIs. The Index sets out detailed expectations on DFI disclosure, including on FI transactions. It includes an accompanying [Disclosure Example Book](#) to help address perceived barriers and counter arguments that certain forms of disclosure are not possible and to guide improved disclosure. This Disclosure Example Book Index points to a modest encouraging trend of increased collection and disclosure of data; it also reinforces the point that disclosure is in many cases a choice and is not fully driven by banking secrecy or commercial confidentiality laws.²³⁹ PWYF specifically addresses the point of commercial confidentiality in its Index, noting it “was among the most commonly cited reasons for non-disclosure of information by DFIs. However, our research and that of others suggests that in many instances the concept of commercial confidentiality is being used as a catch-all reason for not disclosing information, even where the concern may not legitimately apply.”²⁴⁰ The OECD Guidance on project finance also points to practical ways legal obligations on client confidentiality can be reconciled with approaches to transparency.²⁴¹

While the trend is towards more explicit and increased DFI disclosure requirements with respect to FIs and their clients (See Box 33 and [Annex 4](#)) for numerous DFIs there is still a long way to go to ensure appropriate disclosure requirements.



BOX 33: EMERGING GOOD PRACTICE ON DISCLOSURE

- Several DFIs (**IFC, BII, US DFC**) are disclosing **private equity client investments and basic sub-project information.**²⁴²

6.6 CONCLUSION AND GOOD PRACTICES

As noted in [subsection 6.1](#) above, under the UNGPs, the DFI, the FI client and sub-clients have responsibilities for remedy depending on their respective involvement with harms. However, despite some good practices (see Box 34), Safeguards requirements and their application are yet to adequately reflect that principle.



BOX 34: DFIs' REMEDY APPROACHES: SUMMARY OF SELECTED GOOD PRACTICES

- Reference to remedy in relation to FI financing in DFI Safeguards
- Requirement by DFIs that their FI clients establish a grievance mechanism
- Requirement by DFIs that their FI clients and sub-clients disclose the existence and procedure of its IAM
- Disclosure of private equity investments and basic sub-project information on the website of the DFI
- Disclosure of the identity of sub-projects financed through FIs on the website of the DFI.

This section identified several challenges to people's access to remedy including the incomplete nature of DFI Safeguards on remedy – DFIs have been reluctant to address their own responsibilities for harms in the limited occasions where it might be appropriate. **For some DFIs, there is a lack of specific requirements for implementation by FI clients of grievance mechanisms. There are challenges for stakeholders affected by FI-financed projects or transactions to access grievance mechanisms at the sub-project, FI or DFI level and obtain recourse for actual harms.** There has also been very limited attention to requiring or improving grievance mechanisms at the FI, much less among FI sub-clients.

The very few cases brought to IAMs in respect to FI financing (compared to direct financing) support the understanding that affected people have no or limited information about the recourse avenues available to them and find it challenging to track sub-projects back to FIs and/or DFIs and finally to bring claims to IAMs. And while CSOs have enhanced their ability and use of tools to track a sub-project back to a DFI²⁴³ this task should not be left to them only – there needs to be a minimum level of disclosure and transparency. Existing Safeguards do not yet fully or consistently reflect the few DFI good practices, nor the transparency commitments stakeholders expect from DFIs.²⁴⁴

This Report also noted **some unclarity and restrictions in IAMs' policies and practices when finding FI-related complaints eligible, possibly more restrictive than a UNGPs lens would require.** Given IAMs' evolving mandates and ambitions to enable remedy and align with good international industry practice including business and human rights standards,²⁴⁵ IAMs should consider their eligibility criteria with this lens in mind. It is also hoped that more IAMs will have the opportunity to examine FI-related cases given that nothing in their Safeguards or the IAMs' policies prohibit them from receiving such cases (See [Annex 4](#)). This would also contribute to peer-learning across institutions and help IAMs craft appropriate eligibility criteria.

Finally, given the vast scope of FI sub-clients and the difficulty for IAMs to be the main facilitator of remedy in these contexts, prompting DFIs to work with their FI clients to reinforce grievance mechanisms at sub-project level is an important step. DFIs should further consider how they could prepare for and enable remedy themselves.

7 CONCLUSION AND RECOMMENDATIONS: DESIGNING A 'FIT FOR PURPOSE' E&S RISK MANAGEMENT SYSTEM FOR FI FINANCING

7.1 CONCLUDING REMARKS

Case studies and complaints produced by CSOs have demonstrated that FI lending or investing can carry human rights risks and have adverse consequences for people. **This Report has uncovered several ambiguities, loopholes, and exemptions, in the text of Safeguards, which in effect reduces or excludes Safeguard application in relation to various types of FIs and transactions, as well as gaps and challenges of implementation in practice.** Research and complaints before IAMs thus far have largely focused on the most straight-forward forms of financing (commercial banks or private equity funds). It is of concern that the diversification of financial instruments, while good for business, brings about additional complexities that may further inadvertently undermine DFIs' ability to deliver on their E&S commitments, including on human rights. Taken together, they paint a picture of a complex and potentially confusing system for DFIs themselves, for the FIs receiving finance as well as for other stakeholders – in particular potentially affected people – on the precise boundaries of Safeguards that are meant to prevent or at least mitigate such impacts.

In light of this, it is time for DFIs and their stakeholders to take a step back and examine whether the current FI E&S risk management system is fit for purpose. As part of this fundamental reconsideration, a DFI's own capacity to manage its FI portfolio in light of risk exposure, complexity of financial transactions and client capacity, should be on the table. Some DFIs have recognised that the significant expansion in FI financing over the past decades needs to be accompanied by a corresponding increase in E&S budgets, staff, and efforts, and have made steps to improve their FI portfolio risk management.²⁴⁶ Overall DFI supervisory approaches and resources for such vast portfolios appear under-resourced. DFIs should consider either scaling down their FI portfolios or scaling up resources to deal with them.

Against this backdrop, **calls to re-examine and strengthen DFIs' FI systems should not be seen as a burden or extravagant request but rather as a core task consistent with DFIs' mandates and ultimate development objectives, and commensurate with the level of risks.** The increasing uptake of sustainable finance globally, and investor interest in ESG provides the tailwind to increase support for FI clients' uptake and application of Safeguards. As such, this is an important value add of DFI financing rather than a drag on the ambitions by DFIs to reach further markets and clients and be 'bigger and better.'²⁴⁷ In addition, DFIs have made clear commitments to addressing climate change, and within this context, to just transitions²⁴⁸ that specifically draw on human rights principles in helping to define what is "just." Commercial banks and insurers are following suit.²⁴⁹ This provides important opportunities to build and strengthen connections between human rights and climate responses and is just the kind of expertise and support FIs are looking for to meet new market demands. This will benefit not only the DFIs, FI clients and local financial markets, but also and most

importantly the consumers, workers and communities intermediated DFI finance aims to reach and serve.

It is worth highlighting that while DFIs are adopting FI specific Safeguards, there is an absence of clarity (or even discussion) about how major commercial banks apply their E&S policies and risk management practices, including on human rights, to their FI financing. This is an unexplored or at least under-explored area of research where DFIs may have lessons learned to share with commercial finance partners.

This Report seeks to not only expose the challenges associated with intermediated finance but also to advance a roadmap for specificity, transparency, and robustness in FI-related DFI Safeguards and their implementation, which can ensure positive impacts for the people all along the financial value chain. With that in mind, the following sub-sections offer a list of high-level recommendations for DFI management, Boards, and other stakeholders, as well as more specific recommendations and implications for DFI practice on what a 'fit for purpose' FI risk management system could look like.

7.2 HIGH-LEVEL RECOMMENDATIONS TO STATES, DFI MANAGEMENT, CIVIL SOCIETY ORGANISATIONS AND ACADEMICS

States who Own or Control DFIs

- States who own or control DFIs, including when sitting on their Boards of Directors, should critically assess the implications of the growth of FI financing for the DFIs' developmental mandate in light of evidence of unmitigated and unremediated adverse impacts related to FI financing.
- States who own or control DFIs should ensure that DFIs strengthen the E&S risk management and accountability systems for FI financing. States have a separate but complementary responsibility to ensure that businesses owned or controlled by the state such as DFIs exercise adequate human rights due diligence to prevent and address adverse impacts.²⁵⁰

DFIs' Management

- DFIs' management should reconsider expanding FI portfolios until it has undertaken an institutional stocktaking of the effectiveness of their existing E&S risk management systems for FI financing in preventing and addressing adverse E&S impacts, including adverse human rights impacts. The stock taking should build on internal evaluations, consultation with IAMs as well as meaningful engagement with external stakeholders.
- DFIs' management should revise the FI E&S risk management system so that it is fit for purpose and encourage innovative thinking about how to design a risk management system tailored to the specificities and complexities of each different type of FI financing. This should build on internal stocktaking, the recommendations below and on internationally authoritative standards on responsible business conduct such as the UNGPs and OECD Guidelines and available finance sector-specific guidance for implementation.²⁵¹

- DFIs' management should adequately resource and build the capacities of the E&S teams and FI investment managers, and generally raise the profile of human rights issues, in a manner commensurate to the scale and severity of human rights risks associated with the FI portfolio. Increased resources should include human rights expertise.
- DFIs' management should build on the growing shift to sustainable finance globally to reinforce a shift in mindset among staff and clients about the importance of sustainability to meeting their development objectives and to the value add of DFI financing itself.

Civil society organisations and academia

- CSOs should support communities affected by economic activities indirectly funded by a DFI to submit complaints to a wider range of IAMs (beyond the IFC CAO) and across a wider range of transactions to test FI systems.
- CSOs and academic researchers should conduct further research:
 - (i) on the newer forms of financial transactions including capital market transactions, green, social and sustainability linked bonds, trade finance, and the application of Safeguards to them and their associated human rights risks and impacts.
 - (ii) to assess the quality and effectiveness of mechanisms for grievance handling at the FI and FI client level.
 - (iii) on commercial banks to assess the level and adequacy of their human rights risk management system in relation to their own intermediated financing.

7.3 WHAT DOES AN EFFECTIVE DFI E&S RISK MANAGEMENT SYSTEM FOR FI FINANCING LOOK LIKE? PRINCIPLES AND IMPLICATIONS FOR DFI PRACTICE

Designing an effective DFI FI E&S system is by no means a straightforward task given the sheer complexity and diversity of financial instruments, transactions and business relationships involved. However, against the backdrop of concerns that E&S risks and impacts, including human rights, associated with FI financing are not adequately managed and likely externalized onto workers, communities, and the environment, it is an urgent necessity.

The remainder of the section provides a set of principles that can guide DFIs in reflecting on what changes and adjustments to their E&S risk management for FIs would make them better fit for purpose. **The principles are informed by the spirit/ethos of the UNGPs and OECD Guidelines but tailored to specific needs of the DFI community given their distinct approach to E&S risk management via Safeguards implementation.** A non-exhaustive list of implications for practice has been included under each principle building on emerging good practice identified at select DFIs that when combined, can provide a stronger system for the assessment, prevention and management of risks and adverse impacts (see a summary of good practices in [Box 20](#), [Box 28](#) and [Box 34](#)).

PRINCIPLE 1

An effective FI E&S system is tailored to the specificity of FI financing.

An effective FI E&S system needs to be **based on the specificity of FI financing** and explicitly articulate the E&S risk management approaches **for each of the various types of FIs or transactions**. While some DFIs have adopted FI-specific Safeguards, others have not. Even for those with FI-specific Safeguards, as DFIs have expanded the range and types of financial transactions with and through new types of FIs, beyond the standard lending or equity, it has become apparent that their approaches to Safeguards are not keeping pace.

An effective FI E&S system needs to be **responsive, nuanced, and robust enough to accommodate the diversity and complexity** of existing and future financial intermediaries and transactions and their associated E&S risks, including human rights risks. This means the ability to update and tailor Safeguards based on a regular and recurring assessment of risks – be they in relation to fintech and digital financial services for instance, or capital market transactions.

