



European Bank  
for Reconstruction and Development



# Environmental and Social Policy

November 2024

Report on the Invitation  
to Comment

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# Acronyms and abbreviations

<b>AA</b>	appropriate assessment
<b>AMR</b>	antimicrobial resistance
<b>CAPSEAH</b>	Common Approach to Protection from Sexual Exploitation, Abuse and Harassment
<b>CSO</b>	civil society organisation
<b>the EBRD, the Bank</b>	European Bank for Reconstruction and Development
<b>DAI</b>	Directive on Access to Information
<b>E&amp;S</b>	environmental and social
<b>EIA</b>	environmental impact assessment
<b>ESIA</b>	environmental and social impact assessment
<b>ESAP</b>	environmental and social action plan
<b>ESDD</b>	environmental and social due diligence
<b>ESMP</b>	environmental and social management plan
<b>ESMS</b>	environmental and social management system
<b>ESP</b>	Environmental and Social Policy
<b>ESR</b>	Environmental and Social Requirement
<b>FI</b>	financial intermediary
<b>FPIC</b>	free, prior and informed consent
<b>GBF</b>	Global Biodiversity Framework
<b>GBVH</b>	gender-based violence and harassment
<b>GFC</b>	Global Framework on Chemicals
<b>GHG</b>	greenhouse gas
<b>GIP</b>	good international practice
<b>GMO</b>	genetically modified organism
<b>ILO</b>	International Labour Organization
<b>IPAM</b>	Independent Project Accountability Mechanism
<b>IUCN</b>	International Union for Conservation of Nature
<b>MDB</b>	multilateral development bank
<b>MFI</b>	multilateral financial institution

<b>MSME</b>	micro, small and medium-sized enterprise
<b>NPL</b>	non-performing loan
<b>OHCHR</b>	Office of the High Commissioner for Human Rights
<b>OSH</b>	occupational safety and health
<b>PPE</b>	personal protective equipment
<b>PR</b>	Performance Requirement
<b>PRI</b>	Principles for Responsible Investment
<b>PSD</b>	Project Summary Document
<b>RMS</b>	Responsible Minimum Standards
<b>SLAPP</b>	strategic lawsuit against public participation
<b>SME</b>	small and medium-sized enterprise
<b>SOGIESC</b>	sexual orientation, gender identity, gender expression and sex characteristics
<b>TCFD</b>	Task Force for Climate-related Financial Disclosures
<b>TFP</b>	Trade Facilitation Programme
<b>WHO</b>	World Health Organization

# 1. Introduction

The European Bank for Reconstruction and Development's (EBRD) Environmental and Social Policy (ESP) details the commitment of the Bank's founding agreement "to promote in the full range of its activities, environmentally sound and sustainable development".<sup>1</sup> The Policy is subject to review at least every five years. The Bank, therefore, will be publishing a new policy in 2024, to take effect on 1 January 2025. The Bank's Environment and Sustainability Department is responsible for the review process and the Board of Directors is responsible for the final decision on the policy.

As part of the review of a governance policy, the Access to Information Policy requires the Bank to consult with stakeholders. This Report on the Invitation to Comment provides a summary of the stakeholder consultation process in drafting and finalising the 2024 ESP. More specifically, this report:

- outlines the EBRD's objectives and approach to stakeholder consultation during the review process
- identifies key stakeholder groups with which the EBRD has engaged
- details the means through which the EBRD's external stakeholders were engaged throughout the drafting and finalisation of the ESP, as well as the platforms through which these groups were able to provide input throughout the process
- provides a summary, as well as detailed records, of all public comments received
- details how stakeholder feedback was taken into account in finalising the 2024 ESP
- outlines the next steps in finalising and disclosing the draft policy.

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1 See EBRD (1990), "Agreement Establishing the EBRD", Paris. Available at: [ebrd.com/news/publications/institutional-documents/basic-documents-of-the-ebrd.html](https://www.ebrd.com/news/publications/institutional-documents/basic-documents-of-the-ebrd.html).

## 2. Objectives and approach

The goal of consultation on the policy was to provide to interested parties and those potentially affected by the Bank's operations with the opportunity to participate in and provide input on the development of the 2024 ESP. Important considerations included:

- allowing for dialogue in the key regions in which the Bank operates and in the principal languages spoken in the economies where the Bank operates
- taking care to reach stakeholders representative of the full range of issues covered in the ESP, the types of project financed by the Bank, and the economies in which the Bank works
- consulting with a cross-section of stakeholders, including members of the public or public groups who might be affected by or have an interest in EBRD projects, national governments, civil society organisations (CSOs) and Bank clients
- defining clear channels through which stakeholders could raise questions or concerns in relation to the ESP and the policy review process
- developing a process whereby all stakeholder comments were reviewed and considered in the final revision of the draft policy
- defining a clear mechanism for disclosing the results of the consultation.



## 3. Stakeholders

Key stakeholders in the review process included:

- **clients:** beneficiaries of EBRD investments in both the public and private sectors
- **academia:** representatives of academic institutions and think-tanks focused on issues of relevance to the ESP review
- **CSOs:** non-governmental organisations and institutions that represent the interests of the citizenry in the economies where the EBRD operates and internationally
- **consultants:** private-sector organisations that support the EBRD and its clients in implementing the ESP
- **industry organisations:** national, regional and international organisations representing industrial sectors in which the EBRD invests
- **international organisations:** global organisations with an interest in the environmental and social impacts of the projects in which the EBRD invests, including the secretariats of relevant conventions, the United Nations Environment Programme, the World Health Organization, directorates of the European Commission, the International Union for the Conservation of Nature (IUCN) and the Council of Europe
- **labour and health and safety organisations:** trade unions and other labour organisations, as well as groups focused on the health and safety of workers and communities affected by projects financed by the Bank
- **shareholders:** authorities representing the EBRD's shareholders, both inside and outside the economies in which the EBRD operates, whose representatives sit on the Board and will ultimately approve the 2024 ESP.

## 4. The consultation process

### Engagement platforms

Specific engagement platforms used to engage the EBRD's external stakeholders throughout the policy development process included:

- **A public consultation web-hub:** A dedicated web-hub as part of the EBRD corporate website, to serve as a consolidated base for the communication of information on the ESP review with stakeholders. This consultation hub advertised upcoming engagement events, provided access to key information and materials on the ESP review, and allowed for the submission of comments and suggestions on issues to be considered as part of the review.
- **Public consultation meetings:** Six public consultation meetings were held in 2024 across the EBRD's regions and at headquarters.
- **Focus-group meetings:** Meetings were held with groups of stakeholders interested in specific issues addressed in the ESP review, either as standalone meetings or as a subcomponent of regular meetings. Meetings were held in person and in hybrid format using Microsoft Teams and Zoom.
- **Bilateral meetings:** One-to-one meetings were held with key stakeholders, where relevant.
- **Civil society engagement:** Separate consultation events were held for CSOs at the EBRD annual meetings in Samarkand on 16 May 2023 and in Yerevan on 14 May 2024.
- **Client and consultant survey:** A survey was developed to garner client feedback on the proposed changes to the ESP.
- **Written feedback:** A dedicated email address was set up for the ESP review (ESPReview2024@ebrd.com), through which the public was able comment directly.
- **Social media:** The Bank used its existing communications channels, including LinkedIn, Facebook, Instagram and X (formerly, Twitter), to convey information on the review and to announce upcoming consultation events.

It was possible to participate confidentially through any of these platforms at the request of an individual or organisation.

### Specific stakeholder engagement activities

The review process commenced in early 2023 and provided a number of opportunities for stakeholder input. There were two principal stages of stakeholder input to the review process:

- **Stage 1 – feedback on the 2019 ESP:** In Q1 2023, the Bank sought views on how the existing ESP had been implemented and what changes might be considered in light of stakeholder experience.
- **Stage 2 – disclosure of the draft 2024 ESP:** On 25 March 2024, a draft revised policy was disclosed on the Bank's website and comments on the revised draft were sought over a period from 25 March 2024 to 17 May 2024.

## Stage 1 – feedback on the 2019 ESP

In early 2023, the Bank requested comments on the 2019 ESP and its Performance Requirements (PRs). This review focused on:

- the performance of the 2019 policy on past EBRD-financed projects
- changes in good international industry practice and legislation
- changes to similar environmental and social policies of other multilateral financial institutions (MFIs); this involved benchmarking MFI performance requirements with the 2019 ESP.

The review aimed to identify material issues with the 2019 ESP and explore opportunities for improvement that could be integrated into the 2024 ESP. The outcome of the review was used to prepare a draft revised ESP and Performance Requirements (PRs), renamed Environmental and Social Requirements (ESRs). The EBRD launched the ESP review process by issuing a concept note and stakeholder engagement plan on the dedicated policy review web-hub on 25 April 2023.

**Table 1 Stage 1 overall policy consultation activities**

Time period	Consultation activity	Stakeholders	Stakeholder engagement platform	Number of participants
25 April 2023	AIP and ESP review launch webinar	All external stakeholders	Online webinar	81
3 May 2023	EBRD consultation on social issues	All external stakeholders	Online webinar	70
4 May 2023	EBRD consultation on environmental issues	All external stakeholders	Online webinar	50
5 May 2023	EBRD consultation on access to information, engagement, reporting and disclosure	All external stakeholders	Online webinar	47
24 May 2023	AIP and ESP review: consultation on PR 9 (on financial intermediaries)	All external stakeholders	Online webinar	49

Consultation was also undertaken on specific topics, as summarised in Table 2.

