

## Public Consultation on the EIB Group's Environmental and Social Framework

### Webinar on **Standard 11: Intermediated Finance**

Friday, 9 July 2021

#### Summary of Discussion

##### Objective

The European Investment Bank (EIB) is hosting a series of 13 webinars in the context of the public consultation on the EIB Group Environmental and Social Sustainability Framework (ESSF), open from 3 June to 6 August 2021. The overall objective of the webinars is to facilitate dialogue with stakeholders on the EIB Group Environmental and Social Policy (hereinafter “the Policy”) and Standards.

On 9 July 2021, the EIB hosted a webinar on Standard 11: Intermediated Finance. The Standard sets out how the environmental and social impacts and risks arising from sub-projects shall be identified, assessed for their significance, managed and monitored, in line with applicable requirements and commensurate with the sub-project's size, nature, sector, sensitivity to environmental and social risks, socioeconomic context and location.

##### Introduction

The EIB welcomed the 69 webinar attendees (46 external, 23 EIB Group staff) and explained the webinar housekeeping rules and arrangements to ensure an effective discussion, noting that participant statements would not be attributed to individuals or organisations in the summary report and any comments made during the discussion would not be considered as formal contributions. The EIB invited participants to submit their written contributions to the public consultation by 6 August 2021 on the public consultation [website](#).

The EIB then delivered a [presentation](#) on Standard 11: Intermediated Finance. It summarized the background to the public consultation, and provided an overview of EIB's intermediated finance activity as well as details about the requirements of the new standard under consideration. The floor then opened for discussion.

##### Discussion

A representative of a non-governmental organisation (NGO) noted that Standard 11 **does not sufficiently address the high risks** associated with financial intermediary (FI) lending and significantly **falls behind the standards and practices of other international financial institutions (IFIs)**. The participant pointed to the Asian Infrastructure Investment Bank (AIIB) as an example, noting that its newly revised Standard guarantees disclosure of sub-projects supported by intermediary lending. Responding to this, the panel explained that the beneficiaries and clients of the EIB were different to other IFIs because more than 80% of EIB business is within the European Union (EU). The contractual framework is very strict and certain sectors and activities are excluded<sup>1</sup> from intermediated financing (e.g. animal testing, activities with significant environmental and social impacts). Furthermore, outside of the EU additional requirements exist in case of sensitive sectors. The panel re-emphasized that the EIB tracks and monitors sub-projects

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<sup>1</sup> [Excluded activities list](#) as updated from time to time is available on EIB's website

financed through intermediaries, and can ask the intermediary for additional information or simply refuse the allocation.

One participant enquired about the risk of sub-projects outside the EU and how the EIB and the FI ensure that animal welfare standards are applied in countries where national legislation is less stringent. A related question was asked by another participant stating that 183 countries are members of the World Organisation for Animal Health (OIE) and whether the EIB requires final beneficiaries to apply these standards as a minimum. The EIB explained that animal husbandry is considered a sensitive sector outside of the EU, and thus the agriculture sector related to animal husbandry is for the most part excluded from intermediate financing. However, where small-holder farmers are financed, the FI is required, as agreed in the legal documentation between the FI and the EIB to ensure that the final beneficiary applies the Five Freedoms of Animal Welfare as the OIE standards only apply at country level and not a FI or sub-project level. Furthermore, small-holder farmers are encouraged to promote the adoption of Good Agricultural Practices, including responsible husbandry and aquaculture and provision of appropriate care as spelled out in the OIE Section 7 of the terrestrial code.

The next participant wanted to know whether the EIB **will directly ensure and/or verify if projects financed by FIs comply with the Standards**, or whether it will limit itself to knowing the FI has the *capacity* to ensure compliance. The participant noted that the Standard as currently worded only ensures that the FI has the capacity to assess environmental and social risks, but does not ensure compliance. The panel explained that the EIB requires FIs to comply with relevant legislation and the Standard and EIB policies for the sub-project that the Bank is financing. The panel also explained that the capacity of the FIs to on-lend in line with EIB's policies and Standards is assessed at the appraisal stage and, when policies and procedures are not in place, FIs are asked to fill the gaps and the FI may benefit from EIB's technical assistance to build capacity.