Implications for DFI practice

- **Adoption of specific FI Safeguards.** Those DFIs that have not adopted FI specific Safeguards should do so. These Safeguards should be the subject of public consultations and approved by the DFIs' respective Boards. These FI Safeguards should codify existing good practices by DFIs as well as international responsible business conduct standards.
- Rather than the current binary and carve-out approaches, Safeguards should apply to the full range of transactions, in **graduated and tailored approaches specifically addressed to the risks and the structuring of different types of transactions**. Box 35 below includes suggestions for some of the financial transactions discussed in [section 4](#). Safeguards should set out an approach for due diligence and monitoring that identifies, addresses, and builds in accountability for each specific type of transaction.
- The greater **specificity should be accompanied by greater clarity and transparency** about how the Safeguards **apply to different types of financial transactions**, rather than the information being buried in footnotes or excluded by implication.
- Relatedly, **applying an “ESG” approach that simply screens information that companies themselves put into the public domain, instead of assessing transactions against the DFI’s own standards set out in Safeguards, should be (re)considered and used carefully**. To be true to the purpose and effectiveness of Safeguards there needs to be: (i) independent assessment E&S risks, including human rights, by the DFI; (ii) independent assessment by the DFI of the FI client’s capacity to manage and report on E&S risks, including human rights; and (iii) accountability for how those risks are managed.



BOX 35: AN EFFECTIVE FI E&S SYSTEM: IMPLICATIONS FOR PARTICULAR TYPES OF TRANSACTIONS OR RISKS

- **Trade finance:** Given the size of trade finance portfolios at some DFIs, it is important to re-evaluate what tools can be applied to trade finance to reduce risks of perpetuating broader harms. Besides the standard blanket exclusion of some types of trades (ammunition, tobacco and so forth), trade finance in relation to selected primary products from specific countries, regions, or sub-regions could be excluded unless and until contextual risk analysis demonstrates that the trade will not undermine DFI commitments on global public goods and that the underlying commodities have been produced following appropriate sustainability practices. Safeguards should provide clarity on the steps taken to screen, carry out in-depth due diligence and supervise implementation for higher risk trade finance transactions.²⁵²
- **Micro-finance/Financial services for at risk end-users:** DFIs should explicitly recognize the E&S risks, including human rights, in micro-finance and other financial services provided to end-users and include them as part of the vulnerable populations that are subject to the application of Safeguards. Bringing consumer protection (such as the CPPs) within Safeguards would prompt a more coherent approach with financial inclusion approaches.
- **Capital market transactions:** DFIs need to exercise more robust due diligence going into a capital market transaction beyond reviewing what companies themselves put into the public domain. One of the values of DFI financing is in the independent expertise brought to assessing and supervising projects. Asset managers must be prepared to build their requirements and supervision around Safeguards, and higher risk projects should be monitored, and leverage applied through engagement or other strategies to address adverse impacts. As a CSO organisation suggested, one form of leverage could be public divestment if engagement does not work.²⁵³
- FI Safeguards should explicitly address the **risks** to people resulting from the **use of digital transactions** – this includes assessments of digital risks associated with different types of transactions and the FI’s policies and capacities in relation to digital risks – discrimination, breaches of privacy, restrictions on freedom of expression, etc.

PRINCIPLE 2

An effective FI E&S system provides a range of tools and approaches to identify and prioritise risks and impacts using a risk-based approach.

An effective FI E&S system would require DFIs to take a more proactive role in risk identification. **Given the vast scope of FI portfolios, it is recognised that DFIs and their FI clients must use risk-based approaches, which is aligned with responsible business conduct standards, provided that the risks that are being reviewed, and the basis on which responses are prioritised includes and considers the severity of risks to people.** DFIs’ E&S risk categorisation processes in principle are intended to

identify and prioritise on the basis of whether adverse environmental or social risks or impacts are diverse, irreversible, or unprecedented. However, as noted in [section 5.3](#), categorisation appears to be too categorical, driven by the type of transaction rather than actual risks. Consideration should be given to whether tools and approaches at DFIs' disposal can be better adapted and deployed to reinforce and sharpen identification of risks and impacts.

Implications for DFI practice

- **Updated Exclusion Lists:** Exclusion Lists should be updated regularly to better reflect updated policy developments on social and human rights issues, including considering not just activities but also unacceptable business models, risky business models that have inadequate mitigation measures, or unacceptable business environments.²⁵⁴ They could also be tailored for FIs specifically and for specific country and/or sectoral contexts where specific human rights risks are severe.
- **Contextual analysis tools:** It is important that contextual risk analysis methodologies and tools are applied to FI financing and shared with FIs, given that few will have the capacity to apply, much less develop their own tools. Contextual analysis tools should also provide the DFI investment team with a measure of the regulatory environment in the countries of operation of FIs, particularly with respect to sustainable finance requirements, to help judge how much effort may be required to build the FI's E&S risk management capacity.²⁵⁵
- **No go options:** DFIs may want to develop specific no go options that go beyond what is covered in Exclusion Lists for a variety of reasons: a deal structure that makes it impossible to assure compliance, a preliminary assessment of the severity of risks to people, and/or lack of leverage and/or low E&S capacity of the FI client, contextual risks raising concerns that cannot be adequately managed within a reasonable period of time, or a certain type of actor incompatible with a DFI's objectives. DFIs should have a system of tracking those factors, at least within a particular country, to ensure that their FI clients are not financing projects that the DFI declined to finance.
- **Categorisation:** DFIs should not assume a whole sector (e.g. micro-finance), an FI or a transaction is by nature low-risk and therefore not required to undergo risk appraisal. Categorisation should not flow automatically from the sector, the FI, or the transaction type, but rather from the risk in the actual transaction and sub-client, based on a well-documented and appropriate risk appraisal. DFIs should develop more nuanced approaches to assessing and categorising FI projects, using a contextual risks approach and available guidance from external stakeholders, including UN and human rights organisations, on specific types of risks and vulnerable populations.
- **DFIs should clarify minimum requirements for stakeholder engagement** that should be carried out by FIs and their clients high-risks projects.

PRINCIPLE 3

An effective FI E&S system provides a range of tools and approaches to increase the DFIs' leverage in order to prompt FI clients to effectively respond to risks and impacts, including through more proactive and closer supervision and monitoring of the FI value chain.

An effective FI E&S system would require DFIs to take a more proactive role in preventing and addressing adverse impacts by increasing their leverage over clients, and by closer monitoring and supervision of the FI value chain- particularly higher risk FI clients and their sub-projects and sub-clients. The UNGPs clarify that all businesses have distinct responsibilities to prevent and address human rights impacts depending on their type of involvement with the respective impact. In complex business relationship such as those entailed in FI scenarios, that responsibility cannot be discharged by simply transferring responsibility from one actor to the another along the value chain - rather, all actors are expected to exercise their own responsibility in a manner that is commensurate with their type of involvement.

Implications for DFI practice

- **Strategic and limited use of ring-fencing combined with graduation:** Ring-fencing might be an appropriate short-term approach to a rapid growth in FI portfolios, especially for smaller DFIs. Ring-fencing is a far less justifiable approach for larger DFIs with a long history of FI financing as ring-fencing limits the discipline and development impact of a portfolio-wide approach. Instead, keeping the development objectives of DFIs in mind, the better response is to increase DFIs' risk management capacity commensurate with the demands of the portfolio, rather than reducing responsibility. DFIs should consider a combination of approaches rather than a binary approach (ring-fencing vs portfolio wide approach). Ring-fencing could also be treated in a stepped, incentivised approach, whereby once the FI is managing the E&S risk, including human rights, in the ring-fenced portfolio, the DFI then provides additional general-purpose financing.
- **Make better use of combined updated and targeted Exclusion Lists with a Portfolio-Wide Approach:** Combining appropriate Exclusions with a portfolio-wide approach could provide an effective strategy that would achieve the dual benefits of reducing the DFIs' risk exposure to E&S and human rights risks, while retaining the broader benefits of the portfolio-wide approach. This should reduce the need to make extensive use of ring-fencing.
- **Referral Lists of high-risk sub-projects that the FI must refer to the DFI for review and approval:** This could build on existing Referral Lists by some DFIs (see [Box 25](#)), but expand the list to cover specific types of potential social and human rights impacts, similar to the specificity provided on environmental impacts. This would provide FI clients (and their stakeholders) with less discretion but much more clarity.²⁵⁶

- **DFIs should double-down on their assessment of the effectiveness of the FI’s ESMS, with a focus on the FI’s capacity and commitment as well as the ability of the ESMS to prevent and address E&S impacts, including human rights impacts, throughout the financing life cycle.** More detailed monitoring by DFIs of how FIs assess and supervise higher E&S risk projects (e.g. Category A or Cat B considered higher risk) is needed including monitoring of whether FIs are requiring these sub-projects to meet Safeguards and are themselves conducting adequate supervision of the implementation of Safeguards by their clients.

PRINCIPLE 4

An effective FI E&S system provides a consistent, minimum level of transparency and disclosure across all FI transactions.

The lack of information about DFI financing and the responsibilities of each actor in the value chain is a practical obstacle for affected stakeholders to contribute meaningfully to the due diligence process, and access remedy. The UNGPs and OECD Guidelines highlight that public communication is important to allow stakeholders to understand how transactions may affect them. An effective FI E&S system should reflect international good practices and stakeholder expectations on disclosure (such as those captured in PWYF’s DFI [Transparency Index](#)) and allow external stakeholders to track the sub-projects back to DFI. While acknowledging regulations on client confidentiality, there are ways to reconcile such obligations with approaches to transparency.

Implications for DFI practice²⁵⁷

- **DFIs should report at the aggregate level** and explain all types of FIs the DFI is financing, with breakdowns of data and explanations across the different types. It would be useful to know what percentage of DFIs’ FI portfolios apply only Exclusion Lists and national law requirements.
- **DFIs should disclose the name, location, and sector of higher-risk sub-projects or sub-transactions financed through FIs** on both the DFIs’ website and on the FI client’s website. This standard should apply to all FI relationships, regardless of the financial instrument. In addition, they should disclose:
 - core project information data including sub-national location, domicile of investee, total investment cost, funding source, and last update date.
 - all E&S documentation for higher risk sub-projects/sub-transaction.
- **DFIs should require communication and disclosure to potentially affected communities at the sub-project/sub-client level of:**
 - the DFI’s financial involvement.
 - the DFI’s Safeguards and IAM.
 - the sub-project’s/sub-client’s grievance mechanism, to be shared at the sub-project site, in stakeholder engagement plans, and in consultations with affected communities.

- **DFIs must verify that the above disclosures happen.**
- **DFIs should enshrine current disclosure commitments and good practices** in updated Access to Information and/or Safeguards policies.

PRINCIPLE 5

An effective FI E&S system is an accountable system which requires remedy preparedness for those cases in which adverse impacts materialise.

The responsibility to provide for or cooperate in remedy for adverse impacts where a business has caused or contributed to that adverse impact is a core component of the responsibility to respect human rights as articulated in the UNGPs and OECD Guidelines. DFIs' inadequate prioritisation of remedy in their Safeguards, combined with the delegated system of responsibility in the case of FI financing and the various loopholes and ambiguities regarding the application of the Safeguards to indirect finance, poses distinctive challenges for access to remedy. **An effective FI E&S system should establish clear expectations on remediation for FI and their clients and remove barriers that might prevent affected stakeholders in FI financing from accessing DFIs' IAMs.** The complexity of financial transactions obscures the web of actors that played a role in the harm and have corresponding remediation responsibilities.

Implications for DFI practice

- Within specific FI Safeguards, **more specificity and clarity internally and externally about the responsibility of each institution (DFI, FI, sub-client) for assessing, supervising, and being accountable in relation to each layer of financing is needed.** In other words, it should be clear how Safeguard requirements translate from FIs to their sub-projects/sub-clients and their sub-sub projects/sub-sub-clients. The principle of appropriate due diligence and supervision, together with application of Safeguards should be cascaded down the value chain. Safeguards should also clarify what that responsibility covers – whether it is layers of due diligence or when DFI's and FI's direct assessment and supervision is appropriate.
- As DFIs develop their commitments and approaches to remedy, **a specific remedy approach to FI financing is needed. This could start with a pilot for FIs overall, or pilots across different types of client/financing if more feasible.** This approach should be grounded in Safeguards.
- **DFIs' Safeguards should clarify the expectation that FIs should establish operational grievance mechanisms to process grievances from end users such as consumers, and sub-project impacted people,** as is required for direct finance clients - an external communication mechanism is not sufficient.
- **DFIs should require FI clients to require higher risk sub-projects/sub-clients to establish their own grievance mechanisms.**

- DFIs should provide **specific guidance and support to FIs** (that can then in turn provide guidance and support to sub-projects/sub-clients) on handling grievances appropriately.
- **DFI IAMs should be transparent to complainants and other stakeholders about the precise criteria used to make an eligibility decision** in relation to FI cases so as to facilitate visibility, accountability and learning for complainants and across IAMs and other communities of practice.