**Table 2 Stage 1 topic-specific consultation activities**

ESR	Time period	Consultation activity	Stakeholders	Stakeholder engagement platform
ESP and ESRs	28 March 2023	Meeting to present the key issues for consideration in the ESP review	ESAC	Meeting
ESR4	26 April 2023	Meeting to discuss road safety	EASST	Meeting
ESR 2, ESR 4	21 April, 9 May 2023	Meeting to discuss trade union views	ITUC	Meeting
ESR 2, ESR 4	2 May, 10 May 2023	Meeting to discuss supply-chain issues	ILO/supply chain	Meeting
ESP, ESR 1, ESR 2, ESR 4, ESR 5, ESR 10	5 April 2023	Meeting to discuss human rights	Coalition for Human Rights in Development (including Bankwatch and other NGOs)	Meeting

<b>ESR</b>	<b>Time period</b>	<b>Consultation activity</b>	<b>Stakeholders</b>	<b>Stakeholder engagement platform</b>
<b>ESR 4</b>	14 April 2023	Meeting to discuss health and safety	EU OSHA	Meeting
<b>TBC</b>	20 April 2023	TBC	BWI	Meeting
<b>ESR 8</b>	27 April 2023	Feedback on ESR 8 on cultural heritage	Mott Macdonald, Heritage Western Cape, Quercus Heritage, SEARCH	Meeting
<b>ESR 8</b>	04 May 2023	Feedback on ESR 8 cultural heritage	ADB	Meeting
<b>ESR 8</b>	05 May 2023	Feedback on ESR 8 cultural heritage	UK Certified Institute for Archaeologists	Meeting
<b>ESP, ESR 1, ESR 2, ESR 4, ESR 5, ESR 10</b>	09 May 2023	Meeting to discuss human rights	UN OHCHR	Meeting
<b>ESP</b>	10 May 2023	Meeting to discuss the ESP	Equator Principles Secretariat	Meeting
<b>ESP and Access to Information Policy (AIP)</b>	16 May 2023	Meeting to discuss the ESP, the AIP- and the Directive on Access to Information (DAI)	CSOs	Meeting in Samarkand, Uzbekistan
<b>ESP, ESR 1, ESR 2, ESR 4, ESR 5, ESR 10</b>	24 May 2023	Focused group consultation on human rights	Human rights experts and UN OHCHR representatives	Meeting
<b>ESP and ESRs</b>	24 May 2023	MFI Working Group on Environmental and Social Standards policy session	MDBs	Meeting
<b>ESP and ESRs</b>	8 April 2024	Remedy and retaliation	CSOs	Meeting/Virtual
<b>ESP and ESRs</b>	15 April 2024	Meeting with the European Commission to discuss comments	European Commission	Meeting in Brussels
<b>ESP and ESRs</b>	19 April 2024	Meeting with US-based CSOs	CSOs	Meeting in Washington
<b>ESP, ESR 10</b>	30 May 2024	EBRD/OHCHR safeguarding policies and digital risks meeting	OHCHR	Meeting

Some 201 client surveys and 161 consultant surveys were issued and 121 and 90 respective responses were received.

EBRD management has provided regular updates on the consultation review to EBRD Board members and received comments and feedback from shareholders. In addition, the EBRD held internal consultations throughout 2023 and the first half of 2024. The purpose of these meetings was to allow EBRD staff and the team that engages with the ESP and its implementation to share their experiences and thoughts on the review process with the ESP Review team and its consultants.

The feedback received from the participants proved instructive as the EBRD embarked on the next stage of the process, namely, drafting the revised 2024 ESP.

## Stage 2 – disclosure of the draft 2024 ESP

In accordance with the EBRD Directive on Access to Information (DAI), the draft revised ESP was published on the EBRD's website on 25 March 2024.

The draft policy was issued in English, alongside a document summarising the key proposed changes and details of the public consultation. This summary document was available in English, as well as the main languages spoken in the cities selected for policy consultation events: Arabic, Armenian, French, Turkish, Serbo-Croat, Russian and Ukrainian.

To inform stakeholders of the disclosure of the draft policy, public comment period, public consultation events and dedicated emails addresses, the following steps were taken:

- **Social media promotion:** A social media campaign was launched, including a news item posted on EBRD.com and communications via the Bank's LinkedIn and X accounts.
- **Targeted email invitations:** Invitation emails were sent for each public consultation event based on an invitation list created with input from various internal EBRD departments, such as the Civil Society Engagement Unit, and the Bank's Regional Offices.

The publication of the draft policy started a minimum 45-day public comment period, in line with the requirements of the 2019 DAI. During the disclosure period (which lasted for 53 days until 17 May 2024), six stakeholder consultation meetings were held, one at the Bank's headquarters in London and the other five focused on regions where the EBRD operates (Central Asia, the southern and eastern Mediterranean [SEMED], the Western Balkans, Ukraine and Türkiye). In addition, a dedicated session was arranged with CSOs at the EBRD Annual Meeting and Business Forum in Yerevan, Armenia.

These locations were selected to allow for broad geographical coverage across the EBRD's regions of operation, with a focus on specific countries where the Bank has a large portfolio of investments. These events were generally well attended, with an average of 39 people per event.

Each event covered the Bank's ESP and Access to Information Policy.

The Policy was discussed in a dedicated two-hour session consisting of a 15-minute presentation of the changes made to the 2019 draft version and 1 hour 45 minutes of open discussion, during which participants were invited to raise questions and to comment, to which EBRD representatives responded. The consultations were held under Chatham House Rules, meaning such comments have not been attributed to specific individuals or organisations in this report.

Anonymous comment boxes were also made available at each hybrid event for participants who did not want to raise questions in the plenary session. Participants were also able to participate anonymously by dialling into the event via a dedicated and confidential web-based application, through which they were also able to raise comments and questions. These were read out by the meeting facilitators and answered in the room by the EBRD representatives.

**Table 3 Public consultation meetings on the draft 2024 ESP**

Date	Country/region	Format	Languages	Number of attendees
16 April 2024	UK, London	Hybrid	English	73
18 April 2024	Central Asia	Virtual	English/Russian	37
22 April 2024	SEMED	Virtual	English/Arabic	7
24 April 2024	Ukraine	Virtual	English/Ukrainian	18
29 April 2024	Western Balkans	Virtual	English/Serbo-Croat	14
10 May 2024	Türkiye, Istanbul	Hybrid	English/Turkish	36
14 May 2024	Armenia, Yerevan	CSOs	English/Russian/Armenian	c.50

The Bank also welcomed written comments, feedback and other insights relevant to the review through the following channels:

- a dedicated email address: [policyreview2024@ebrd.com](mailto:policyreview2024@ebrd.com)
- an online feedback form on the 2024 AIP review website
- in writing to any of the Bank's Regional Offices.

## 5. Summary of public comments

Following the closure of the public consultation period, all comments were reviewed and the potential to make changes to the ESP was evaluated. Written submissions by email consisted either of individual comments received in the body of an email or document submissions covering a number of points. Document submissions were broken down into individual comments on specific aspects of the ESP. These and other emailed comments were then captured in a table and grouped into similar topics and themes, where relevant.

A summary of frequently raised comments and issues in relation to the ESP and ESRs is presented below. A more detailed presentation of key comments received, as well as EBRD responses, can be found in Annex A. A summary of changes made to the policy as a result of public feedback can be found in Section 6 of this report.

General positive feedback was received in relation to:

- progress towards alignment with international responsible business conduct standards, such as the UN Guiding Principles on Business and Human Rights (UNGPs) and the Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises
- new references to impacts associated with digitalisation and data privacy
- the inclusion of definitions for human rights, social matters (with specific reference to occupational safety and health) and gender-based violence
- strengthened language on gender and stronger requirements for clients on reprisals and gender-based violence and harassment (GBVH)
- setting out the importance of early consultation and protection against retaliation
- integrating contextual project risk assessments, including throughout the supply chain
- the much more explicit requirement of clients to provide remediation for negative impacts
- safeguarding the assurance process; requiring remedial actions and the consideration of retaliation risk
- reference to contextual risks as an important layer of analysis
- enhancing disclosure and stakeholder engagement practices, including stronger provisions on client consultation
- the EBRD's commitment to respecting human rights in its projects
- self-employed workers being explicitly covered by the Fundamental Principles and Rights at Work
- the inclusion of forced evictions along with forced and child labour in the Exclusion List
- the inclusion of worker accommodations in ERS 4, including specific provisions detailing minimum requirements
- language requiring the establishment of an occupational health and safety committee with elected worker representatives
- inclusion of the concept of universal design and access requirements for buildings
- a new reference to valuing natural capital
- the inclusion of biodiversity loss and the Global Biodiversity Framework (GBF)
- the inclusion of text on free, prior and informed consent (FPIC) and clarifications of language in ESR 7
- additional detail on vulnerable people, including recognition of the need to address discrimination on the grounds of sexual orientation, gender identity, gender expression and sex characteristics (SOGIESC) and of people's "political views and affiliations".

A number of proposed changes and queries were received that apply across the ESP and ESRs, as follows:

### **Due diligence process**

- The EBRD should enhance its own environmental and social due diligence, particularly on human rights, and provide more details on the due diligence and monitoring process.

### **Remedy and responsible exit**

- Articulate the EBRD's expectations for clients to remediate adverse impacts they have caused or contributed to, in line with the UNGPs, the OECD Guidelines for Multinational Enterprises, or the Office of the High Commissioner for Human Rights (OHCHR) report on remedy in development finance.
- The EBRD should commit to providing remedy where its actions or omissions contribute to harm. Consider the establishment of a contingency liability fund.
- Financial intermediaries (FIs) should be required to remediate adverse impacts and contribute to remediation efforts where they have contributed to harm.
- Provide additional guidance on the principles underpinning responsible exit.

### **Retaliation**

- CSOs raised concerns about the shrinking civil space in some of the economies in which the EBRD operates.
- Communicate unequivocal zero tolerance policy against reprisals by Bank clients, with specific ramifications for financing, and recognise strategic lawsuits against public participation (SLAPPs) as a form of reprisal.
- Strengthen the EBRD's role in assessing retaliation risk, preventing retaliation and responding to retaliation when it happens.
- Ensure that there are mechanisms in place to report misconduct and afford protection to independent experts and advisory panels who report cases.