A representative of an NGO enquired as to why the phrase "where relevant" in **paragraphs 4a and 4b** was necessary, and asked whether there were circumstances where the EIB's safeguards would not be relevant in sub-projects. The panel explained that "where relevant" was referring to cases of double intermediation in sub-projects financed by the EIB and to cases where not all requirements would apply to all intermediated finance, in particular for the specific requirements.

Another representative of an NGO asked why the EIB decided not to undertake **due diligence on all higher-risk sub-projects** itself, as the EBRD has committed to in their 2019 Environmental and Social Policy (ESP). Pointing to their previous response, the panel explained that in projects with likely significant environmental and social impacts, the EIB undertakes a due diligence. In addition, most high-risk sub-projects are excluded from the beginning, and as such the EIB is unlikely to finance high-risk projects through intermediated lending.

Responding to the panel, the representative opined **that the exclusion list was not sufficient** and that Standard 11 fails to have clear additional requirements beyond the exclusion list. The participant pointed to their work with the European Bank for Reconstruction and Development (EBRD), which changed their requirements following issues with hydropower projects with significant impacts. The participant suggested the EIB learn from its IFI peer. The EIB explained that EIB due diligence requirements are set out in the E&S Policy, not Standard 11 (which sets out the requirements for FIs). The panel further explained that the EIB uses a risk-based approach to exclude high-risk sub-projects from intermediated financing to the largest extent possible and acknowledged that the respective Section of the Policy might need further clarifications.

A participant enquired as to why the EIB resigned from meeting the **transparency** standards of other institutions, which require disclosure of the name, sector, and location of the sub-project financed through intermediated lending. The participant noted that without this transparency, there is no possibility for affected communities to be heard and exercise their right to make use of complaints and grievance

mechanisms. The panel explained that the Bank cannot impose rules and legislations in countries and oblige FIs to provide this level of transparency. The panel reminded participants that the subject of the webinar was not to discuss the transparency rules that apply to the Bank, but rather to establish what FIs should be disclosing to the public per relevant legislative requirements. Nevertheless, the panel encouraged participants to provide clear examples of cases where names, sectors, and locations of sub-projects have been published by other IFIs.

An NGO representative reminded the panel that their organisation had provided evidence to the EIB that the EIB was not matching best practice of peers on disclosure of information related to sub-projects supported by intermediated lending. The panel reminded participants that information on sub-projects can be disclosed by the Bank upon request and in line with the EIB Transparency Policy (EIB-TP). They then noted that this question concerned the EIB-TP, which is currently under revision, rather than Standard 11.

One representative of a multilateral development bank (MDB) requested information on how overall **disclosure and reporting under the Sustainable Finance Disclosure Regulation (SFDR) and Corporate Sustainability Reporting Directive (CSRD)** will be applied in **non-EU and neighbouring countries**. Pointing to ongoing discussions at EU level and a recently delegated act on Article 8 of the EU Taxonomy Regulation, the panel explained that this is an emerging landscape. For non-EU and neighbouring countries, the EIB has introduced requirements of disclosing policies and procedures on the integration of sustainability risks in their investment decisions at FI level. The EIB explained that it is following this fast-changing regulatory landscape very closely and considering how to implement new requirements under delegated act on Article 8.

Also on the subject of EU versus non-EU investments, one participant asked why **the same Standard should be used for high-capacity FIs as for FIs in weakly-governed, low-capacity non-EU Banks**. The panel explained that the EIB has different requirements in terms of due diligence and disclosure for non-EU counterparts operating in countries with less advanced legislative and regulatory frameworks. While the Standard is designed to cover both geographies, as are the other 10 Standards, their practical implementation requires adaptation to the operating environment.

The same participant asked about **inconsistencies between what the panel was saying and the Standard itself**. The aim of the Standard to have high requirements was not reflected in the language used in Standard 11. The participant enquired as to where these “strong” requirements, for example regarding due diligence, would be written. The panel clarified that Standard 11 does require FIs to have an environmental and social management process, which ensures the FIs’ capacity to assess, monitor and manage environmental and social risks and impacts of sub-projects. The exact requirements depend on the nature, size, location, sector, etc. of the sub-projects undertaken.