ANNEX 1. AN OVERVIEW OF DFI SAFEGUARDS APPLICABLE TO FIs²⁵⁸

DFI	E&S Safeguards	FI-specific Safeguard	FI specific Guidance Notes
MULTILATERAL DFIs			
AfDB	Integrated Safeguards System (2023)	E&S Operational Safeguard 9: Financial Intermediaries (2023)	Draft Guidance Note on Operational Safeguard 9: Financial Intermediaries
AiIB	Environmental and Social Framework (2022)	No FI Safeguard, FI specific content integrated in the Environmental and Social Framework	ESF Directive on the Environmental and Social Framework (2023)
EBRD	Environmental and Social Policy and Performance Requirements (2019, under review as of 2023)	Performance Requirement 9: Financial Intermediaries (2019)	Guidance note – Performance Requirement 9: Financial intermediaries (2023)
EIB	Environmental and Social Sustainability Framework (2022)	E&S Standard 11 – Intermediated Finance (2022)	
IADB	Environmental and Social Policy Framework (2020)	No FI Safeguard, limited FI specific content integrated in Environmental and Social Policy Framework	
IDB Invest	Environmental and Social Sustainability Policy (2020)	No FI Safeguard, FI specific content integrated in the Environmental and Social Sustainability Policy	
IFC	Sustainability Framework (2012)	No FI Safeguard	IFC Guidance Note on Financial Intermediaries (2023) replacing Interpretation Note on FIs (from 2018)
World Bank	Environmental and Social Framework (2018)	ESS9: Financial Intermediaries (2018)	ESS9: Financial Intermediaries. Guidance Note for Borrowers (2018)
BILATERAL DFIs			
BII	Policy on Responsible Investing (2022)	No separate safeguard on FIs.	
DFC	Environmental and Social Policies and Procedures (2020)	No FI Safeguard, FI specific content integrated throughout the Safeguard.	
FMO	Sustainability Policy	FMO Position Statement on FIs (2022).	

ANNEX 2. RING-FENCING VS PORTFOLIO APPROACH: SELECTED DFI SAFEGUARD PROVISIONS

This Annex provides an overview of selected DFI Safeguard provisions on ring fencing and portfolio approaches of relevance to the analysis in [subsection 4.6](#).

SELECTED DFI SAFEGUARD PROVISIONS ON RING-FENCING AND PORTFOLIO APPROACH

IFC Guidance Note: “In cases where funds provided by IFC are targeted to a specified end use of proceeds (e.g., a credit line for a specific asset pool), the standards and requirements for E&S, including human rights, risk management cover only the sub-projects within the specified asset class(es) originated from the time of IFC’s investment, and not the FI’s activities outside of that asset class. However, if the FI supports the same asset class as that supported by IFC proceeds from the FI’s own account, the E&S, including human rights, risk management approach applies to all sub-projects within the asset class as originated by the FI client from the time of IFC’s investment. For example, if IFC provides a credit line for SMEs and the FI finances SMEs also outside this credit line, then the FI’s entire SME operations originated after IFC’s funding also apply the agreed E&S standards and requirements. The FI may choose, in addition, to expand the application of its E&S risk management practices to manage E&S risks, including human rights, across its entire operations. IFC encourages this.”²⁵⁹

EBRD PR9: “When funds provided by EBRD involve general corporate finance including by means of equity, which cannot be traced to specific sub-projects, the requirements of this PR will apply to all of the future sub-projects of the FI.”²⁶⁰

IDB Invest: “When IDB Invest provides financing to an FI for a specific asset class, IDB Invest requirements specified in paragraph 33 will apply to the FI’s lending activities in such asset class. In instances where IDB Invest makes an equity investment in an FI or provides financial support of a general purpose, the FI will be required to apply the requirements specified in paragraph 33 across its entire portfolio.”²⁶¹

FMO Position Statement on Impact and ESG for Financial Intermediaries

(2022): “Shaping the relationship based on either a general portfolio or a specific assets approach: ... Historically, the majority of FMO’s customer relationships with Financial Intermediaries are based on general on-lending loans, asset class loans or equity (fund) investments, where the eventual destination of the on-lending or sub-investment is not specified. In these relationships, FMO works with and supports the Financial Intermediaries to improve institutional capacity across the board through our ESG requirements and expert support. ...

There are debt transactions where FMO’s funds are traceable and intended for a specific end use (specific assets) which is clearly distinguishable from the remainder of the general portfolio of the involved Financial Intermediary.... In these instances,

we may tailor our relationship and focus our approach on Impact and ESG to cover and apply only to the specific assets targeted for such end use. This gives FMO the ability to focus our engagements and to better understand and monitor the impacts, risks and ESG risk management of that specific part of the (general) portfolio. ... The more appropriate approach depends on the characteristics of the transaction, which is context-specific and therefore needs to be assessed on a case-by-case basis."²⁶²

AIIB: May ex ante exclude higher risk projects from financing.²⁶³

ANNEX 3. STAKEHOLDER ENGAGEMENT: TRENDS IN DFI SAFEGUARD REQUIREMENTS

This Annex provides select examples of stakeholder engagement requirements in DFIs Safeguards that is of relevance to the analysis in [subsection 5.6](#).

STAKEHOLDER ENGAGEMENT REQUIREMENTS IN DFI SAFEGUARDS – SELECT EXAMPLES

Requirements on DFI to ensure stakeholder engagement by sub-projects	DFC places the obligation on itself to screen certain categories of sub-projects and ensure they are “subjected to the full scope of environmental and social assessment process including public disclosure and consultation ... as warranted by the nature and scope of the Sub-project and its environmental and social risks and impacts.” ²⁶⁴
Requirements on the FI to carry out stakeholder engagement	The WB and AfDB are explicit that they may require the FI to engage in stakeholder engagement, depending on the risks and impacts of the project and the type of FI sub-projects. ²⁶⁵ IFC notes that for higher risk transactions the environmental and social due diligence process typically includes “conducting site visits to facilities and meetings/ interviews with relevant stakeholders, as appropriate” but otherwise does not include requirements on stakeholder engagement. ²⁶⁶ DFC appears to require FIs to carry out stakeholder engagement. ²⁶⁷
Requirements that the FI ESMS should include provisions on stakeholder engagement	The WB and AfDB require that the FI’s ESMS includes relevant provisions of Safeguard requirements on stakeholder engagement. ²⁶⁸
Requirements on FI to require stakeholder engagement by sub-project	The WB and AfDB are explicit that FI will require sub-projects to conduct stakeholder engagement in a manner proportionate to the risks and impacts of the FI sub-project, and which reflects the type of FI sub-projects it will finance. ²⁶⁹ EIB likewise imposes requirements on FIs to ensure there is stakeholder engagement, all the way down to the final beneficiary level (e.g. where there is on-lending of EIB funds, the sub-sub project should carry out stakeholder engagement). ²⁷⁰
Unclear	IADB/IDB Invest refer to sub-projects being required to apply “relevant” parts of its Safeguards without being specific. ²⁷¹
No explicit requirement	EBRD does not have explicit provisions on engagement with stakeholders by the FI or the FI sub-project in the FI Safeguard; the section on stakeholder engagement in the FI Safeguard focuses narrowly on the set-up of an external communication mechanism by the FI. ²⁷² FMO does not include any provisions on stakeholder engagement or disclosure of information about sub-projects.

ANNEX 4. DISCLOSURE OF INFORMATION: TRENDS IN DFI SAFEGUARD REQUIREMENTS

This Annex provides select examples of disclosure requirements in DFIs' Safeguards that is of relevance to the analysis in [subsection 6.5](#).

TRENDS IN DFI SAFEGUARD DISCLOSURE REQUIREMENTS – SELECT EXAMPLES

<p>Requirements on disclosure of the DFI involvement at sub-project level.</p>	<p>AfDB's FI Safeguard requires that disclosure must be done at the project site, in a manner that is "clearly visible, accessible and understandable to affected communities."²⁷³ DFC requires disclosure of its potential involvement to project affected peoples for all projects (which presumably includes FI projects).²⁷⁴</p>
<p>Requirements on DFI disclosure of specific information on sub-projects, available through project information pages and committed to in Safeguards.</p>	<p>AllIB is the only DFI reviewed that includes a commitment to disclose FI data in its Safeguard, but this is limited to private equity portfolio companies and only within 12 months after financial closure of the investment.²⁷⁵ IFC updated its disclosure requirements in its 2023 Guidance Note which includes some additional but limited new commitments.²⁷⁶</p>
<p>Requirements on disclosure by FIs and FI sub-projects of E&S information.</p>	<p>DFIs are beginning to require FIs and FI sub-projects to disclose E&S information. The trend is moving from "encourage" to "require" disclosure of project related documents, such as ESIA, RAPs and IPPs. DFC requires prior disclosure about Category A sub-projects and any ESAPs/Remediation Plans.²⁷⁷ AfDB and the WB Safeguards require their FIs to require their sub-borrowers to comply with national requirements on disclosure and to disclose relevant project documents to comply with the respective DFI safeguards.²⁷⁸</p>
<p>Requirements on disclosure of the ESMS on the FI and DFI websites.</p>	<p>AfDB's and WB's FI Safeguards have such requirements. IFC only requires the disclosure of a summary of the ESMS.²⁷⁹</p>

ANNEX 5. GRIEVANCE MECHANISMS REQUIREMENTS: COMPARATIVE OVERVIEW OF DFI SAFEGUARDS

This Annex provides a comparative overview of DFIs' requirements regarding the set-up and disclosure of the existence of grievance mechanisms at the FI and sub-project levels. The overview supports the analysis in [subsection 6.3](#).

DFI	GM at FI level required	External communication mechanism at FI level required	GM at sub-project level required	Disclosure of the existence of a FI GM required	Disclosure of the existence of a sub-project GM required
AfDB	Yes ²⁸⁰	Yes	Yes (though unclear)	Yes	Yes
AIIB	Yes ²⁸¹	No	Yes ²⁸²	Yes ²⁸³	Yes ²⁸⁴
DFC	No ²⁸⁵	No	No (though unclear) ²⁸⁶		
EBRD	Yes ²⁸⁷	Yes	Not explicitly ²⁸⁸	No (only in limited circumstances) ²⁸⁹	Not explicitly ²⁹⁰
EIB	Unclear	Unclear	Yes (though unclear and only outside the EU/EFTA) ²⁹¹	No (only general requirement for all clients) ²⁹²	No
IFC	No unless the FI has adverse impacts ²⁹³	Yes (and not for all FIs)	Yes (if it will have adverse impacts on communities)	Yes	Yes
IADB	No ²⁹⁴	No	No	No	No
IDB Invest	No ²⁹⁵	No	No	No	No
WB	No	Yes ²⁹⁶	No	No	No
FMO	No ²⁹⁷	No	No	No	No

ANNEX 6. REQUIREMENTS FOR THE DISCLOSURE OF THE EXISTENCE OF DFIs' INDEPENDENT ACCOUNTABILITY MECHANISMS: COMPARATIVE OVERVIEW

This Annex provides a comparative overview of DFIs' requirements regarding the disclosure of the existence of their IAMs. The overview is of relevance to the analysis in [subsection 6.4](#).

DFI IAM	Requirement on DFI to disclose IAM	Requirement on FI to disclose IAM	Requirement on FI Sub-Project to disclose IAM
AfDB Independent Review Mechanism	Yes ²⁹⁸	No /not clear	No
AllIB Project-affected People's Mechanism	No	Yes ²⁹⁹	Unclear
DFC Office of Accountability	Yes ³⁰⁰	Yes ³⁰¹	Yes ³⁰²
IFC Office of the Compliance Advisor/Ombudsman	Yes ³⁰³	Yes	No
EBRD Independent Project Accountability Mechanism	No	No	No
EIB Complaint Mechanism	No	No	No
IADB Independent Consultation and Investigation Mechanism	No	No	No
IDB Invest Independent Consultation and Investigation Mechanism	No	No	No
WB Inspection Panel	No ³⁰⁴	No	No
FMO Independent Complaint Mechanism	No	No	No

ANNEX 7. ELIGIBILITY REQUIREMENTS ON FI CASES AT DFIs' INDEPENDENT ACCOUNTABILITY MECHANISMS: COMPARATIVE OVERVIEW

This Annex provides a comparative overview of eligibility requirements for FI financing relates cases in DFI IAM's policies and procedures. The overview is of relevance to the analysis in subsection 6.4.