### **Human rights**

- Introduce explicit reference that the EBRD will respect human rights in projects financed by the Bank in accordance with the UNGPs, the International Bill of Human Rights, the OECD Due Diligence Guidance for Responsible Business Conduct and Multinational Enterprises, the International Labour Organization's (ILO) ten core conventions, and the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy.
- Specify the leverage that the EBRD and its clients can deploy to address human rights risks. This should include all available forms of leverage.
- Specify whether and how human rights considerations are explicitly considered as part of the contextual risk analysis.
- Expectations for FIs in relation to human rights should be clearer.

### **Child safeguarding**

- Add provision for child safeguarding.

### **Animal welfare**

- Animal welfare should be meaningfully addressed within the EBRD's policies, practices and procedures. Include reference to the Farm Animal Responsible Minimum Standards (FARMS) Initiative's Responsible Minimum Standards (RMS) as best practice.

### **Management grievance mechanism**

- Concerns that another "compliance mechanism" could dilute the effectiveness of the Independent Project Accountability Mechanism (IPAM) and create confusion. Further details are required on the proposed new



mechanism. Propose a separate consultation on a management-level grievance mechanism, including purpose, processes, protections (including against reprisals) and the relationship to IPAM.

- Strengthen references to IPAM and the role it plays within the EBRD's accountability system.

## **Disclosure**

- Multiple requests for more environmental and social disclosure: Category B ex ante and ex post, environmental and social action plans (ESAPs), Project Summary Documents (PSD) updates.
- Require disclosure of greenhouse gas (GHG) emissions data: (i) 120 days prior to financing decisions: project GHG emissions, GHG alternatives analysis, GHG mitigation hierarchy analysis and GHG mitigation measures/proposed mitigation hierarchy; (ii) annual GHG emissions that each project monitors and reports to the EBRD on the Bank's website. Public disclosure should include Scope 1, 2, and 3 emissions.
- Clarify and enhance disclosure commitments for transactions falling under the category of "other financial instruments".
- Clarify how "significant impact" will be measured with regard to disclosure requirements for Category B projects and why only biodiversity or land acquisition impacts are specifically called out.

## **Financial intermediaries**

- Specify the various kinds of financial instrument that are intended to be included in the category "other financial instruments" and identify distinctive features pertaining to the environmental and social risk management of each.
- Require FI transactions, including all sub-projects, to meet the requirements of ESRs 1 through 10.

A summary of the comments per ESP/ESR are summarised below.

## **Environmental and Social Policy**

Frequently raised subjects in relation to the ESP include:

### **Definitions**

- Include a definition of remedy, reprisals, good international practice (GIP) and contextual risk.
- Review human rights, gender identity, vulnerable people and mitigation hierarchy definitions.
- Include a definition of a sub-contractor with contractors.

### **EBRD commitments and ambitions**

- Clarify how ambition is distinguished from commitments, roles and responsibilities.
- Strengthen language on the EBRD's nature-related commitments and ambitions, including reference to relevant commitments in: 1) the COP 26 Joint Statement by Multilateral Development Banks (MDBs) on Nature, People and Planet; 2) the EBRD's Approach to Nature, launched at COP 28.

### **Common approaches**

- Require a common approach to the assessment, development and implementation of projects co-funded by other financial institutions to be consistent in content and outcomes with the EBRD's ESP. Clarify that whichever standards are more stringent will be used.

### **Legislation and guidance**

- The Bank should seek closer alignment with the European Union (EU) regulatory system.
- Clarify that if there are contradictions or inconsistencies between national legislation and international treaties and conventions, the EBRD must be guided by the international treaties and conventions.

## Remedy

- Adopt a mitigation hierarchy that prioritises remediation over compensation or offsetting.
- Add a commitment that the client will ensure that the cost of addressing environmental and social risks and impacts are considered part of a project's costs.
- Require remedial measures in cases of material non-compliance. Consider a client's failure to remediate social and environmental harm as grounds for debarment.

## Stakeholder engagement

- Focus on the EBRD's own responsibilities and approaches in stakeholder engagement. Introduce a standalone section on stakeholder engagement with information on how the EBRD consults stakeholders across the investment lifecycle.
- Proactively seek information from rights holders, at least for projects outside the EU.

## Exclusion List

- Explicitly prohibit the financing of and guarantees/insurance for all upstream, midstream and downstream fossil-fuel projects, as well as projects that are functionally related to fossil fuels.
- Various proposals for additions to the Exclusion List, including primary forest biomass, waste incineration, gasification and pyrolysis, production of, trade in or use of asbestos, and so on.

## Climate

- Incorporate the EBRD Paris Agreement methodology into the ESP.
- Explicitly include renewables/energy projects that promote a just and equitable transition as a focus area for the EBRD's engagement in its climate commitments wherever feasible.
- Ensure the adoption of a mitigation hierarchy for GHG emissions and climate change impacts. Remove the use of carbon offsets as permissible mitigation.
- Only absolute or gross, and not relative GHG emissions, must be used as the EBRD's threshold for when a client/borrower is required to quantify and publicly disclose GHG emissions.

## Digitalisation

- There should be a separate ESR on digitalisation.
- The definition of "digitalisation projects" should be amended to reflect not only privacy and data-security considerations, but other relevant human rights risk factors potentially associated with digital projects.
- Include stronger emphasis and examples of mitigation strategies to guide clients on the use of technologies in sectors such as agriculture and those related to environmental protection.
- Address the critical intersection of climate change and artificial intelligence (AI)/digitalisation.

## Annex 2

- Include a requirement for projects located in sensitive areas of international, national or regional importance to conduct an environmental and social impact assessment (ESIA).

## **Environmental and Social Requirement 1: Assessment and management of environmental and social risks and impacts**

Frequently raised subjects in relation to ESR 1 include:

### **Environmental and social assessment**

- Introduce amendments to ensure the EBRD adequately assesses, avoids and mitigates GHG emissions and their impacts prior to financing and guarantee decisions. Require an assessment of a project's Scope 1, 2, and 3 emissions. Require analysis of alternatives and climate change cumulative impacts.
- Include a requirement for the client to exercise all available forms of leverage to prevent and mitigate supply-chain risks and remediate impacts as necessary.

### **Digitalisation**

- Expand the list of impacts associated with digitalisation by including other human rights risks documented in digital activities. Include more details on how impact assessment methodologies can be implemented in the context of digital activities and benchmark against relevant international human rights standards.
- Provide bespoke and tailored guidance on identifying impacts, stakeholder engagement, grievance resolution, and so on for projects and clients that rely heavily on the use of digital technologies.
- Clarify that EBRD clients must apply whichever is more stringent: national legislation or GIP.

### **Remedy**

- Include a requirement for ESAPs and Environmental and Social Management Plans (ESMPs) to include a budget for corrective action.

### **Supply chain**

- Include a reference to both upstream and downstream value chains to ensure that the approach is aligned with the baseline requirement established in the UNGPs.
- Require clients to provide maps of their suppliers' workers and worksites.
- Require disclosure on forms of employment and collective bargaining coverage.
- Where necessary, the client will assess whether terminating the relationship with a supplier would exacerbate the environmental and social risks and impacts identified.

### **Project monitoring and reporting**

- Communication with workers should include workers and trade unions at a the local, national, and international level.

## **Environmental and Social Requirement 2: Labour and working conditions**

Frequently raised subjects in relation to ESR 2 include:

### **General**

- Gender equality and SOGIESC warrant dedicated attention within a standalone ESR.
- Cover the Common Approach to Protection from Sexual Exploitation, Abuse and Harassment (CAPSEAH).

### **Scope**

- The borrower/client should ensure that labour protections are provided to project workers and project-affected persons and communities that are at risk of deviating from standardised forms of employment. Recommend introducing language that explicitly prohibits disguised employment.

## **Requirements**

- Include the ILO Codes of Practice, which set out practical guidelines for public authorities, employers, workers, enterprises and other bodies.
- Propose a multi-stakeholder approach to audits with the involvement of workers' representatives in labour risk assessments.
- To align with the UNGPs, the general requirement to consider severity in the risk identification process should be limited to prioritisation efforts.

## **Wages, benefits and conditions of work**

- Language should be added to explicitly prevent derogations to make sectoral agreements a reference point, even when the client is not a party to it.
- Include a requirement to provide project workers with a "living wage", not only compliance with minimum wage legislation.
- Clients and borrowers need to make sure that every worker has the right to limitation of maximum working hours, rest periods and paid leave.

## **Working relationships**

- Workers' and their organisations should be included in all stages of a project.

## **Child and forced labour**

- Should reference all relevant ILO indicators.
- Question why the labour risk assessment been limited to child labour, forced labour and OSH, and not the standards in the ILO Declaration.

## **Grievance mechanism**

- Mechanisms should be safe, secure, discreet and anonymous, where necessary, to protect workers, as well as effective.

## **Contracted workers**

- Contracted workers are not included in the Bank's policy on collective dismissals.
- Would prefer greater flexibility to allow for a range of different relationships between employers and subcontractors.

## **Workers' organisations**

- Recommend more specificity with regard to interference, retaliation and anti-union discrimination. The consequences for retaliation against project workers should reference UN Guiding Principle 31. Outlining effectiveness criteria for grievance mechanisms may be helpful.
- Current wording subordinates forms of worker representation and consultation to national law only.

## **Non-discrimination and equal opportunity**

- Include pregnancy in the list of characteristics and factors protected against employment discrimination.

## **Supply-chain workers**

- There should be a requirement for the EBRD to responsibly disengage from projects to ensure that negative environmental and social impacts are not left behind.

## **Environmental and Social Requirement 3: Resource efficiency and pollution prevention and control**

Frequently raised subjects in relation to ESR 3 include:

### **General**

- Develop a new ESR dedicated to climate change/GHG emissions.
- Add references to upcoming regulations, policies and frameworks, such as the future international instrument on plastic pollution, or the Directive on Industry.