The participant thanked the EIB panel for the response, but highlighted that reviewing procedures is not the same as reviewing their implementation. The participant asked whether **the EIB will review and publish the Environmental and Social Impact Assessments (ESIA) and expressed concern about the incentives that FIs have to be rigorous**. The panel explained that this is clarified in section 4.14 of the E&S Policy, which explains that the work done by the FI is complemented by EIB internal procedures. With regard to publishing the ESIA, the panel explained there were two categories; (1) projects excluded from being financed by FIs and (2) those that are referred back to the Bank for due diligence. In the case of latter category (2), it is the responsibility of the competent authorities to publish the ESIA, in line with the legislation inside the EU. Outside of the EU, the FI is requested to produce evidence that the ESIA has been published.

A representative of an MDB noted that consultants coming from outside the region often do not have the right expertise or knowledge of legislation and procedures in the region. The EIB explained that technical assistance is provided when there is no capacity for the FI to comply with the Bank’s requirements. The

panel explained that the EIB tries to be as inclusive as possible and looks for a mix of international and local expertise, but noted that they acknowledge the value of local knowledge.

A representative of an NGO asked the panel to explain **how the EIB implements its Energy Lending Policy (ELP) and EIB Group Climate Bank Roadmap (CBR) commitments through FIs**, and why this is not properly spelled out in Standard 11. The panel explained that while not directly addressed in Standard 11, this falls under FI requirements and is implemented via the documentation concluded between EIB and the FI, via clauses that ensure inter alia the application of ELP restrictions for mobile assets for transport. The EIB has spelled out its Paris alignment commitments in the CBR, which in turn has been translated into its approach in FI loans by forming part of contractual agreements. In addition, FIs can choose to commit part of the funds to climate/environmental projects (“green windows”).

A representative of a national development bank enquired as to whether the Bank requests FIs to implement **an external grievance mechanism** accessible to stakeholders and project-affected persons. The panel explained that the Bank does indeed require a grievance mechanism to be in place, specifically for all equity fund operations. The grievance mechanism is commensurate to the level of risk of potential sub-projects and or sub-investments. Along similar lines, a participant asked whether communities affected by FIs have access to the EIB Group Complaints Mechanism (EIB-CM), and how, without disclosure, the EIB proposed communities to be able to redress operations or have the right to be heard. The EIB explained that communities have the right to access the EIB-CM. All EIB operations with financial intermediaries are published on the EIB website, which includes the names of the financial intermediaries and information on how to lodge a complaint.

A participant had a question on **the definition of FIs**, namely whether multi-national corporations with financial branches can seek FI funding through these branches to circumvent the requirements of the other Standards. The panel pointed to the first paragraph in the Standard<sup>2</sup>, which includes all kinds of intermediaries and states that intermediated finance is used to finance eligible smaller projects that cannot be financed directly. Financial branches of multi-national corporations would not be eligible as FIs.

The final question came from a representative of a management consulting firm who requested information as to where the responsibility would lie for monitoring and ensuring FIs abide by requirements in cases of double intermediation. The panel explained that the EIB concludes the finance contract with the direct borrower, and this includes the obligation that the requirements be passed to the next level of intermediaries and final beneficiaries on a contractual basis.

### Concluding remarks

The EIB thanked participants for their constructive participation, which allows the review of the ESSF to benefit from the expertise of a wide range of individuals and organisations. The EIB reiterated the invitation to submit written contributions by 6 August 2021 on the public consultation [website](#). After this date, the EIB will start publishing the written contributions received. 15 working days ahead of the Board of Directors meeting during which the revised ESSF will be discussed, a draft revised EIB-ESSF, reasoned responses to the contributions and a draft consultation report will also be published.

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<sup>2</sup> Paragraph 1 states that “the EIB uses intermediated finance<sup>1</sup> through a wide range of financial intermediaries to support eligible smaller projects undertaken by SMEs, midcaps and public entities that cannot be financed directly.”