DFI IAM	Any specific eligibility rules for FIs?	Are FIs specifically excluded?
AfDB Independent Review Mechanism	No ³⁰⁵	No
AllB Project-affected People's Mechanism	No ³⁰⁶	No
DFC Office of Accountability	No ³⁰⁷	No
IFC Office of the Compliance Advisor/Ombudsman	Yes ³⁰⁸	No
EBRD Independent Project Accountability Mechanism	No	No ³⁰⁹
EIB Complaint Mechanism	No ³¹⁰	No
IADB Independent Consultation and Investigation Mechanism	No ³¹¹	No
IDB Invest Independent Consultation and Investigation Mechanism	No ³¹²	No
WB Inspection Panel	No ³¹³	No
FMO Independent Complaint Mechanism	No ³¹⁴	No

ANNEX 8. MULTILATERAL DFIS' FINANCIAL SECTOR STRATEGIES: A COMPARATIVE OVERVIEW

MULTILATERAL DFIS' FINANCIAL SECTOR STRATEGIES

ADB's financial sector strategy focuses on: (i) enhancing support to emerging areas such as SDG financing, including green and blue financing; (ii) promoting long-term finance and quality infrastructure; (iii) leveraging digital technology to deliver financial services for financial inclusion; (iv) expanding financing for MSMEs and women; (v) establishing frameworks for disaster and pandemic risk financing; and (vi) strengthening the finance sector foundation.³¹⁵

AfDB's financial sector work was cross-cutting for the Bank's now expired Ten Year Strategy (2013–2022), with a focus on: (i) facilitating financial institutions' access to investment and working capital' (ii) contributing to developing local capital markets; and (iii) helping reduce the trade finance gap on the continent.³¹⁶

AIIB does not appear to have a finance sector focus area, but its corporate strategy defines its mission as “financing infrastructure for tomorrow” with operational focus on (i) green infrastructure financing, (ii) connectivity and regional cooperation, (iii) technology-enabled Infrastructure, and (iv) private capital mobilization.³¹⁷

EIB does not appear to have a financial sector strategy.

EBRD has an extensive Financial Sector Strategy (2021–2025), that focuses on three objectives: (i) developing and expanding finance sector partnerships to drive the transition to green, low-carbon economies; (ii) boosting inclusive economic development through the finance sector and driving equality of opportunity through intermediated financial channels; and (iii) strengthening the finance sector's resilience and ability to respond effectively to present and future challenges by “future-proofing” the sector. EBRD is the only one to discuss the application of its Safeguards **in** its financial sector strategy.³¹⁸

IADB financial market sector has five areas of work: (i) access to finance; (ii) connectivity infrastructure; (iii) disaster risk management; (iv) green finance, and (v) structured finance to catalyze private investment.³¹⁹

IFC's financial institutions areas of focus currently are: (i) banking on women; (ii) capital markets; (iii) climate finance; (iv) digital finance; (v) global trade; (vi) housing finance; and (vii) MSME finance.³²⁰

World Bank's finance sector has seven focus areas: (i) financial integrity; (ii) fintech; (iii) credit infrastructure; (iv) long-term finance and private funding; (v) payment systems; (vi) SME finance; and (vii) financial stability.³²¹

ENDNOTES

- 1 For a discussion and definition of financialisation in the context of development, see Daniela Gabor, [Understanding the financialisation of international development through 11 FAQs](#) (August 2018).
- 2 See G20 Independent Experts Group, [Strengthening Multilateral Banks: The Triple Agenda, Report by the Independent Expert Group](#), (2023); G20 [New Delhi Leaders' Declaration](#) (2023); African Development Bank et al., [COP27 Multilateral Development Banks Joint Statement](#) (2022).
- 3 Independent Accountability Mechanisms (IAMs) of DFIs receive and process complaints from affected people (workers, communities, or individuals) who claim they have been or may be adversely affected by a project funded directly or indirectly by a DFI. IAMs often have both dispute resolution and compliance functions. They are referred to as “independent” because they work independently from DFI management and generally directly report to the DFI's Board of Directors.
- 4 The exceptions include IFC whose E&S requirements for FIs are only specified in a Guidance Note, and EBRD whose E&S Policy and Performance Requirements were being reviewed at the time of writing.
- 5 There are also different terms used to describe these banks and their purposes. For a wider discussion, see [Finance in Common](#) which brings together over 400 different publicly funded or partially publicly funded financial institutions.
- 6 Reasons for the selection of these DFIs includes their size and influence (particularly relevant for the bilateral DFI selection), the availability of reports and analyses by stakeholders and the DFIs' themselves, availability of relevant FI cases from IAMs, and the timing of Safeguards revision at particular DFIs.
- 7 [AfDB E&S OS 9 Financial Intermediaries](#) (2023), para.12; WB ESS9: Financial Intermediaries (2018), para.14(d).
- 8 According to [Accountability Console database of cases](#), visited in August 2023, 90% of the FI-related cases are with CAO.
- 9 Farzana Ahmed, [Why do DFIs invest in financial intermediaries and why do we need to know more?](#), Publish What You Fund [Blog](#) (27 April 2022).
- 10 DFIs and their Safeguards do not always provide definitions for these financial instruments. For background information on these instruments, [Investopedia Dictionary](#) is a good starting point.
- 11 IFC, [Annual Report 2022](#), p.14.
- 12 Oxfam, [Open Books: How DFIs can be transparent in their financial intermediary lending, and why they should be](#), (2018). Publish What You Fund estimated that for DFC, FI operations represented approximately 53.5% of total projects and 64.9% of total approved financing in 2020. Farzana Ahmed, [Why do DFIs invest in financial intermediaries and why do we need to know more?](#), Publish What You Fund [Blog](#) (27 April 2022).
- 13 Authors examined data available in DFIs' Annual Reports from 2017 through 2022.
- 14 IDB Invest for instance decreased FI financing from 53% in 2017 to 44% in 2022. IDB, [Annual Report 2017](#), p.16, IDB, [Annual Report 2022](#), p.10.

- 15 See e.g., AIIB - where FI projects are covered under “Multi-country” or “Multi-sector” (communication from AIIB information service). EIB has only “credit lines” as a sector in its project database. Whereas in the IFC project databases, searching by environmental category “FI” turns up projects with the latest disclosure date of 2013 and shows only 13 entries for FI Disclosures.
- 16 See e.g., G20 Independent Experts Group, [Strengthening Multilateral Banks: The Triple Agenda, Report by the Independent Expert Group](#), (2023); G20 [New Delhi Leaders' Declaration](#) (2023); African Development Bank et al., [COP27 Multilateral Development Banks Joint Statement](#) (2022).
- 17 See e.g. FMO [Position Statement on Financial Intermediaries](#) (2022), p.3.
- 18 Publish What You Fund, [Workstream 5 Working Paper. Financial intermediaries](#) (2021), p. 20. The analysis was based on a sample of non-sovereign 17 bilateral and multilateral DFIs.
- 19 See OHCHR, Benchmarking Study of Development Finance Institutions' Safeguard Policies (February 2023), p. 39.
 Maria Jose Romero and Jeroen Kwakkenbos, Development finance institutions: a complement, not a panacea, p. 74, in Impact of development finance institutions on sustainable development. [An essay series](#) edited by Samantha Attridge, Dirk Willem te Velde and Soren Peter Andreasen (September 2019).
 UK Independent Commission for Aid Impact, [CDC's investments in low-income and fragile states, A Performance Review](#) (March 2019), p. 26.
- 20 Oxfam et al, [The Suffering of Others. The human cost of the International Finance Corporation's lending through financial intermediaries](#) (April 2015).
- 21 [Harmful IFC intermediary sub-project database](#) cited in: Inclusive Development International et al, [Digging Deeper: Can the IFC's Green Equity Strategy Help End Indonesia's Dirty Coal Mines?](#) (2019), p.10.
- 22 See e.g. reports by [Inclusive Development International](#) and [Recourse](#).
- 23 See [Accountability Console](#) for a compilation of complaints to IAMs, visited in August 2023. At CAO, which receives the highest volume of complaints amongst IAMs related to FIs, the financial market cases amounted to 21% of the caseload in 2023. CAO [Annual Report](#) (2023).
- 24 See for example, Oxfam, [Open Books: How DFIs can be transparent in their financial intermediary lending, and why they should be](#) (2018). Publish What You Fund, [DFI Transparency Index \(2023\)](#). IADB, [Evaluation of IDB Group's Work through Financial Intermediaries](#) (2016), p. 27.
- 25 Both ENDS, Oxfam Novib, Recourse & SOMO, [Joint submission to the FMO on Financial Intermediaries](#) (June 2022), pp. 7-8.
- 26 IADB, [Evaluation of IDB Group's Work through Financial Intermediaries](#) (2016), Sect. 3E.
- 27 [UN Guiding Principles on Business and Human Rights](#) (2011).
- 28 See OHCHR, [Business & Human Rights](#) webpage, [Financial Sector resources](#); the OECD, through a collaborative, multistakeholder approach involving states, financial institutions and CSOs, published guidance documents that operationalise human rights due diligence for institutional investment, corporate lending, securities underwriting, and project and asset finance transactions: OECD, [Responsible Conduct in the financial sector](#).
- 29 See the Business and Human Rights Resource Centre entries on [France's Duty of Vigilance Law](#), [German Supply Chain Act](#), [Norwegian Transparency Act](#).

- 30 See for example the minimum safeguard provision in the [EU Taxonomy Regulation](#) and the social principal adverse indicators in [EU Sustainable Finance Disclosure Regulation](#). For an explanation of EU finance sector developments, see DIHR, [How do the pieces fit in the puzzle? Making sense of EU regulatory initiatives related to business and human rights](#) (August 2023), p. 28.
- 31 See for example [Equator Principles Association](#), [UN Principle for Responsible Investment](#), [United Nations Environment Programme Finance Initiative](#), [Dutch Banking Sector Agreement](#), [Shift Financial Institutions Practitioners Circle](#), [World Benchmarking Alliance Financial Sector Benchmark](#), amongst others.
- 32 Under international human rights standards, governments owning DFIs have additional obligations to ensure such institutions fully respect human rights. See UN Working Group on Business and Human Rights, reports on [State-owned Enterprises](#) (A/HRC/32/45) and on [Development Finance Institutions and Human Rights](#) (A/HRC/53/24/Add.4).
- 33 Ibid.
- 34 See OHCHR, [Interpretive Guide to the corporate responsibility to respect human rights](#) (2012).
- 35 OHCHR, [Benchmarking Study of Development Finance Institutions' Safeguard Policies](#) (February 2023).
- 36 Ibid, p. 127.
- 37 For example, IFC PS 1 for instance defines “affected stakeholders” as those directly affected (para 1), while para. 26 focuses on physical elements (“where projects involve specifically identified physical elements, aspects and/or facilities that are likely to generate adverse environmental and social impact to Affected Communities...”), [IFC Performance Standards](#) (2012), PS 1.
- 38 EBRD appears to be one of the few DFIs to provide some of this kind of information targeted to its FI clients. See EBRD [E&S risk management procedures](#) for a range of financial transactions.
- 39 [BII Policy on Responsible Investing](#) (2022), para 1.1, footnote 1. BII has an [ESG Toolkit for FIs](#) but it is unclear what if any parts of it are compulsory.
- 40 EU, [Sustainable Finance Taxonomy Regulation](#) (2020)
- 41 OHCHR, [Benchmarking Study of Development Finance Institutions' Safeguard Policies](#) (February 2023).
- 42 It also commits to “foster an ecosystem where those affected by projects of Financial Intermediary customers and investees we finance, have access to remedy”, see FMO [Position Statement on Financial Intermediaries](#) (2022), p.3.
- 43 FMO [Position Statement on Financial Intermediaries](#) (2022), p. 6.
- 44 FMO specifically addresses integrating human rights into its investment processes with FIs, noting that it looks at both contextual, country-specific human rights risks and human rights risks of investments. It notes that all high-risk investments through FIs are assessed from a human rights and ESG risk perspective before and during financing but does not provide further clarity or specifics. FMO [Position Statement on Financial Intermediaries](#) (2022), p.4, 6. But see critique of FMO’s final position statement, [“Groups react with dismay to FMO’s position statement on Financial Intermediaries, pointing to outstanding human rights and climate concerns,”](#) (Dec 2022).
- 45 See [EIB ESS 11 – Intermediated Finance](#) (2022), para.7, footnote 7.
- 46 OHCHR, [Clarification on the applicability of the UNGPs to minority shareholdings of institutional investors](#) (April 2013).