### **Scope**

- FI clients should be required to comply with ESR 3.

### **Resource efficiency and circular economy**

- Strengthen references to circular economy and require adherence to the EU waste hierarchy. Add reference to the development and use of business models that increase the circularity of the client's activities.
- Specify that the project-related risks and impacts need to be assessed across whole lifecycle and value chains.
- Place emphasis on the environmental health risks associated with deteriorating and abandoned infrastructure.

### **Pollution prevention and control**

- Recommend strengthening for projects that are subject to environmental impact assessments (EIAs) or ESIAs under the Directive on industry emissions, or similar processes under applicable regulation, by requiring the clients to provide an EIA/EISA report and, where applicable, the competent authority's approval or permit.
- Refer to national legislation and to international treaties, with the most stringent regulation being applicable.
- ESR 3 does not refer to the responsibility to remediate pollution impacts should they occur.
- Strengthen the principle of a "prevention first" approach to the management and safety of hazardous chemicals, substances, materials and wastes.
- Suggest the inclusion of the Global Framework on Chemicals (GFC) and the Bonn High-Level Declaration on Chemicals, as well as the ILO guidelines on handling biological hazards in the working environment to better protect the environment and human health.

### **GHG emissions**

- Further information should be provided on the content of a GHG emissions alternatives analysis that would yield alternatives for the client to consider.
- Require the client to disclose its estimated annual and lifecycle GHG emissions estimates for the project, along with a GHG emissions alternatives analysis and proposed adopted mitigation hierarchy, to the EBRD when any of the following thresholds (20,000 tCO<sub>2</sub>e over a project's lifecycle, 500 tCO<sub>2</sub>e/year, or 500 tCO<sub>2</sub>e during construction) are crossed.
- Recommend that the EBRD require certain projects with larger methane emissions – for example, agriculture, waste or wastewater – to report on methane emissions separately to other GHGs.

### **Waste**

- Recommend referring to the waste hierarchy and highlighting that waste as a source of energy is the least preferred solution.
- Refer to enhanced labelling, record keeping, monitoring and control obligations for hazardous waste.
- Add a requirement to monitor and report waste generated and for the client to ensure that final disposal is undertaken by licensed contractors.

## **Water**

- Rename the section Water and Wastewater, include water quality and the requirements to address water pollution, and wastewater reuse, treatment options and discharging requirements.

## **Pest management**

- Need careful thought on how to include both the permissive use of pesticides in the short term and their phase-out in the medium to long term without the statements being contradictory.
- Include the promotion of alternative approaches or techniques, such as non-chemical alternatives, to pesticides.
- Strengthen the requirement to monitor and report the use of pesticides.

## **Noise and vibration**

- The requirement to meet World Health Organization (WHO) recommended limits is highly questionable. Suggest reference compliance with existing international agreements or with existing EU standards.

## **Environmental and Social Requirement 4: Health, safety and security**

Frequently raised subjects in relation to ESR 4 include:

### **Introduction**

- Recommend the inclusion of a duty to cooperate with different government ministries, between inspection services, with social partners and other stakeholders, and in international partnerships on OSH-related matters.

### **General requirements for health and safety management**

- Text must include “medical and allied care” with a view to maintaining, restoring or improving the health of the injured person and their ability to work.
- The importance of safeguarding improvements with regard to overtime or excess hours as a safety hazard and as a forced labour issue is not fully covered.
- Fatigue risk assessment and fatigue risk control measures should be developed in consultation with workers and their representatives, with demonstrated commitment that it will be supported by the whole organisation.
- Recommend a thorough review, as insurance policies may include several exclusions of coverage related to circumstances surrounding events, accidents or diseases, resulting eventually in the inability to be compensated.
- Opportunity to make explicit mention of the need for the EBRD and borrowers/clients to apply the relevant requirements of internationally recognised standards, such as the World Bank Group Environmental, Health, and Safety Guidelines and other GIP.

### **OSH**

- It would be helpful to specify that if an elected committee or trade union already exists, this language does not undermine its work or any existing collective bargaining agreement.
- Reinforce gender differences in the development of OSH policies and prevention strategies by borrowers/clients, such as the implementation of gender-sensitive OSH risk assessments.
- The current draft places the responsibility for determining safety on the client rather than the worker and does not cover the right for workers to leave an unsafe workplace.
- Clearer language is needed to ensure that contracted and supply-chain workers are covered by OSH protections.
- Where applicable, trade unions should be consulted on matters relevant to project workers.

- Special measures and temporary adjustments may be necessary to ensure safety and health for workers who are pregnant or nursing.

## **GBVH**

- Recommend that the Bank include codes of conduct against GBVH and child sexual exploitation and abuse.

## **Hazardous materials safety**

- More emphasis should be put on the client, considering whether there are safer alternatives or less hazardous substances that can be used as part of the hierarchy of risk controls.

## **Psychosocial risks**

- Welcome the inclusion of mental health and wellbeing as part of due diligence processes and frameworks. The primary response to work-related stress should be to try to prevent it in the first place, with appropriate controls in place to manage cases if prevention is not possible.
- A risk-based approach to these risks should entail the inclusion of psychosocial risk management into workplace design, business operations and the wider corporate risk agenda, irrespective of business context, sector or size.

## **Infrastructure, building and equipment design and safety**

- This section could include a more robust call for the adoption of a prevention-first approach to infrastructure and construction projects and embedding OSH in the design phase of the project.

## **Natural and climate change hazards**

- We applaud the clear and explicit reference to relevant ILO conventions, though note the absence of ILO Violence and Harassment Convention C190.

## **Exposure to disease**

- Stronger focus is needed on the prevention of harm and promotion of health. Recommend the inclusion of a more balanced set of health-related metrics.

## **Security**

- Add language on the use of security forces to suppress labour rights, particularly infringements on freedom of association, protected collective action, including the right to strike, and freedom of movement.

## **Emergency preparedness and response**

- Add language that highlights the importance of considering vulnerable people.
- Recommend that the client report to the Bank and to communities if project security services change from non-government-affiliated to government-affiliated sources.

## **Workers' accommodation**

- It is crucial to ensure national law and ILO standards are upheld.
- Include contractors as needing to meet these requirements.
- Require a code of conduct to be developed for accommodation facilities, and each worker should receive a brief induction training.

## **Environmental and Social Requirement 5: Land acquisition, involuntary resettlement and economic displacement**

Frequently raised subjects in relation to ESR 5 include:

### **General**

- Consider the Dublin Declaration on Fair and Equitable Land Access in your review process.
- Address women and girls' unequal inheritance rights as a component of analyses of the gender aspects of proposed projects.
- Clarify and strengthen the definition of "(in)voluntary".
- Require actions that will help projects to measurably improve the lives and livelihoods of affected persons.

### **Scope of application**

- Include something about the duration of ESR applicability.

### **Land banking**

- The process of land consolidation (concentration) can cause negative impacts on local communities and should be properly considered. The issue of land concentration was highlighted by the Office of the United Nations High Commissioner for Human Rights (OHCHR) in its Benchmarking Study of Development Finance Institutions' Safeguard Policies. The EBRD should assess the level of land consolidation in project areas and require procedural checks in relation to the "willing buyer, willing seller" assumption.

### **Forced evictions**

- Clarify that ESR 5 acknowledges that some projects may generate eviction situations, and that some will be forced evictions and some will be evictions undertaken with the support of local/regional/national authorities and in cooperation with project-affected persons.
- Language should reflect that forced evictions are not always a human rights violation.

## **Environmental and Social Requirement 6: Biodiversity conservation and sustainable management of living natural resources**

Frequently raised subjects in relation to ESR 6 include:

### **General**

- Prioritise funding for projects that actively improve biodiversity (nature-positive investments), such as those that restore natural habitats or integrate natural elements into urban designs.
- More clearly commit to improved biodiversity standards across all projects, including setting measurable goals that ensure projects contribute positively to local ecosystems and offset their value-chain impacts on biodiversity.

### **Objectives**

- Be more ambitious to reflect becoming nature positive. Reference should be made to align with the Kunming-Montreal Global Biodiversity Framework agreed by 196 parties to the Convention on Biological Diversity.

### **Scope of application**

- Include supply-chain operations.



- Cover assessing biodiversity risks and impacts from EBRD funds, policy-based lending, financial products and financial intermediary lending in addition to direct financing.
- Require biodiversity assessments for all projects; in other words, projects in urban areas should also be subject to rigorous biodiversity assessments.

### **Assessment of risks and impacts**

- Impact assessments should consider how the impact of one project may influence or compound the impacts of other, nearby projects.
- Risks should be considered in combination with the risks and impacts of other, relevant, past, present and reasonably foreseeable developments, as well as unplanned (but predictable) activities enabled by the project that may occur later or at a different location.
- Evaluate cumulative, ecosystem-wide impacts prior to awarding financing and prohibit financing of activities that seriously and negatively impact ecosystem integrity.
- Recommend that clients follow GIP on the disclosure of project-related biodiversity data, not use best efforts.

### **Net loss**

- The EBRD should move from a “no net loss” to a “no loss” approach, in line with the Global Biodiversity Framework.

### **No-go areas**

- Adopt no-go areas to categorically prohibit the financing of harmful activities in or near sensitive areas. At a minimum, UNESCO World Heritage sites and Alliance for Zero Extinction sites should be considered off-limits to development activities.

### **Offsetting**

- Restrict the use of offsets. The focus should be on protecting biodiversity and ecosystem viability rather than compensation/offsets/net gains for priority biodiversity features.
- Further clarity is required on what impacts can be “offsetable” and how to assess “like for like”.
- Biodiversity offsetting should include socioeconomic, cultural and spiritual impacts, as well as ecological characteristics.

### **Legally protected and internationally recognised areas of biodiversity value**

- If there are contradictions and inconsistencies in national legislation with international treaties and conventions, the EBRD must be guided by international treaties and conventions.
- The EBRD should follow EU legislation for the projects it finances, including the EU Habitats Directive. This should include reference to appropriate assessment.

### **Sustainable management of living natural resources**

- Antimicrobial resistance (AMR) could be strengthened by referencing principles 6 to 15 of the Codex standards, making explicit reference to responsible farming practices and giving consideration to the responsible use of antimicrobials in plants.
- The EBRD should not be financing the use of genetically modified organisms (GMOs) at all, as they contribute to an already excessive market concentration of agrichemicals and seeds.

### **Supply chains**

- Strengthen provisions with respect to supply chains.

## Environmental and Social Requirement 7: Indigenous Peoples

Frequently raised subjects in relation to ESR 7 include:

### General

- Include a reference to Convention 169 on Indigenous and Tribal Peoples.
- Recommend including a paragraph on land titling.

### Scope

- Recommend separating the concept of whether a group is considered an Indigenous People for the purposes of the policy from the question of whether they are affected by the project.
- All ESRs are potentially relevant, not only the ones listed.

### Assessment

- The EBRD, not the borrower, should decide if a group is an Indigenous People.

### Cultural heritage

- Recommend adding a new paragraph on access protocols in relation to cultural heritage.

### Compensation and benefit sharing

- Recommend adding the concept of collective compensation to protect Indigenous Peoples' collective approach.

### Meaningful consultation and FPIC

- Instead of including both “meaningful consultation” and “FPIC”, we strongly encourage the EBRD to recognise FPIC as a human right of Indigenous Peoples under international law and require FPIC for all financed activities impacting any Indigenous Peoples.

## Environmental and Social Requirement 8: Cultural heritage

Frequently raised subjects in relation to ESR 8 include:

### General

- The assessment process should take into account the provisions of the World Heritage Convention.
- Suggest that the EBRD offer supplemental training materials and guidance documents to staff and borrowers.

### Objectives

- Where impacts on cultural heritage cannot be avoided, the EBRD should require changes to the project and only finance once impacts on cultural heritage are eliminated.

### Chance finds procedure

- The requirement to apply national legislation should apply to the entire complex of cultural heritage, not only chance finds.

### Requirements for specific types of cultural heritage

- Recommend adding requirements for intangible cultural heritage to this section.
- Recommend adding “human remains and funerary items” and “underwater cultural heritage” as additional categories in this section.

## **Requirements – archaeological sites**

- Documentation should be in line with national legal provisions, where applicable.

## **Environmental and Social Requirement 9: Financial intermediaries**

Frequently raised subjects in relation to ESR 9 include:

### **General**

- Should include a reference to consumer financial protection risks.

### **Introduction**

- Specify how the delegation system might look different across financial instruments to better understand the expectations for clients and the EBRD's own responsibilities.

### **Requirements – organisational capacity within the FI**

- FI sub-projects should be monitored in accordance with national law, international law and the ESRs, whichever sets the highest standard.

### **Scope of application**

- Environmental and social (E&S) requirements should apply to equity and debt investments in FIs.
- It should be clear that corporate finance projects are required to comply (not align with) with the ESRs.

### **Referral list**

- Reinstate the FI referral list, which was identified as good practice in a recent publication on FIs, and expand it to include emerging E&S risk areas, such as digitalisation.

### **Stakeholder engagement**

- FIs should be required to consult with stakeholders, notably affected people and their legitimate representatives, as part of their efforts to identify and address contextual risks and project-specific risks, in accordance with UNGPs.
- An effective FI grievance mechanism should be established/reference to IPAM made on site.
- The EBRD's involvement in sub-projects should be disclosed at the project site and published on the Bank's and the FI client's website.

### **Monitoring**

- Further specify the modalities available to exercise leverage over FIs to ensure that FIs remain in compliance with ESMS requirements and that their own due diligence and monitoring is effective.

### **Reporting**

- FIs should be required to disclose core project information and E&S documentation for higher-risk projects and information on the involvement of the EBRD in financing arrangements.

## **Environmental and Social Requirement 10: Stakeholder engagement**

Frequently raised subjects in relation to ESR 10 include:

### **Grievance mechanisms**

- The EBRD should create a policy to on disclosing the presence of its IPAM at community level.

- Require clients to share information about the IPAM with local communities in a manner that is culturally appropriate and in an accessible language and format.

### **Disclosure**

- Include a provision requiring EBRD clients and sub-clients to disclose the Bank's role as a funder of the project during consultations with communities.

### **Meaningful consultation**

- The EBRD, as well as clients, should ensure that consultation is meaningful and leads to a resolution. Enhance the EBRD's accountability.

## 6. Changes made to the Policy as a result of public input

The following section summarises the key changes made to the ESP and ESRs as a result of comments received from the public and EBRD shareholders. Many of the comments received will also be addressed in future guidance documentation.

### Environmental and Social Policy

- Updated definitions for gender equality, vulnerable people and human rights. Included definitions of retaliation and reprisal, sexual exploitation, abuse and harassment, and child sexual exploitation and abuse.
- Included forced and child labour in the exclusion list. Added child safeguarding text and a reference to CAPSEAH.
- Enhanced reference to international standards for human rights and clarified the Bank's integrated approach to human rights as part of its environmental and social appraisal and monitoring processes
- Strengthened the importance of safe meaningful consultation and engagement and added further text on the EBRD's commitment to stakeholder engagement during due diligence and monitoring. Country-level advocacy issues are outside the scope of the ESP.
- Reinstated paragraph on being precautionary in approach to the protection, conservation, management and sustainable use of living natural resources, with an emphasis on no loss of biodiversity.
- Clarified that the EBRD will continue to mainstream support for nature in its policies and reinstated a paragraph from the 2019 policy in relation to taking a precautionary approach to the protection, conservation, management and sustainable use of living natural resources.
- Emphasised that the proposed management complaint mechanism is not a "compliance mechanism". Committed to collaboratively developing and publishing operational guidance.
- Clarified that the Annex 2 list of Category A projects is indicative.
- Emphasised client responsibilities in the ESP text in relation to remedy and responsible exit.
- Included a commitment to establish a management-level grievance mechanism to effectively address complaints outside the IPAM process.
- Reinstated offsetting and compensation and clarified that these are last-resort options.
- Clarified that mutual reliance is not about lowering standards but streamlining to rely on others.

### Environmental and Social Requirement 1: Assessment and management of environmental and social risks and impacts

- The terms "financially viable" and "financially feasible" have been simplified to "feasible".
- Enhanced requirement for client reporting on any environmental or social incident or accident.
- Clarified that clients should meet the ESRs rather than the objectives of the ESRs.
- Clarified client requirements to conduct E&S risk and impact assessment including contextual risks in line with the UN Guiding Principles.
- Included requirement for clients to assess digital risks.
- Clarified client requirements on assessment and addressing retaliation risks.
- Clarified client requirements for remedy, including the allocation of adequate resources for corrective actions.

## **Environmental and Social Requirement 2: Labour and working conditions**

- Clarified that the labour assessment or audit should be undertaken following a credible and participatory approach.
- Strengthened the requirement for clients to engage with alternative workers' organisation mechanisms and provide meaningful dialogue in a timely manner.
- Clarified wording on child labour.
- Addressed pregnancy and gender expression and/or sex characteristics in relation to non-discrimination and equal opportunity.
- Added a footnote on indicators of forced labour.
- Added a requirement for codes of conduct related to GBVH and child sexual abuse and exploitation.
- Clarified that the grievance mechanism should be proportionate as well as effective.
- Enhanced references to the UNGPs.
- Included a requirement for the client to map the project's core supply chains.
- Added a requirement that if significant risks are identified, but suppliers are not yet known, the client will conduct due diligence on potential suppliers and make reasonable efforts to select lower-risk suppliers.

## **Environmental and Social Requirement 3: Resource efficiency and pollution prevention and control**

- Emphasised the need for an integrated approach to resource efficiency, pollution prevention and control of emissions.
- Enhanced requirements in relation to circular economy.
- Included examples of measures to minimise environmental and social impact on resources.
- Deletion of "cost effective" as a measure related to carbon assessments to provide for a greater focus on demonstrating that low-carbon alternatives have been assessed.
- Enhanced requirement to minimise, mitigate and, as a last resort, remedy any potential residual adverse impacts arising from GHG emissions.
- Updated reference to good international practice for noise and vibration assessments (and deleted reference specifically to WHO guidelines).

## **Environmental and Social Requirement 4: Health, safety and security**

- Clarified wording around insurance.
- Added reference to working hours.
- Requirement for the provision of gender-appropriate personal protective equipment (PPE).
- Clarification that the client will not impose financial penalties on workers for health and safety infringements.
- Strengthened protection for project workers in relation to unsafe acts and unsafe conditions in the workplace.
- Strengthened wording in relation to OSH committees and any existing collective bargaining agreements.
- Added child safeguarding text.
- Climate change considerations added to risk assessment for infrastructure, building and equipment design and safety.
- Added requirement for the provision of services to communities and emergency preparedness and response to take into consideration the distinct needs of vulnerable people.
- Enhanced the requirements in relation to use of security services and freedom of association or other protections.
- Clarified and strengthened requirements for worker welfare and accommodation.