- 47 [OHCHR response to request from Bank Track and OECD Watch for advice regarding the application of the UN Guiding Principles on Business and Human Rights where private sector banks act as nominee shareholders](#) (August 2021).
- 48 See e.g., [EIB ESS 11 – Intermediated Finance \(2022\)](#), para.4(a).
- 49 For example, the AfDB makes clear that the Safeguards apply down the FI lending chain: “Where an FI receiving support from the Bank provides financing or guarantees to other FIs, the FI will apply the requirements of this OS and will cause each subsequent FI to also apply the requirements of this OS.” AfDB E&S OS 9 Financial Intermediaries (2023), para. 7.
- 50 For example, IADB, IDB Invest.
- 51 IFC refers to “double intermediation” without explaining the term when first used, but it presumably refers to on-lending or on-investing from one FI to another. IFC [Guidance Note on Financial Intermediaries](#) (2023), para. 10.
- 52 See [IDB Invest Environmental and Social Sustainability Policy](#) (2020), para.33.
- 53 IFC [Guidance Note on Financial Intermediaries](#) (2023), footnote 18.
- 54 See FMO [Position Statement on FIs](#) (2022), footnote 2; IFC [Guidance Note on Financial Intermediaries](#) (2023), footnote 3.
- 55 The IADB Evaluation noted that leasing transactions can have significant E&S impacts: “But use of some types of equipment (e.g., heavy construction or mining equipment) can have significant E&S impacts, and such equipment can also be used for illegal purposes or for activities on IDBG’s exclusion lists. Thus, it is important to understand the type of equipment that is being leased and to ensure that the borrower has the appropriate licenses.” [Evaluation of IDB Group’s Work through Financial Intermediaries. Environmental and Social Safeguards Background Report](#). (2016), para 2.17.
- 56 [AfDB Integrated Safeguards System](#) (2023), in OS 1 (rather than OS on FIs), Section F – with sections on capital markets, trade finance, insurance, passive equity investment entities, commodity exchange entities.
- 57 EBRD, for example, publishes E&S risk management procedures for FIS in respect to leasing, factoring and insurance, amongst others. See [EBRD E & S risk management procedures](#).
- 58 IFC [Guidance Note on Financial Intermediaries](#) (2023), Table 1.
- 59 IFC, [Annual Report](#) (2022). The actual investment amounts may be higher or lower than the amount of the commitments, for several reasons. For instance, given that IFC’s short-term trade facility can have variable durations (e.g. 90 days and 360 days), these contracts may roll over several times within the same financial year and therefore be counted more than once. CAO [Audit of a Sample of IFC Investments in Third-Party Financial Intermediaries \(2012\)](#), p.9.
- 60 The CSO also calculated higher estimates for trade finance, including other programs not considered in the IFC Annual Report data. According to the CSO, in FY2022, these programs accounted for \$4.1 billion bringing the total for IFC trade finance to \$13.7 billion total. Urgewald, Briefing Paper, [Is the World Bank giving billions of trade finance to fossil fuels?](#) (2023), Figure 3.
- 61 IFC, [Annual Report](#) (2022), p.4, 29.
- 62 IADB [Annual Report](#) (2022); EBRD [Annual Review](#) (2022), p.3.
- 63 [Evaluation of IDB Group’s Work through Financial Intermediaries. Environmental and Social Safeguards Background Report](#) (2016), Sect. 2.16.
- 64 IFC’s [Exclusion List](#) (from 2007) has a small section on trade finance.

- 65 [AfDB E&S OS 9 Financial Intermediaries](#) (2023), footnote 269, WB ESS9: Financial Intermediaries (2018), para.4.
- 66 IFC [Guidance Note on Financial Intermediaries](#) (2023), footnote 3.
- 67 IFC's [Exclusion List](#) (from 2007).
- 68 [AfDB Integrated Safeguards System](#) (2023), E&S OS1, para.58.
- 69 OHCHR, "[OHCHR response to request from BankTrack and OECD Watch for advice regarding the application of the UN Guiding Principles on Business and Human Rights where private sector banks act as nominee shareholders](#)" (30 August 2021).
- 70 Natalie Bulgaski and Mark Grimsditch, "[The AIIB should include private capital in its environmental framework](#)," China Dialogue Blog (11 May 2021). CSOs have also noted the lack of disclosure regarding the application of the ESG approach and the lack of access for those affected to IAMs because of this 'carve-out' from Safeguard application. Recourse and Urgewald, [The Accountability Deficit: How the Asian Infrastructure Investment Bank's complaints mechanism falls short](#) (2021).
- 71 IFC, [Focus Area: Capital Markets](#). See also Investopedia Dictionary entry for [capital markets](#).
- 72 [AIIB Environmental and Social Framework](#) (2022), para.29. AIIB noted that mobilisation of funds by DFIs for infrastructure developments through publicly traded securities (stocks and bonds) is "a new and dynamic frontier" where there is "rapidly evolving nature of this type of resource mobilisation, as well as the evolving practice of development finance institutions in applying such approaches." Further, its revised ESF "reflects the new and dynamic trend of development finance institutions using environmental, social and governance (ESG) approaches to capital market operations."
- 73 "An FI's leverage can be limited in, for example, syndicated loans or capital market transactions where there may be no bilateral relationship between the FI and the sub-project, e.g., secondary market transactions, distressed assets acquired through auctions, etc. In such cases the FI will not be able to require application of the PSs at the sub-project level. The E&S performance of the sub- project will be assessed against requirements of the PSs based on publicly available information and the FI will make a go or no-go decision based on that assessment." IFC [Guidance Note on Financial Intermediaries](#) (2023), footnote 21.
- 74 [AfDB Integrated Safeguards System](#) (2023), E&S OS1, para.57.
- 75 BII is the exception as it does not apply Safeguards or any requirements to sub-projects. [BII Policy on Responsible Investing](#) (2022), para.2.1.1.
- 76 When investing in the private sector, the DFIs are expected to be additional to what private financiers can provide. DFIs should be able to demonstrate that their investments could not materialise or materialise in the same way without their contribution. The principle of 'additionality' covers both the financial and non-financial input (e.g. raising E&S standards through technical assistance and capacity building) of DFIs. See Multilateral Development Banks, [Harmonized Framework for Additionality in Private Sector Operations](#), October 2018.
- 77 See [Financial Exclusions Tracker](#), noting that the most common motivation for excluding companies is climate/fossil fuels, whereas human rights account for 7% of exclusions.
- 78 For example, IFC notes that it applies two additional tests when applying its Exclusion List to FIs – a "substantially involved" test and a "reasonableness test." IFC [Guidance Note on Financial Intermediaries](#) (2023), footnote 9.

- 79 For example, IFC [updated its Green Equity Approach from January 2023](#) to require a commitment from new FI clients not to finance any new coal projects from the time IFC becomes a shareholder.
- 80 IFC's 2019 client Hana Bank Indonesia was classified as an FI-2 or medium risk client but the following year went on to provide project loans to two large new coal-fired power plants which are now the subject of a CAO complaint: <https://www.cao-ombudsman.org/cases/indonesia-suralaya-power-plant-01>.
- 81 FMO [Position Statement on FIs](#) (2022), p. 7.
- 82 IFC [Guidance Note on Financial Intermediaries](#) (2023). CAO has expressed concerns over this narrowing of Safeguards application. CAO Third Monitoring Report of IFC's Response to: CAO Audit of a Sample of IFC Investments in Third-Party Financial Intermediaries (2017), p.5, at: [Compliance Audit of IFC's Financial Sector Investments case page](#).
- 83 IFC list of higher risk transaction includes: (i) involuntary resettlement (including physical and economic displacement); (ii) risk of adverse impacts on Indigenous People; (iii) significant risks to or impacts on the environment, community health and safety, biodiversity, or cultural heritage; (iv) risk of significant retrenchment; or (v) significant occupational health and safety risks to employees. It is more restrictive than the AfDB and WB list because it does not include labour and working conditions – a significant gap in light of global attention to “modern slavery”. Unlike the AfDB and WB, but similar to AIIB, its triggers include significant retrenchment and significant occupational health and safety. IFC [Guidance Note on Financial Intermediaries](#) (2023), para. 13.
- 84 “The level and scope of Performance Standards application at the subproject level will vary depending on the FIs' level of leverage and access to information.” [IFC Interpretation Note on Financial Intermediaries](#) (last updated 2018), para. IN12 cf.
- 85 IFC [Guidance Note on Financial Intermediaries](#) (2023), para. 17.
- 86 The Guidance Note does not use the term “contextual risks” but instead refers to systemic risks in a jurisdiction. IFC [Guidance Note on Financial Intermediaries](#) (2023), para. 13.
- 87 [IDB Invest Environmental and Social Sustainability Policy](#) (2020), para. 33 and footnote 20, “Higher risk sub-projects are generally considered to be corporate or project finance transactions with potentially significant adverse environmental or social risks and impacts. In addition, the reference to higher risk sub-projects is not limited to those considered Category A.”
- 88 [EBRD PR9: Financial Intermediaries](#) (2019), para. 14 and Appendix 2.
- 89 The AfDB also adds “impacts on vulnerable groups and highly vulnerable rural minorities.”
- 90 [WB Environmental and Social Policy](#) (2018), para. 44, [AfDB E&S Operational Safeguard 9 Financial Intermediaries](#) (2023), para. 12.
- 91 [AIIB Environmental and Social Framework](#) (2022), para 28.3.
- 92 DFC Environmental and Social Policies and Procedures (2020), para. 3.32. DFC's position could be read to require the application of IFC Performance Standards to all sub-projects but this is unclear.
- 93 [EIB ESS 11 – Intermediated Finance](#) (2022), para. 15.
- 94 IFC and several other DFIs use the term “asset class” approach instead of ringfencing. IFC [Guidance Note on Financial Intermediaries](#) (2023), para.3.

- 95 IFC CEO stated in 2018 that IFC ring-fenced 95% of its FI debt lending. Philippe Le Houérou, [Opinion: A new IFC vision for greening banks in emerging markets](#) (8 October 2018). IFC's long-term commitments in debt in FY2023 consisted of 85% of total commitments, the rest being equity and guarantees. IFC [Annual Report](#) (2023).
- Note that if the FI supports the same asset class as that supported by IFC proceeds from the FI's own account, the E&S risk management approach applies to all sub-projects withing the asset class as originated by the FI client from the time of IFC's investment. IFC [Guidance Note on Financial Intermediaries](#) (2023), para.3.
- 96 EIB Operations Evaluation, [Evaluation of EIB intermediated lending through the Investment Facility in Africa, the Caribbean and the Pacific](#) (2017), p.17 & 30, "Moreover, as money is fungible and allocation lists are found to be interchangeable, ensuring the compliance with E&S safeguards at the allocation level is no guarantee against reputational risk. The intermediary could be engaging for the most part in funding projects that do not meet the EIB's E&S standards or are in non-eligible sectors, while submitting the sample of its funding for eligible projects to the EIB (and potentially to other financiers)."
- 97 OHCHR, [Benchmarking Study of Development Finance Institutions' Safeguard Policies \(February 2023\)](#), pp. 96-97; Inclusive Development International, [Comments on the AIIB ESF](#) (2020).
- 98 BIC Europe and SOMO, [Coming out of the Dark: Is the IFC investing in a fossil free future?](#) (2018). Recourse, et al., [Slipping Through the Net: Paris alignment and the missed opportunity for MDBs to stop funding fossil fuels](#) (2023), pp.23-24.
- 99 EIB Operations Evaluation, 2017, [Evaluation of EIB intermediated lending through the Investment Facility in Africa, the Caribbean and the Pacific](#), p.17.
- 100 Recourse and Trend Asia, [Closing Loopholes: How the IFC can stop fossil fuels finance](#) (2021); Inclusive Development International, BIC Europe, PMCJ, [Broken Promises: The World Bank, International Investors and the Fight for Climate Justice in the Philippines](#) (2018).
- 101 Inclusive Development International, [New Liberty Gold Mine case page](#).
- 102 ICM, [Notice of Admissibility](#) (2 July 2021), complaint #21-001 regarding alleged harm caused by a Mine in an African country.
- 103 For background information on what funds are, see this Investopedia Dictionary [entry](#).
- 104 Given that private equity funds usually have a limited number of investments (much fewer than a commercial bank's clients), a DFI in principle has stronger oversight and can more easily supervise these types of funds. This typically includes the right to review several investments prior to the investment taking place in order to assess the capacity of the fund managers to screen and supervise investments. But not all investments in funds follow this pattern.
- 105 Compare IFC Asset Management Company (AMC) with the European Investment Fund (EIF), part of EIB Group: the AMC [website](#) does not make any mention of application of the IFC Performance Standards or any other frameworks, nor does it mention whether individuals or communities affected by a project (partially) funded by the AMC may access the CAO – application of Safeguards by AMC is however mentioned in passing in IFC [Access to Information Policy \(2012\)](#). In contrast, EIF's webpage explicitly states its commitment to [accountability](#) and notes access to EIB's IAM; it has also published ESG Principles in 2022 which are to complement the EIB Environment and Social Policy.

- 106 See Inclusive Development International, [Stop ESG Washing: Demanding that responsible investment does what it says](#).
- 107 See e.g. Recourse and Trend Asia, [Closing Loopholes: How the IFC can stop fossil fuels finance](#) (2021).
- 108 CEE Bankwatch, Recourse et al, [Why can a third of European Investment Bank lending evade the Bank's environmental and social rules?](#) (2021).
- 109 Investopedia, [Infrastructure Trusts](#).
- 110 Recourse and Centre for Financial Accountability, [A new frontier in infrastructure financing: Analysis of Infrastructure Investment Trusts - A case study of Oriental InfraTrust](#) (2022).
- 111 EIB, [Investment Funds](#).
- 112 For example, ADB's "Strategy 2030 Finance Sector Directional Guide: Innovative and Sustainable Finance for Asia and the Pacific" (Nov 2022). IADB's [Fintech approach](#) and EBRD's [focus on digitalisation and fintech](#); OHCHR, Benchmarking Study of Development Finance Institutions' Safeguard Policies (February 2023), pp. 112-118.
- 113 See e.g. ING, [Human Rights Review 2021/2022](#), p.9, Westpac, [Westpac Human Rights Position Statement and Action Plan](#) (2023), p.7.
- 114 [EIB ESS 11 – Intermediated Finance \(2022\)](#), para. 21.
- 115 FMO [Position Statement on FIs](#) (2022), p. 7.
- 116 "There are certain types of FI projects that are not associated with any E&S risks, such as those focused on retail financing, providing mortgages for individual clients, and student loans, and therefore are not required to develop an ESMS." IFC [Guidance Note on Financial Intermediaries](#) (2023), footnote 8.
- 117 See for example Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of states on the full enjoyment of human rights, particularly economic, social and cultural rights (Independent Expert on foreign debt), '[Private Debt and Human Rights](#)', A/HRC/43/45, p.1 and paras.33 and 55. The UN expert commented that microcredit has "proved to have, in many cases, effects opposite to those intended, including increasing over-indebtedness and generating a 'poverty trap'." See also G. Finch and D. Kocieniewski, Big Money Backs Tiny Loads that Lead to Debt, Despair and even Suicide, in Bloomberg (3 May 2022), noting: "As financiers have replaced philanthropists in the microfinance industry, consumer protection has been weakened". <https://www.bloomberg.com/graphics/2022-microfinance-banks-profit-off-developing-world/>.
- 118 At present DFI Safeguards do not recognize nor seem to cover these risks. For example, IFC is exempting IT-related activities from E&S screening. See IFC [Guidance Note on Financial Intermediaries](#) (2023), p.6.
- 119 CERISE SPTF, [Joint Statement of financial service providers to join the Client Protection Pathway](#).
- 120 Center for Financial Inclusion, [Detailed guidance on the Client Protection Principles](#) (2019).
- 121 BII, [Principles for assessing risk to customers in financial services](#), (undated).
- 122 [Investor Guidelines for Responsible Investing in Digital Financial Services](#) (2022).
- 123 Compliance Appraisal of Complaint Regarding IFC's Exposure to six Microfinance Institutions in Cambodia (Acleda, Amret, Hattha Bank, Prasac, LOLC, and Sathapana) – which includes IFC response to CAO, at: '[Cambodia: Financial Intermediaries – 04](#)'.

- 124 The term “human rights due diligence (HRDD)” as used in the UNGPs differs from the traditional meaning of “due diligence” in the field of financing and development finance as it covers the management of potential human rights impacts during the entire project cycle, whereas DFIs/FIs typically use the term “due diligence” to refer to the appraisal phase prior to the investment decision and then typically refer to “monitoring/supervision” to cover post approval.
- 125 See for example, IFC “Many FIs are exposed to some level of E&S risk through the activities of their borrowers/investees, which may pose a financial, legal, and/or reputational risk to the FIs,” IFC [Guidance Note on Financial Intermediaries](#) (2023), para.12.
- 126 The UNGPs introduce a framework to differentiate between different types of business involvement with potential adverse impacts. According to this framework, a business can “cause”, “contribute to” or “be directly linked” to an adverse impact. Different actions to address adverse impacts are envisioned depending on the type of involvement. For an overview of this framework and guidance on its application to the financial sector see e.g. OECD, [Responsible Business Conduct Due Diligence for Project and Asset Finance Transactions](#) (2022), pp. 31-34. For a practical resource on identifying the three types of involvement, see Legacy Landscapes Fund, [Guidance Note: Environmental and Social Action Plan Development](#) (inc. UNGPs implementation), section 5.1. (2023).
- 127 See e.g. [IADB Environmental and Social Policy Framework](#) (2020), para.4.2(a) that simply requires that the “FI must develop and operate and ESMS that is commensurate with the level of environmental and social risks in its portfolio and prospective activities.”.
- 128 See IFC [Guidance Note on Financial Intermediaries](#) (2023), Section III.
- 129 WB ESS9: Financial Intermediaries (2018).
- 130 See EBRD, [Guidance note – Performance Requirement 9: Financial intermediaries](#) (2023), pp.9-10.
- 131 An exception amongst the DFIs reviewed is FMO which only requires private equity funds to set up an Environmental and Social Management System. See FMO [Position Statement on Financial Intermediaries](#) (2022), p.7.
- 132 CAO, [Audit of a Sample of IFC Investments in Third-Party Financial Intermediaries \(2012\)](#), p.25.
- 133 Ibid, p.37.
- 134 FMO [Position Statement on FIs](#) (2022), p. 3. FMO is one of the few to specifically address the importance of building capacity of FIs that are not “best in class,” admitting that this capacity building may take time – even the entire tenor of the loan.
- 135 CAO, [Audit of a Sample of IFC Investments in Third-Party Financial Intermediaries \(2012\)](#), p. 30.
- 136 See e.g. Action Aid et al, [Bottom Lines Better Lives: Rethinking multilateral financing to the private sector in developing countries](#) (2010); Oxfam, *Risky Business: Intermediary lending and development finance* (2012).
- 137 [Management Report and Management Action Plan in relation to the CAO Compliance Investigation Report on Rizal Commercial Banking Corporation](#) (2022), para.63.
- 138 CAO [Investigation Report in relation to IFC investment in CIFI](#) (December 2018), p.21. See also [CAO Investigation of IFC Environmental and Social Performance in relation to: Investments in Banco Financiera Comercial Hondureña S.A.](#) In relation to IFC's investment in FICOHSA, CAO noted that IFC did not conduct an

- adequate review of FICOHSA's social and environmental management system or its capacity to implement IFC's environmental and social requirements. This weakness in analysis was compounded by the decision to structure the investment in a way which allowed disbursement to FICOHSA in advance of actions to close gaps in the ESMS.
- 139 See [CAO Investigation of IFC Environmental and Social Performance in Relation to Rizal Commercial Banking Corporation in the Philippines](#) (November 2021). Despite multiple investments and therefore multiple opportunities to assess ESMS implementation and exercise leverage to improve client performance, over its ten-year investment in a Philippine bank, CAO found that IFC had not sufficiently verified that the client was operating its ESMS as envisaged at the time of IFC's pre-investment review, nor applied the IFC Performance Standards to its high-risk sub-projects. See also [Compliance Appraisal of Complaint Regarding IFC Projects with Habib Bank Ltd, Pakistan](#) (June 2023).
- 140 An evaluation of FMO found: "Some 60% of FI-A and B+ clients have red or amber scores on proper E&S due diligence, establishing external E&S agreements and E&S monitoring and follow-up." FMO Evaluations, [Evaluating FMO Investments In Financial Institutions](#) (2020), p.6.
- 141 There has been a decline in FI-1 projects and shift to FI-2. For instance, IFC CEO in 2017 announced that the IFC had cut its FI 1 investments from eighteen to just five from 2016 to 2017. In 2022, IFC invested in four new FI-1 and ninety-five FI-2 projects. IFC, [Annual Report 2022](#).
- 142 See Oxfam et al, [The Suffering of Others. The human cost of the International Finance Corporation's lending through financial intermediaries](#) (April 2015). See [Accountability Console](#) for a compilation of complaints to IAMS in respect to the financial sector.
- 143 [Evaluation of IDB Group's Work through Financial Intermediaries](#) (2016), Sect. 3E.
- 144 P. Woike et al, "External Review of IFC/ MIGA Environmental & Social (E&S) Accountability, including CAO's Role and Effectiveness," (2020), para. 128.
- 145 [Evaluation of IDB Group's Work through Financial Intermediaries. Environmental and Social Safeguards Background Report.](#) (2016), Sect. 2.15.
- 146 CEE Bankwatch, Recourse et al, [Why can a third of European Investment Bank lending evade the Bank's environmental and social rules?](#) (2021).
- 147 CAO [Investigation of IFC Environmental and Social Performance in Relation to Rizal Commercial Banking Corporation in the Philippines](#) (November 2021), p.36-37. RCBC's classification did not meet the IFC MSME definition and IFC should have identified this as an issue.
- 148 For example, "the scope and complexity of the ESMS should be commensurate with the level of E&S risk associated with the asset class supported. ... Typically, project finance and long-term corporate finance transactions carry higher E&S risks than SME lending, microfinance, mortgage finance, and non-commercial insurance." [IFC Interpretation Note on Financial Intermediaries](#) (2018), para.12. The [Guidance Note on Financial Intermediaries](#) (2023) no longer includes this assertion.
- 149 Independent Expert on foreign debt, '[Private Debt and Human Rights](#)', A/HRC/43/45.
- 150 UN Special Rapporteur on adequate housing, [Financialization of housing](#).
- 151 CAO, [Kenya - Bridge international Academies– 04](#) and [Bridge International Academies - 01](#).

- 152 See generally, OHCHR, [Benchmarking Study of Development Finance Institutions' Safeguard Policies](#) (February 2023), pp. 110-121 and for a specific analysis of IFC Performance Standards, see Annex.
- 153 DIHR, [Development finance for digitalisation: human rights risks in Sub-Saharan Africa](#) (March 2023). OHCHR, [Benchmarking Study of Development Finance Institutions' Safeguard Policies](#), pp. 112-118.
- 154 OHCHR, [Benchmarking Study of Development Finance Institutions' Safeguard Policies](#) (February 2023), pp.42-43.
- 155 FMO [Position Statement on FIs](#) (2022), p.6.
- 156 IFC [Guidance Note on Financial Intermediaries](#) (2023), para.13 and footnote 17: "Contextual risks – from a private sector, E&S perspective – are defined as risks in the external environment (at a country, sector, or sub-national level) that the client does not control but which could negatively affect the ability of a project or private sector client to meet IFC's E&S requirements. Examples of contextual risks include, among others, land disputes as a result of internal displacement or conflict; systemic issues such as discrimination against minorities, lack of freedom of association, or widespread use of child labour; and historical government actions related to land contamination, forced evictions, or similar issues."
- 157 DFC's position may be the most encompassing but its position on referrals is very unclear from its Environmental and Social Policies and Procedures (2020), para.2.6 and 3.28 – which could be read that DFC screens and approves all FI sub-projects.
- 158 AfDB [Integrated Safeguards System](#) (2023), Environmental and Social Policy, para. 15.
- 159 [EIB ESS 11 – Intermediated Finance](#) (2022), para. 16. The provision is also heavily caveated.
- 160 This requirement is in the [WB Environmental and Social Policy for Investment Project Financing](#) (2018), para.44 but is not included or even cross-referenced in its FI Safeguard - WB ESS9: Financial Intermediaries (2018).
- 161 [EBRD PR9: Financial Intermediaries \(2019\)](#), Appendix A.
- 162 EBRD, [Guidance note – Performance Requirement 9: Financial intermediaries](#) (2023), p.11.
- 163 [IADB Environmental and Social Policy Framework](#) (2020), Part 1, para.4.2.
- 164 Those are: (i) land acquisition or involuntary resettlement; (ii) risks of adverse impacts on Indigenous Peoples and/or vulnerable groups; (iii) significant risks or impacts to the environment, community health and safety, biodiversity and/or cultural resources; (iv) significant retrenchment; and/or (v) significant occupational health and safety risks. [AIIB Environmental and Social Framework](#) (2022), para.28.3.
- 165 Ibid, para.28.3.
- 166 See for example, [IDB Invest Environmental and Social Sustainability Policy](#) (2020), para. 52, [IADB Environmental and Social Policy Framework](#) (2020), Part 1, para.4.3. FMO provides few details on how it monitors and just notes that it does some monitoring. FMO [Position Statement on FIs](#) (2022).
- 167 IADB, [Evaluation of IDB Group's Work through Financial Intermediaries.](#) (2016), p. 35. EIB Operations Evaluation, [Evaluation of EIB intermediated lending through the Investment Facility in Africa, the Caribbean and the Pacific](#) (2017), p.17 & 30.
- 168 P. Woike et al, "External Review of IFC/ MIGA Environmental & Social (E&S) Accountability, including CAO's Role and Effectiveness," (2020), para.127.