## **Environmental and Social Requirement 5: Land acquisition, involuntary resettlement and economic displacement**

- Clarified the client requirements for past land acquisition (legacy) cases.
- Clarified distinction between “forced eviction” and “eviction” and included a requirement for clients to notify the EBRD before any eviction takes place including a statement on how ESR 5 conditions will be met.
- Added ways in which unavoidable adverse social and economic risks and impacts from involuntary resettlement can be mitigated, including restoring and, where possible, improving livelihoods.
- Added requirements to address potential displacement impacts that may occur in host communities.
- Clarified and strengthened text in relation to negotiated settlements.
- Clarified that the census will also take into account affected business operators and their employees.
- Clarified that the cumulative impacts of project phases, associated facilities, and nearby activities affecting land and livelihoods will be considered in planning the socio-economic survey, stakeholder engagement and mitigation measures, including livelihood restoration, in line with the ESR.
- Included a provision for clients to keep track of measures taken to ensure personal data privacy and security.
- Clarified requirements for unviable/inaccessible and orphan lands.
- Included a requirement for the client to justify why land-for-land compensation is not feasible in the Resettlement Action Plan for cases where livelihoods of displaced persons are land-based,
- Included a new requirement for the use of immediate expropriation processes.
- Included a new requirement for the client to conduct additional stakeholder engagement in cases where unanticipated displacement impacts occur during project implementation.
- Included a new requirement for the client to allocate appropriate budget, including adequate contingencies to finance corrective actions, as well as the planning and mitigation of unanticipated impacts, if any.
- Clarified that restored access to lands and resources should be provided following temporary land use restrictions.
- In the case of private-sector projects with government-managed land acquisition and resettlement, strengthened the requirement for the provision of a plan or framework clearly defining each entity’s roles and responsibilities.

## **Environmental and Social Requirement 6: Biodiversity conservation and sustainable management of living natural resources**

- Strengthened the requirement for clients to prioritise avoiding adverse impacts on biodiversity and to only consider offsets as a last resort.
- Strengthened wording around net gains.
- Added no-go zones for both projects and project suppliers.
- Introduction of an AMR constraint.
- Added requirement for clients to give preference to purchasing living natural resources that are produced in accordance with internationally recognised principles and standards of sustainable management, where available.

## **Environmental and Social Requirement 7: Indigenous Peoples**

- Paragraph on land titling included.

## **Environmental and Social Requirement 8: Cultural heritage**

- Added that clients should consult national and international registries and lists with respect to identifying archaeology that could be present.
- Human remains and funerary items added to considerations for archaeological sites.
- Section on underwater cultural heritage added.

## **Environmental and Social Requirement 9: Financial intermediaries**

- Clarified the text on the EBRD's evaluation and monitoring of the effectiveness of FIs' environmental and social risk management.
- Added requirement for FIs to identify how the ESMS is used within the FI.
- Added that FIs should implement disclosure and reporting frameworks as appropriate and relevant.

## **Environmental and Social Requirement 10: Information disclosure and stakeholder engagement**

- Clarified the disclosure requirements as set out in the AIP.
- Clarified text around vulnerable people.
- Added the need for special support in the grievance mechanism for child sexual abuse and exploitation.



## 7. Next steps

Based on the comments received during the consultation period, revised drafts of the 2024 Policy have been prepared. These revised drafts, along with this report, have been submitted for consideration first by the Bank's senior management and then by the Board of Directors.

Following Board approval, the Bank will post on the EBRD website English versions of the approved Policy and an English version of this report. The translated versions of the Policy and the Report on Invitation to Comment will be published on the EBRD website in due course.



# Annex A Detailed comments

## General comments

Ref no.	ESP/ESR	Theme	Comment	Response
1	GEN	Disclosure	The draft policies largely strengthen client requirements, but the EBRD must enhance its own environmental and social due diligence, particularly on human rights, to prevent human rights abuses through early-stage risk identification and effective mitigation. To this end, the EBRD should increase environmental and social information disclosure, proactively seek information from rights holders, ensure effective retaliation prevention and response mechanisms, and share responsibility for providing remedies in cases where its actions or omissions contribute to harm.	The revised Policy introduces new commitments for each of these topics.
2	GEN	Disclosure	<p>Improve environmental and social information disclosure:</p> <ul style="list-style-type: none"> <li>The EBRD's approach to project risk assessment should be transparent so that civil society organisations are given the opportunity to provide feedback and ensure the Bank adopts an effective approach. The EBRD should disclose its risk assessment methodology and environmental, social and human rights due diligence procedures.</li> <li>The EBRD needs to improve its approach to the disclosure of environmental and social information for medium- and low-risk (Category B) projects, which comprise most of the EBRD's project portfolio. While the draft safeguards propose enhanced disclosure for Category B projects likely to have significant impacts on biodiversity and land acquisition, further amendments are required. Mandatory disclosure for all projects involving public sector clients in this category is essential. Such a measure will increase transparency in the public sector and facilitate effective engagement with stakeholders and rights holders, including taxpayers.</li> <li>The EBRD should regularly disclose environmental and social monitoring reports for all projects to ensure ongoing due diligence and facilitate meaningful stakeholder engagement. The draft safeguards propose that only high-risk (Category A) projects, which comprise a minor share of the EBRD's project portfolio, should be subject to the disclosure of environmental and social action plan implementation reports and that financial intermediaries should report on the implementation of environmental and social management systems. However, these reports should be disclosed annually (not only upon the project's completion) to ensure regular opportunities for any course correction needed and to facilitate rights holders' feedback. Yet, the EBRD has made no commitment to ensure the disclosure of annual environmental and social audit reports for medium- and low-risk (category B) projects. This lack of publicly disclosed</li> </ul>	<p>The Bank will publish guidance on the use of risk assessments.</p> <p>Category B disclosure will be enhanced in the Access to Information Policy (AIP).</p>

Ref no.	ESP/ESR	Theme	Comment	Response
			information on project environmental and social performance limits the opportunities for public monitoring and effective risk management by the EBRD.	
3	GEN	Disclosure	The EBRD should create a policy guiding the disclosure of the presence of its Independent Project Accountability Mechanism (IPAM) at community level. The Inter-American Development Bank has enshrined similar requirements in its Environmental and Social Policy Framework: “The Borrower will inform the project-affected parties about the grievance process, including access to the IDB’s Independent Consultation and Investigation Mechanism, in the course of its community engagement activities.”	For IPAM to address, but outreach and awareness raising are already carried out.
4	GEN	Digital	<p>We welcome the intention to increase focus on digital transformation and associated risks. Implementation would benefit from taking a systematic approach to digital transformation (of the economy, government and society) to ensure that it is:</p> <ol style="list-style-type: none"> <li>inclusive – closing the digital divide, ensuring that underserved communities and regions, and marginalised groups are not left behind, by supporting affordable connectivity, digital literacy and skills, and access to digital content and services</li> <li>responsible – promoting online safety, cybersecurity capacity building, data protection</li> <li>sustainable – promoting environmentally-friendly ICT infrastructure and digital businesses and leveraging digital solutions for climate change adaptation and resilience.</li> </ol>	Noted. Will be considered as part of implementation.
5	GEN	Legislation	<p>When implementing its policy cooperation with the developing countries like Armenia, it should be noted that the legal and institutional frameworks of the mining sector do not meet the EBRD’s Performance [now Environmental and Social] Requirements, as well as the general principles of due diligence. According to assessments of the sector by the World Bank and other academic and scientific institutions, none of the existing solid mineral extraction projects can be considered environmentally sustainable. Environmental laws and regulations that could address the above problems are not properly implemented. The prevailing culture of secrecy that dominates in this field hinders meaningful public participation and decision-making based on true and factual information. Therefore, the issues related to the sector are regularly raised by civil society and require solutions. With this regard we expect that EBRD to address the following priorities regarding the mining sector in a manner that will most complexly contribute to environmental, social and human rights due diligence at a policy level and when investing in private mining projects. In particular:</p> <ul style="list-style-type: none"> <li>• The extractive sector in Armenia shall measurably contribute to the Green Transition of Armenia in line with its policies on the integration with the EU.</li> <li>• Measurable criteria of high-tech standards of mining operations shall be legally defined, together with the timetable of mandatory implication for all mining operations.</li> </ul>	The ESP is cross-sectoral and applicable in all regions where the EBRD operates. Country- and sector-specific issues are addressed in the Bank’s Country and Sector Strategies.

Ref no.	ESP/ESR	Theme	Comment	Response
			<ul style="list-style-type: none"> <li>• The legal and institutional system of effective public participation in decision-making shall be implied in line with the adequate conflict resolution mechanism with the affected communities.</li> <li>• Comprehensive due diligence of the extractive sector shall be carried out, among which is: <ul style="list-style-type: none"> <li>○ proper implementation of EIA and state social and environmental review</li> <li>○ economic cost-benefit analysis, including monetized assessment and retaliation of all negative externalities of mining</li> <li>○ corporate sustainability due diligence requirements for mining companies and the supply chain shall be set up.</li> </ul> </li> <li>• The goal of the extractive sector development policies should not simply be a primitive extension of mining, but the complex, balanced, technologically sustainable and human rights-based development of the sector.</li> <li>• As a general principle, the environmental, social and human rights due diligence requirements of the EBRD's ESP shall fully correspond with the criteria for similar operations in EU states, in line with the Green Transition and Critical Raw Materials policies and related EU legislation.</li> </ul>	
6	GEN	Gender and SOGI	Project-level gender/GBVH due diligence and monitoring, inclusive engagement and disclosures thereof are still lacking. The Bank was asked what analysis has been undertaken of gender/GBVH challenges in sub-Saharan Africa and lessons learned from SEMED and how CSOs can support/inform these assessments?	The Bank has not yet begun investment operations in sub-Saharan Africa and these kinds of assessment have not yet been carried out.
7	GEN	Gender and SOGI	Talking about gender has become increasingly challenging in many countries as the term is understood to undermine the men-women gender binary narrative [speaker was from Türkiye, but this is true across many COOs].	Noted. The Bank recognises this and will address this in implementation processes to the extent feasible.
8	GEN	Gender and SOGI	There has been a decrease in the availability of sex-disaggregated data available through non-state organisations and other government sources.	Noted.
9	GEN	Gender and SOGI	We welcome the new gender and SOGI language in the draft ESP, but are more interested in practical implementation (especially in difficult contexts, such as Uzbekistan).	Noted.
10	GEN	Cross-references	Include cross-references between ESRs to reflect interlinkages between topics, for example, referring to ESR 3 on resource efficiency and pollution prevention and control in ESR 6 on biodiversity conservation and sustainable management of living natural resources, as pollution and the use of natural resources are among the main drivers of biodiversity loss.	Cross-references are included, but the document also needs to be simple and readable.

Ref no.	ESP/ESR	Theme	Comment	Response
11	GEN	SLAPP	<p>Strategic lawsuits against public participation (SLAPPs). As SLAPPs are increasingly becoming a tool of choice for companies to retaliate against and/or silence human rights and environmental defenders, it is imperative that the EBRD's commitment against reprisals be reflected in a commitment at the safeguards level, specifically to halt SLAPPs and hold clients accountable if and when they do engage in SLAPPs. The policy should, at the minimum, include the following components:</p> <ul style="list-style-type: none"> <li>Communicate an unequivocal zero tolerance policy against reprisals by Bank clients, with specific ramifications for financing, and recognise SLAPPs as a form of reprisal. There has been significant movement in regulatory frameworks that define SLAPPs, including those by the EU and Council of Europe, and the EBRD should rely and draw on them.</li> </ul>	While it is recognised that SLAPPs can be one form of reprisal, there is no need to single it out and mention it in the ESR as a policy matter – otherwise, we will need to list all forms of reprisal and the ESR may not be the appropriate place to do so. SLAPPs will be added to other knowledge products, for example, guidance notes or other materials that ESD will prepare for its clients/partners.
12	GEN	Stakeholder engagement	<p>We are aware of the document <i>Civil society joint statement on the EBRD's draft safeguards</i> and endorse the following statement within it: "The EBRD should proactively seek information from rights holders as part of its due diligence." Identification and recognition of rights owners has not been a consistent aspect across multiple safeguard frameworks to date, but is particularly important when the implementation of the safeguards is being undertaken by the client (that is, a third party). This is distinct from the Worldwide Fund for Nature model, where, in the majority of cases, we are imposing our safeguard requirements upon ourselves.</p>	Noted. Stakeholder engagement and protection of rights are embedded in the ESP.
13	GEN	Positive impacts	<p>The updated ESP and ESRs mention creating positive project outcomes and benefits, however, do not elaborate on how this might be implemented in practice. Since creating positive project outcomes and benefits is not a requirement, it is very seldom implemented as part of financed projects. For example, ESP items 2.6 (now 2.7), 2.7 (now 2.8) and 7.16, ESR 1 items 12 and 28, ESR 10 items 22 (now 21) and 27 (now 26).</p> <p>Therefore, provisions on community investment should be included into the ESRs. This would allow:</p> <ul style="list-style-type: none"> <li>ensuring that EBRD's clients create benefits in areas of their operation</li> <li>focusing benefits on people affected by financed projects</li> <li>creating benefits in a consistent, manageable and transparent manner</li> <li>ensuring that created benefits meet community needs and expectations.</li> </ul> <p>The following text might be added:</p> <p>"This ESR encourages clients to conduct community investment activities to help communities in their areas of operation address community development priorities and take advantage of the opportunities created by private investment. Clients will develop and implement a community investment plan that is focused on affected communities, grounded in the local context and prepared based on engagement with communities.</p>	We disagree with the suggestion that EBRD-financed projects seldom result in positive outcomes and benefits. All EBRD projects are required to include positive impacts, including in relation to environmental or climate action, economic inclusion, and economic growth and resilience.

Ref no.	ESP/ESR	Theme	Comment	Response
			<p>Community investment activities should not be regarded as a substitute for mitigation of negative project impacts or for compensation that may be due for any loss caused by projects, which are to be identified and managed in line with relevant requirements of this ESR.”</p> <p>Another option (less prescriptive):</p> <p>“This ESR encourages clients to conduct community investment activities in line with GIP to help communities in their areas of operation address community development priorities and take advantage of the opportunities created by private investment. Community investment activities should not be regarded as a substitute for mitigation of negative project impacts or for compensation that may be due for any loss caused by projects, which are to be identified and managed in line with relevant requirements of this ESR.”</p>	
14	GEN	Remedy	<p>Share the responsibility for remedy:</p> <ul style="list-style-type: none"> <li>• The draft safeguards reinforce the requirement that the client is solely responsible for providing remedy. This is not enough. The EBRD must also commit to providing remedy in cases where its actions or omissions contribute to harm. For example, in instances where the EBRD fails to comply with the EBRD’s Environmental and Social Policy, and this non-compliance contributes to harm, the EBRD should share the responsibility for remedy with the client. This does not always imply financial compensation but rather whatever change is needed to remedy the harm done. To this end, the EBRD should ensure that funding is available for remedial actions taken by the EBRD and the client.</li> <li>• The EBRD should develop responsible exit principles to ensure that it does not leave environmental and social harm unaddressed when it exits investments.</li> </ul>	<p>The requirements in respect of remedial action have been expanded in paragraph 7.23 of the Policy. The key principles are that providing remedy is the responsibility of the party that caused it and that the EBRD should use the leverage it has to ensure that the requirements of the ESP are adequately implemented.</p>
15	GEN	Remedy	<p>The Policy makes no mention of the EBRD’s parallel responsibility to contribute to a remedy where it has contributed to harm. International human rights instruments such as the UNGPs make clear that business enterprises that contribute to adverse environmental and social impacts have a responsibility to actively engage in remediation, either by themselves or in cooperation with other actors. As an international financial institution, the EBRD enables projects that have the potential to cause major impacts, both positive and negative. The EBRD does not hesitate to take credit for enabling positive project impacts, but the draft ESP does not reflect a recognition that EBRD funding enables all project impacts, including adverse ones. The EBRD’s responsibility to ensure that harm is remediated is two-fold. First, the EBRD has a responsibility to build and use leverage over its clients to encourage them to remediate harm. It is not enough to simply add more requirements for clients to the ESP, even though they are good requirements. The ESP must also require the EBRD to take an active role in ensuring that clients are, in fact, providing remedy.</p>	<p>The requirements in respect of remedial action have been expanded in paragraph 7.23 of the Policy. The key principles are that providing remedy is the responsibility of the party that caused it and that the EBRD should use the leverage it has to ensure that the requirements of the ESP are adequately implemented.</p>

Ref no.	ESP/ESR	Theme	Comment	Response
16	GEN	Data	The EBRD and its IPAM should systematically collect and publish aggregate data and trends analysis on reprisals in connection with EBRD-supported projects and IPAM procedures, including information on the nature and impact of response measures.	The EBRD publishes an annual report on IPAM implementation.
17	GEN	Retaliation	<p>Assess and address retaliation risks:</p> <ul style="list-style-type: none"> <li>The EBRD needs to take responsibility for assessing and mitigating retaliation risk and develop an effective response mechanism. The draft safeguards impose additional requirements on clients. However, clients are tasked with conducting retaliation risk assessments by themselves. Given that the client is usually the perpetrator of these reprisals, this cannot be considered an effective approach.</li> <li>Therefore, it is crucial that the EBRD strengthens its own assessment, monitoring and handling of reprisals throughout the entire project lifecycle, clearly defining the procedures and actions the Bank will implement to address allegations of retaliation.</li> </ul>	The revised paragraph 2.8 of the Policy clarifies that the Bank will not tolerate retaliation or reprisals.
18	GEN	Due diligence process	<p>Consider the views of rights holders and take responsibility for project verification:</p> <ul style="list-style-type: none"> <li>The EBRD should proactively seek information from rights holders as part of its due diligence, including through regular site visits and engagement with community members, workers and other rights holders, particularly for projects outside the EU. This should cover all stages, from initial risk screening and assessment through to implementation and monitoring. This will allow for enhanced project categorisation, the consideration of alternatives, the verification of information supplied by the client, and ensure adequate assessment and effective mitigation measures are in place. While the EBRD claims that these steps are taken in certain cases, the Bank's approach needs to be systematically incorporated into its safeguards.</li> </ul>	Stakeholder engagement and protection of rights are embedded in the ESP.

## ESP comments

Ref no.	ESP/ESR	Theme	Comment	Response
1	ESP	Remedy	Incorporate provisions to prioritise remediation over compensation or offsetting of negative impacts as part of the mitigation hierarchy (in consultation with affected people), as well as including references to remedy in legal documentations and in the definition section. The EBRD should also consider the establishment of a contingency liability fund. Consider wording in the European Investment Bank's Environmental and Social Standards, Standard 1 paragraph 3.	Agreed. This has been addressed in the definition of the mitigation hierarchy and in ESR 6.
2	ESP	Ambition	Clarify the role of ambition within the ESP and how it differs from the EBRD's commitments, roles and responsibilities.	Agreed. The revised draft introduces more clarity on commitments, roles and responsibilities.