- 169 DFC Environmental and Social Policies and Procedures (2020), para.712.
- 170 IADB Environmental and Social Policy Framework (2020), Part 1, para.4.3.
- 171 EBRD, [Guidance note – Performance Requirement 9: Financial intermediaries](#) (2023), p.14.
- 172 [AIIB Environmental and Social Framework](#) (2022), para.28.3.
- 173 IFC [Guidance Note on Financial Intermediaries](#) (2023), para.38.
- 174 EBRD, Guidance note – Performance Requirement 9: Financial intermediaries (2023), p.14.
- 175 [AfDB E&S Operational Safeguard 9 Financial Intermediaries](#) (2023), para.11.
- 176 See IFC [Guidance Note on Financial Intermediaries](#) (2023), para.19. IFC limited this provision compared to its 2018 Interpretation Note which addressed all FIs: “material changes in business activities of the FI.”
- 177 [AfDB E&S Operational Safeguard 9 Financial Intermediaries](#) (2023), para.23.
- 178 WB ESS9: Financial Intermediaries (2018), para. 22 and 16(f).
- 179 IFC [Guidance Note on Financial Intermediaries](#) (2023), para.48.
- 180 This led to commencement of project activities prior to the conduct of an adequate assessment and the implementation of mitigation measures. CAO [Compliance investigation report of IFC Environmental and Social Performance in relation to: Corporación Interamericana para el Financiamiento de Infraestructura \(CIFI\), S.A. \(December 2018\)](#).
- 181 CAO, [Compliance Appraisal of a Complaint Regarding IFC’s Exposure to the Dairi Prima Mineral Mine in Indonesia Through an Investment in Postal Savings Bank of China \(July 2022\)](#).
- 182 [CAO Investigation Report of IFC Environmental and Social Performance in relation to: Investments in Banco Financiera Comercial Hondureña S.A.](#) (August 2014) p.3.
- 183 [CAO Investigation of IFC Environmental and Social Performance in relation to: Corporación Interamericana para el Financiamiento de Infraestructura \(CIFI\), S.A.](#) (December 2018) section 2.3.5. In this investigation, CAO noted that IFC failed to adequately respond to the notice of the death of a community member opposing the hydropower project funded partly by CIFI.
- 184 [IFC Management Response and Action Plan to CAO Investigation Report in relation to RCBC](#) (February 2022).
- 185 Reider Kvam, [Meaningful stakeholder engagement: a joint publication of the Multilateral Finance Institutions Working Group on Environmental and Social Standards](#) (2019), pp.7-8.
- 186 For example, the Multilateral Finance Institutions Working Group guide on stakeholder engagement referenced above does not include one mention of stakeholder engagement with or by FI projects.
- 187 See WB ESS9: Financial Intermediaries (2018), para.24. [AfDB E&S OS 9 Financial Intermediaries](#) (2023), para.25.
- 188 See, for example, Office of the Compliance Advisor Ombudsman, [Insights on Remedy: The Remedy Gap - Lessons from CAO Compliance and Beyond](#) (2023); World Bank, [External Review of IFC/ MIGA Environmental & Social \(E&S\) Accountability, including CAO’s Role and Effectiveness](#) (2020); Office of the High Commissioner for Human Rights, [Remedy in Development Finance](#) (2022).
- 189 P. Woike et al, “[External Review of IFC/ MIGA Environmental & Social \(E&S\) Accountability, including CAO’s Role and Effectiveness](#),” (2020).
- 190 The UNGPs introduce a framework to differentiate between different types of business involvement with potential adverse impacts. According to this framework,

- a business can “cause”, “contribute to” or “be directly linked to” an adverse impact. Different actions to address adverse impacts are envisioned depending on the type of involvement. For an overview of this framework and guidance on its application to the financial sector see e.g. OECD, [Responsible Business Conduct Due Diligence for Project and Asset Finance Transactions](#) (2022), pp. 31-34. For a practical resource on identifying the three types of involvement, see Legacy Landscapes Fund, [Guidance Note: Environmental and Social Action Plan Development](#) (inc. UNGPs implementation), section 5.1. (2023).
- 191 Accountability Counsel et al, [Good Policy Paper: Guiding Practice from the Policies of Independent Accountability Mechanisms](#) (2024).
- 192 OHCHR, [Remedy in Development Finance: Guidance and Practice](#) (2022), Annex II.
- 193 OECD, [Responsible Business Conduct in the financial sector](#); OHCHR, [Business and human rights advice on financial sector](#); [Dutch Banking Sector Agreement paper on remediation](#).
- 194 OHCHR, [Remedy in Development Finance: Guidance and Practice](#) (2022).
- 195 Equator Principles and related [guidance on grievance mechanisms and remedy](#) (October 2022).
- 196 IFC, [Proposed IFC/MIGA Approach to Remedial Action](#), (draft, October 2022).
- 197 See for a selection of consultation responses, Business and Human Rights Resource Centre, [“IFC/MIGA urged to substantively strengthen proposed ‘Approach to Remedial Action’ in line with international standards,”](#) (21 April 2023).
- 198 CAO, [Audit of a Sample of IFC Investments in Third-Party Financial Intermediaries](#) (2013).
- 199 An important case is the implementation of a Management Action Plan to address CAO findings in relation to Philippines bank RCBC and on-lending to ten coal-fired power plants. The Management Action Plan includes gap analyses between Safeguards and impacts at sub-project level on the basis of which mitigation and remediation measures should be formulated. IFC [Management Response and Management Action Plan](#) to CAO Compliance Report related to RCBC (2022).
- 200 FMO [Position Statement on FIs](#) (2022).
- 201 See e.g. BIO, BIO’s Grievance Mechanism Policy (March 2022). Swedfund, [Swedfund’s Policy for Sustainable Development](#) (2023).
- 202 IFC [Guidance Note on Financial Intermediaries](#) (2023), paras.23 and 55.
- 203 [AIIB Environmental and Social Framework](#) (2022), para.25. But see Recourse, et al., Roadblocks to Accountability: Addressing the accessibility crisis in the Asian Infrastructure Investment Bank’s review of its Project-affected People’s Mechanism (2023), p.33: “of those FI projects with an identified mechanism, 11 make reference to the PPM and explain that if people are unsatisfied with the handling of their complaint they can make a submission to the PPM. This represents a small share of total FI projects, but there was a significant increase in the number of projects that mention the PPM (two out of 33 projects approved under the original ESF; 9 out of 28 projects approved from October 2021 under the revised ESF). The AIIB’s Environmental and Social Standards state: “Information on the availability of the PPM is provided in an accessible and understandable manner in locally appropriate language(s), including on the Client’s (or beneficiary’s) Project-related website.” In the majority of cases, this standard is not being applied.”
- 204 DFC Environmental and Social Policies and Procedures (2020), para.3.8.

- 205 The [EBRD PR9: Financial Intermediaries \(2019\)](#) only refers to “a system for dealing with external communication on environmental and social matters” para.23. However, a section on FI level grievance mechanism is included in EBRD, [Guidance note – Performance Requirement 9: Financial intermediaries](#) (2023), para.3.5.3.
- 206 For example, IFC has standardised language on E&S across its FI project disclosures with respect to mitigation measures and grievance mechanisms that does not reflect client specific issues and risks. See for instance [this project](#) compared to the description [here](#) of another project – the language used is exactly the same.
- 207 Equator Principles Association and Shift, [Tools to enhance access to effective grievance mechanisms and enable effective remedy](#); Oxfam and BankTrack, [Developing Effective Grievance Mechanisms in the banking sector](#) (July 2018).
- 208 Several DFIs have set up their own internal grievance mechanisms to deal with complaints. Unlike IAMS, these mechanisms are not independent of management – they do not report to DFI boards but instead report to management.
- 209 The FMO-DEG-Proparco Independent Complaints Mechanism.
- 210 OHCHR [Remedy in Development Finance: Guidance and Practice](#) (2022).
- 211 The financial market cases amounted to 21% of CAO caseload in 2023. CAO [Annual Report](#) (2023).
- 212 [Accountability Console](#), visited in August 2023.
- 213 CAO, [Responsible Exit: Insights from CAO cases](#), Advisory Note (December 2023), p. 23.
- 214 See also examples in Accountability Counsel et al, [Good Policy Paper: Guiding Practice from the Policies of Independent Accountability Mechanisms](#) (2024).
- 215 There is no financial or material threshold required – that is, IFC’s financial investment could be of 1\$ and this criteria for eligibility would be met.
- 216 [IFC/MIGA Independent Accountability Mechanism \(CAO\) Policy](#) (2021), para 41. Note that the IFC/CAO External Review recommended that CAO should clarify its eligibility requirements for FI projects. P. Woike et al, “[External Review of IFC/ MIGA Environmental & Social \(E&S\) Accountability, including CAO’s Role and Effectiveness](#),” (2020), para.219-220
- 217 See cases in the [Accountability Console](#), visited August 2023.
- 218 [CAO Investigation of IFC Environmental and Social Performance in Relation to Rizal Commercial Banking Corporation in the Philippines](#) (November 2021).
- 219 CAO, [Compliance Appraisal Report of Postal Savings Bank of China](#), (July 2022).
- 220 CAO found four new complaints eligible in relation to International Bridge Academies (now ‘New Globe’) through IFC investment in Learn Capital Venture Partners; they have been under assessment since 16 October 2023. CAO [Monthly Case List](#) (November 2023).
- 221 ICM, Notice of Admissibility, 2 July 2021, [ICM complaint #21-001 regarding alleged harm caused by a Mine in an African country](#).
- 222 Inclusive Development International, Bank Information Center Europe, and Philippine Movement for Climate Justice, [Broken Promises: The World Bank, International Investors and the Fight for Climate Justice in the Philippines](#) (2018), p.10-11, regretting the decision by CAO to decline to find their complaint eligible in relation to eight of the 19 coal projects mentioned in the complaint, which the IFC-financed bank RCBC had financed through general corporate bond underwriting. [CAO Investigation of IFC Environmental and Social Performance in Relation to Rizal Commercial Banking Corporation in the Philippines](#) (November 2021).

- 223 The ICM Notice of Admissibility (2 July 2021), ICM complaint #21-001, does not discuss the FMO link, however complainants' representatives note that the complaint in relation to FMO was dismissed on technical grounds and related to the different nature of the financial links between FMO and the FI, which is understood to be one of trade finance. See Inclusive Development International [case page](#).
- 224 [CAO Eligibility Decision on Kenya Financial Intermediaries 01](#) (in relation to the Lamu coal plant), response to Accountability Counsel (July 2019).
- 225 Ibid.
- 226 This lack of visibility on IAMs' eligibility decision is not specific to FIs cases. Accountability Console, [The Eligibility Bottleneck](#) (1 March, 2021).
- 227 The UNGPs introduce a framework to differentiate between different types of business involvement with potential adverse impacts. According to this framework, a business can "cause", "contribute to" or "be directly linked to" an adverse impact. Different actions to address adverse impacts are envisioned depending on the type of involvement. For example, a business that caused or contributed to an impact is expected to provide or contribute to remediation, while a business that is directly linked to an adverse impact is expected to exercise leverage for remediation. For an overview of this framework and guidance on its application to the financial sector see e.g. OECD, [Responsible Business Conduct Due Diligence for Project and Asset Finance Transactions](#) (2022), pp. 31-34.
- 228 For example, in a case involving corporate bond underwriting, this was considered not sufficiently material by CAO while CSOs commented that this was "a narrow interpretation of material exposure" given the "vital role played by underwriters in helping companies raise capital." "According to the IFC's own environmental and social procedures, when one of its financial intermediaries arranges a bond issue for a corporate client, it has the same responsibility to ensure that the client complies with the IFC's standards as it does when it provides a loan. This makes sense: underwriters are the only entities in a position to incorporate environmental and social standards into a bond issue's key documents. So why then should these transactions be beyond the purview of the IFC's watchdog?" Inclusive Development International, Bank Information Center Europe, and Philippine Movement for Climate Justice, [Broken Promises: The World Bank, International Investors and the Fight for Climate Justice in the Philippines](#) (2018), pp.10-11.
- 229 See e.g. Recourse and Centre for Financial Accountability, [A new frontier in infrastructure financing: Analysis of Infrastructure Investment Trusts – A case study of Oriental InfraTrust](#) (2022).
- 230 CAO, [Audit of a Sample of IFC Investments in Third-Party Financial Intermediaries \(2012\), section 1.1.](#)
- 231 Publish What You Fund [Financial Intermediaries, Workstream 5 Working Paper](#) (2021).
- 232 Ibid, p.6.
- 233 Publish What You Fund, [DFI Transparency Index 2023 / IFC.](#)
- 234 Publish What You Fund [Financial Intermediaries, Workstream 5 Working Paper](#) (2021), Table 7 (Sub-investment disclosure of ESG).
- 235 Publish What You Fund [Financial Intermediaries, Workstream 5 Working Paper](#) (2021), Table 9.
- 236 Recourse et al., Roadblocks to Accountability: Addressing the accessibility crisis in the Asian Infrastructure Investment Bank's review of its Project-affected People's Mechanism (2023).

- 237 Oxfam, [New database addresses lack of transparency about financial intermediary investments of FMO, IFC](#) (1 December 2021).
- 238 Publish What You Fund, Development finance is opaque but transparency is improving, [Blog](#) (23 March, 2023) and [FAQ](#).
- 239 Paul James, [DFI disclosure: New resource shows what is possible](#), Blog (24 April 2023).
- 240 Publish What You Fund, [Transparency Index \(2023\)](#), p.9.
- 241 OECD, Responsible business conduct due diligence for project and asset finance transactions (2022).
- 242 Oxfam, [Open Books: How DFIs can be transparent in their financial intermediary lending, and why they should be](#) (October 2018), IFC, Sustainable Practices for Private Equity Funds Business, [Blog](#) (1 December 2017).
- 243 See e.g. Inclusive Development International's [Follow the Money to Justice initiative](#) which helps track the financial chain between a harmful project up and down the value chain.
- 244 Identified in the detailed [PWYF Transparency Index](#) (2023).
- 245 OHCHR, [Remedy in Development Finance: Guidance and Practice](#) (2022), Ch.III.B; [IFC/MIGA Independent Accountability Mechanism \(CAO\) Policy](#) (2021), IV. Core Principles; ICM FMO, [Background Information](#) (1.1.4); Green Climate Fund, Independent Redress Mechanism [Operational Procedures](#); AfDB Independent Recourse Mechanism, [Operational Rules and Procedures](#).
- 246 For instance, in relation to its FI client RCBC, IFC estimated that RCBC and IFC each invested \$1mio to improve the bank's ESMS implementation over time, and that in the early years of the investment IFC could not offer RCBC the type of E&S support that it is providing RCBC today. [IFC Management Response and Action Plan in relation to CAO Investigation Report on RCBC](#) (2022), para.17 and footnote 15.
- 247 [Remarks by World Bank Group President Ajay Banga at the 2023 Annual Meetings Plenary](#) (13 October 2023).
- 248 [MDB Just Transition High-Level Principles](#) (2019).
- 249 See for example, UNEP FI's work programme on [Just Transition](#).
- 250 See [UNGP Principles 4 and 10](#). According to the Commentary of Principle 4, "Where a business enterprise is controlled by the State or where its acts can be attributed otherwise to the State, an abuse of human rights by the business enterprise may entail a violation of the State's own international law obligations" (p. 7).
- 251 See OECD [Responsible Business Conduct Guidance](#) for the financial sector.
- 252 See e.g. ADB, [Environmental and Social Safeguards for Trade](#) (Undated).
- 253 See for a longer list of recommendations: Natalie Bulgaski and Mark Grimsditch, "[The AIIB should include private capital in its environmental framework](#)," China Dialogue Blog (11 May 2021).
- 254 See e.g. [EDFI Principles for Responsible Tax in Developing Countries](#) (2018).
- 255 Where the regulatory environment, and other local competitors, are already requiring FI clients to take E&S including human rights issues into account, it could be assumed that less time and training may be required from the DFI as the FI is already on that path.
- 256 P. Woike et al, "[External Review of IFC/ MIGA Environmental & Social \(E&S\) Accountability, including CAO's Role and Effectiveness](#)," (2020), p.92.
- 257 For a more complete list of recommendations to DFIs on transparency, see Publish What You Fund [DFI Transparency Tool](#).
- 258 With a few exceptions (IFC and EBRD) the analysis for this Report did not include DFI guidance notes, guidelines or other documents developed to support the implementation of the Safeguards.

- 259 IFC [Guidance Note on Financial Intermediaries](#) (2023), para.3.
- 260 [EBRD PR9: Financial Intermediaries \(2019\)](#), para.6.
- 261 [IDB Invest Environmental and Social Sustainability Policy](#) (2020), para.35.
- 262 FMO [Position Statement on FIs](#) (2022), pp. 4-5.
- 263 [AIIB Environmental and Social Framework](#) (2022), para.28.3.
- 264 DFC Environmental and Social Policies and Procedures (2020), para.2.6.
- 265 [AfDB E&S OS 9 Financial Intermediaries](#) (2023), para.25; WB ESS9: Financial Intermediaries (2018), para.24.
- 266 IFC [Guidance Note on Financial Intermediaries](#) (2023), para.37.
- 267 DFC Environmental and Social Policies and Procedures (2020), para.2.6.
- 268 [AfDB E&S OS 9 Financial Intermediaries](#) (2023), para.25. WB ESS9: Financial Intermediaries (2018), para.24.
- 269 WB ESS9: Financial Intermediaries (2018), para.24. [AfDB E&S OS 9 Financial Intermediaries](#) (2023), para.25.
- 270 [EIB ESS 11 – Intermediated Finance](#) (2022), para.7-8, “If located in the rest of the world, the FI shall require final beneficiaries to ensure that rights-holders have access to meaningful stakeholder engagement and effective means to raise grievances on ECS matters in connection with sub-projects benefiting from EIB support.”
- 271 [IADB Environmental and Social Policy Framework](#) (2020), para.4.2(d).
- 272 [EBRD PR9: Financial Intermediaries \(2019\), para.16](#). However, EBRD positively has detailed guidance in its Guidance Note on information disclosure to FI stakeholders and requirements for Category A sub-projects to comply with stakeholder engagement and disclosure requirements. EBRD, [Guidance note – Performance Requirement 9: Financial intermediaries](#) (2023).
- 273 [AfDB E&S Operational Safeguard 9 Financial Intermediaries](#) (2023), para.7, footnote 9.
- 274 DFC Environmental and Social Policies and Procedures (2020), para.5.15.
- 275 [AIIB Environmental and Social Framework](#) (2022), para.21.2 – “In the case of an FI project involving a private equity fund, disclose the name, location and sector of the Client’s portfolio companies supported by the Bank’s financing within 12 months following financial closure of the investment.”
- 276 IFC [Guidance Note on Financial Intermediaries](#) (2023), Sect. IV.
- 277 DFC Environmental and Social Policies and Procedures (2020), para.3.28., 6.10.
- 278 [AfDB E&S Operational Safeguard 9 Financial Intermediaries](#) (2023), para.28; WB ESS9: Financial Intermediaries (2018), para.27.
- 279 [AfDB E&S Operational Safeguard 9 Financial Intermediaries](#) (2023), para. 7, WB ESS9: Financial Intermediaries (2018), para. 26; IFC [Guidance Note on Financial Intermediaries](#) (2023), para.66.
- 280 [AfDB E&S OS 9 Financial Intermediaries](#) (2023), para.9.
- 281 [AIIB Environmental and Social Framework](#) (2022), para. 72 & para.72.3 – FI clients are mentioned only specifically with respect to grievance mechanisms for contract workers. See also Recourse, IDI, Accountability Counsel, “[Roadblocks to Accountability](#): Addressing the accessibility crisis in the Asian Infrastructure Investment Bank’s review of its Project-affected People’s Mechanism”(2023).
- 282 [AIIB Environmental and Social Framework](#) (2022), Environmental and Social Standard 1, para.25.
- 283 [AIIB Environmental and Social Framework](#) (2022), Environmental and Social Standard 1, para.24(1)
- 284 [AIIB Environmental and Social Framework](#) (2022), Environmental and Social Standard 1, para.25.

- 285 DFC Environmental and Social Policies and Procedures (2020), para.3.8, 5.14.
- 286 DFC Environmental and Social Policies and Procedures (2020), para.3.9.
- 287 The [EBRD PR9: Financial Intermediaries \(2019\)](#) only refers to “a system for dealing with external communication on environmental and social matters” para.23. However, a section on FI level grievance mechanism is included in EBRD, [Guidance note – Performance Requirement 9: Financial intermediaries](#) (2023), para.3.5.3.
- 288 EBRD, [Guidance note – Performance Requirement 9: Financial intermediaries](#) (2023), see “Category A sub-loans or investments financed by EBRD proceeds or undertaken by funds/FIs where the EBRD holds equity must comply with the stakeholder engagement and disclosure requirements of PR10”. Performance Requirement 10 includes a section on grievance mechanisms.
- 289 EBRD, [Guidance note – Performance Requirement 9: Financial intermediaries](#) (2023), see para 3.5.3. FIs are required to have an internal grievance mechanism for employees in compliance with Performance Requirement 2 (PR 2 requires EBRD clients to inform the workers of the grievance mechanism).
- 290 EBRD, [Guidance note – Performance Requirement 9: Financial intermediaries](#) (2023), see “Category A sub-loans or investments financed by EBRD proceeds or undertaken by funds/FIs where the EBRD holds equity must comply with the stakeholder engagement and disclosure requirements of PR10”. Performance Requirement 10 includes a requirement that clients inform affected communities about the grievance process.
- 291 [EIB ESS 11 – Intermediated Finance \(2022\)](#), para.8.
- 292 [EIB ESS 2 \(2022\)](#), para.33.
- 293 IFC [Guidance Note on Financial Intermediaries](#) (2023), para.55-56.
- 294 [IADB Environmental and Social Policy Framework](#) (2020), para.71.
- 295 [IDB Invest Environmental and Social Sustainability Policy](#) (2020), para.19.
- 296 WB ESS9: Financial Intermediaries (2018), para.25.
- 297 FMO-ICM [Policy](#) (2017), para.1.1.5 & FMO [Position Statement on FIs](#) (2022).
- 298 [AfDB IRM Operating Rules & Procedures](#) (2021), para.103 & [AfDB E&S OS 9 Financial Intermediaries](#) (2023), para.9 footnote 7.
- 299 [AIIB Environmental and Social Framework](#) (2022), para.74.
- 300 DFC [Independent Accountability Mechanism](#) (2020), para.5.
- 301 DFC [Independent Accountability Mechanism](#) (2020), para.5.
- 302 DFC [Independent Accountability Mechanism](#) (2020), para.5.
- 303 [IFC/MIGA Independent Accountability Mechanism \(CAO\) Policy](#) (2021), para.168.
- 304 Management is only required to “make significant efforts to make the Inspection Panel better known in borrowing countries,” The World Bank Inspection Panel Resolution (2020), para.61.
- 305 [AfDB IRM Operating Rules & Procedures](#) (2021), paras.12, 13, 15.
- 306 AIIB [Rules of Procedure of the PPM](#) (2019), Sect 5.
- 307 DFC Office of Accountability, [Guide for Communities](#).
- 308 [IFC/MIGA Independent Accountability Mechanism \(CAO\) Policy](#) (2021), para.41.
- 309 But not very clear from the Policy about how Project and Client are defined. [Project Accountability Policy](#) (2019), paras. 2.1., 2.2.
- 310 EIB Group [Complaints Mechanism Policy](#) (2018), para.4.3.
- 311 IADB-MICI [Policy of The Independent Consultation and Investigation Mechanism](#) (2021), para.22.
- 312 IDB Invest-MICI [Policy of the Independent Consultation and Investigation Mechanism of the IIC](#) (2021), para.22.

- 313 The World Bank Inspection Panel Resolution (2020), para.13-15, 29.
- 314 FMO-ICM [Policy](#) (2017), para.3.1.
- 315 ADB, [Strategy 2030 Finance Sector Directional Guide: Innovative and Sustainable Finance for Asia and the Pacific](#) (November 2022).
- 316 AfDB, [Financial Institutions](#).
- 317 AIIB, [Corporate Strategy](#) for 2021-2030.
- 318 EBRD, [Financial Sector Strategy for 2021-2025](#), Annex D.
- 319 IADB, [Financial Markets](#).
- 320 IFC, [Financial Institutions](#).
- 321 World Bank, [Financial Sector](#).