Ref no.	ESP/ESR	Theme	Comment	Response
3	ESP	Animal welfare	Include reference to the FARMS Initiative's Responsible Minimum Standards (RMS) as best practice.	The Bank considers its commitment to EU standards and GIP for animal welfare to be adequate.
4	ESP	Animal welfare	Include explicit references to animals in the definition of "social matter" within the definition section of the ESP. This is based on the understanding that animal welfare is a social issue.	The Bank considers its commitment to EU standards and GIP for animal welfare to be adequate.
5	ESP	Animal welfare	Include in the exclusion list the production, processing or sale of confinement-based products.	The Bank considers its commitment to EU standards and GIP for animal welfare to be adequate.
6	ESP	Animal welfare	Streamline considerations related to "animal welfare" in the ESP by including them in the definition section and explicitly outlining the EBRD's commitments and the requirements placed upon clients.	The Bank considers its commitment to EU standards and GIP for animal welfare to be adequate.
7	ESP	Annex 1: EBRD E&S Exclusion List	Include in the Environmental and Social Exclusion list explicit reference to the storage of products or activities deemed illegal under host-country or international agreements.	The Policy states that: "The EBRD will not knowingly finance projects that would contravene national laws or country obligations under relevant international treaties, conventions and agreements, as identified during project appraisal."
8	ESP	Biodiversity	Strengthen language on the EBRD's nature-related commitments and ambitions, including by referring to relevant commitments in: 1) the COP26 Joint Statement by MDBs on Nature, People and Planet; 2) the EBRD's Approach to Nature, launched at COP28. The suggestion is also to explicitly refer to the EBRD's role in supporting clients to develop and deliver national biodiversity strategies and action plans.	Agreed. The language has been strengthened.
9	ESP	Disclosure	Include the same disclosure requirements for Category B and C projects as those for Category A projects in the Access to Information Policy.	This would require excessive resources. Disclosure requirements for Category B projects are being expanded.
10	ESP	Categorisation	Include requirements for projects located in sensitive areas of international, national or regional importance to conduct an environmental and social impact assessment. This is necessary due to the potential new and additional environmental and/or social impacts they could cause, especially for vulnerable populations.	All E&S assessment takes account of the location of the project and reflects any sensitivities or protected status.
11	ESP	Categorisation	Enhance and better explain the assessment of contextual risks as part of the impact assessment process to determine the categorization of a project and to clarify how human rights considerations will be taken into account as part of it.	This will be addressed in guidance notes.

Ref no.	ESP/ESR	Theme	Comment	Response
			Definitions (Section II) should be amended to include a definition of “contextual risks,” with explicit reference to human rights factors and constraints on civic space.	
12	ESP	Child and forced labour	Introduce considerations regarding child safeguarding in the ESP.	Agreed. This has been added to the Policy.
13	ESP	Clarification	Add a reference to the EBRD's obligation to recognise its social impacts, in addition to environmental impacts, as part of its commitment to sustainability in operational activities.	Added in paragraph 1.4 of the Policy.
14	ESP	Climate change	Include explicit references to the downstream risks and impacts that climate change poses to people, ecosystems and economies.	The EBRD assesses the climate risks associated with all projects as part of its Paris alignment commitment.
15	ESP	Climate change	Include a commitment for the EBRD to collaborate more closely with broader stakeholders to enhance working conditions for workers, taking into account the effects that climate change has on them.	Stakeholder engagement and labour protection provisions have been expanded.
16	ESP	Climate change	Explicitly include renewables as a focus area for the EBRD's engagement in its climate commitments wherever feasible.	This is addressed in the EBRD's energy sector strategy.
17	ESP	Climate change	Include an exclusion for the EBRD to finance all upstream, midstream and downstream fossil-fuel projects, as well as projects functionally related to fossil fuels. Exclude the hydrocarbon sector.	This is addressed in the EBRD's energy sector strategy.
18	ESP	Climate change	Include explicit prioritisation for energy projects that promote a just and equitable transition to meet energy demand.	This is addressed in the EBRD's energy sector strategy.
19	ESP	Climate change	Introduce amendments to ensure the EBRD adequately assesses, avoids and mitigates GHG emissions and their impacts from the projects it finances prior to its financing and guarantee decisions.	Already addressed in ESR 3.
20	ESP	Climate change	Change reference from GIP to “best reasonably available and practiced methods”.	Not agreed. GIP, underpinned by EU environmental standards, is an appropriate test for emerging markets.
21	ESP	Climate change	Include explicit responsibility for the EBRD, rather than the client only, to ensure that adequate information is provided on the environmental and social impacts and risks of the projects.	EBRD commitments are set out in the ESP and AIP.
22	ESP	Climate change	Remove the use of carbon offsets as the last step in the application of the mitigation hierarchy.	The policy does not include provisions for the use of carbon offsets.

Ref no.	ESP/ESR	Theme	Comment	Response
23	ESP	Climate change	<p>Include a requirement in the ESP, ESRs, AIP and DAI for clients and the EBRD to disclose information related to a project's GHG emissions, GHG alternatives analysis, GHG mitigation hierarchy analysis and GHG mitigation measures/proposed adopted mitigation hierarchy at least 120 days prior to financing decisions if the project's Scope 1, 2, and 3 emissions are estimated to exceed:</p> <ol style="list-style-type: none"> <li>20,000 tonnes of CO<sub>2</sub>e over the project's lifecycle,</li> <li>500 absolute tonnes of CO<sub>2</sub>e per year, or</li> <li>500 absolute tonnes of CO<sub>2</sub>e during project construction.</li> </ol>	Project Summary Documents will be expanded to include more detail on project GHG emissions.
24	ESP	Climate change	Include a requirement in the ESP, DAI and AIP for the EBRD to disclose on its website the annual GHG emissions that each project monitors and reports.	The EBRD includes information on financed emissions in its Task Force on Climate-related Financial Disclosures (TCFD) report.
25	ESP	Climate change	Include a requirement to disclose the environmental and social impact assessment and analysis for all projects a minimum 120 days prior to the EBRD's financing. The disclosure period must be further extended when it is apparent that consultation with affected communities will be necessary.	One hundred and twenty-day disclosure is required for public-sector projects. Sixty-day disclosure for private-sector projects has so far proved robust and sufficient.
26	ESP	Climate change	<p>Strengthen requirements for FI transactions, specifically:</p> <p>Include requirements for sub-projects financed by FIs through the EBRD, meeting the criteria of Category A or Category B, to comply with ESRs 1 to 10 and ensure that it is clear how this will be enforced and monitored.</p> <p>Review the classification of Category A and Category B based on absolute GHG emissions, classifying transactions that exceed specified absolute GHG emissions thresholds.</p> <p>Require Category A and Category B FI transactions for the EBRD to publicly disclose the environmental and social impact assessment, including mitigation measures and underlying analysis, prepared and submitted by FI borrowers/investees.</p>	Category A FI sub-projects are already required to meet all ESRs. The EBRD considers this to be appropriate for intermediated finance.
27	ESP	Climate change	Ensure that ESP, AIP and DAI requirements concerning GHG emissions and climate change impacts are applicable to approving trade finance and other investment products, as well as to advisory services and technical assistance.	Requirements for GHG emissions are set out in ESR 3 and supporting guidance.
28	ESP	Climate change	Incorporate references to the Paris alignment approach into the ESP, AIP and DAI.	Accepted. Reference added in paragraph 2.9, including to the Governors' Resolution No. 239 in footnote 7.
29	ESP	Climate change	Remove all specific requirements, thresholds and definitions from guidance notes and incorporate them in the ESP, AIP and DAI.	Not accepted. The Policy is already highly detailed. Incorporating all guidance would make it unwieldy.

Ref no.	ESP/ESR	Theme	Comment	Response
30	ESP	Climate change	Include a requirement for the EBRD to disclose on an annual basis the sum of the absolute/gross Scope 1, 2 and 3 GHG emissions of its entire investment portfolio for (a) all active investments and (b) all the investments the EBRD makes during a fiscal year.	The EBRD includes information on financed emissions in its TCFD report.
31	ESP	Common approaches	Clarify that the EBRD will not compromise its own standards when collaborating with other multilateral or bilateral agencies as part of a common approach. Specify that the standards of those institutions must be substantially equivalent to those of the EBRD, or whichever standards are more stringent.	Accepted. Principle explicitly reflected in paragraph 2.15.
32	ESP	Common approaches	Paragraph 2.14 (now 2.15) should be amended as follows: "... consideration will be given to the policies, <b>and standards, and implementation procedures</b> of the multilateral or bilateral agencies or organisations, as applicable, <b>which must be substantially equivalent to those of EBRD, as well as to the latter agencies' or organisations' implementation procedures and systems.</b> A decision on the use of a common approach ..."	Noted and, as per above, addressed in paragraph 2.15.
33	ESP	Complaint management	Refrain from introducing a management-led grievance mechanism. There are several points the EBRD should more fully consider in deciding whether to establish such a grievance mechanism. The EBRD should consider introducing such a mechanism as part of a separate consultation process. The Bank should focus on improving the effective operation of the existing problem-solving and accountability mechanisms, not multiplying them.	Not accepted. The EBRD believes that a management-level mechanism will complement the Bank's accountability mechanism and make the EBRD more responsive to complaints.
34	ESP	Complaint management	Clarify how the management-led grievance mechanism will work alongside the IPAM (not dilute it) and the client-led grievance mechanism, ensuring that this level of detail is included upfront in the ESP, and that project-affected communities and other experts are consulted as part of this process.	Bank management is clear that that role of the IPAM will not be diluted. Operating guidance will be developed in due course.
35	ESP	Complaint management	Consider how the IPAM, the client-led grievance mechanism and the management-led grievance mechanism could be consolidated.	Not accepted. It important that the IPAM maintain its independence.
36	ESP	Complaint management	Consider renaming the management-led grievance mechanism to avoid confusion on its purpose.	Agreed.
37	ESP	Complaint management	Strengthening references to the IPAM and the role that it plays within the EBRD's accountability system.	Noted. This will be considered when the IPAM policy is reviewed.
38	ESP	Compliance	Clarify that corporate finance projects are required to comply with the ESRs. Proposed: Where the project involves general corporate finance, working capital or equity financing for a multi-site company, and where the use of proceeds is not directed at specific physical assets, the client will be required to align its corporate ESMSs with the ESRs and develop measures at the corporate level to manage the environmental and social risks <b>and impacts</b> associated with its business activity <b>in a manner that complies with the ESRs.</b>	Corporate finance projects are required to comply with the ESRs, recognising that there is often no defined use of proceeds in these cases.

Ref no.	ESP/ESR	Theme	Comment	Response
39	ESP	Compliance	Include as part of the appraisal process an assessment of the EBRD's leverage to require compliance with the ESRs throughout the project cycle. Proposed text: As part of the appraisal, the EBRD will consider its leverage (legal and otherwise) to require client compliance with its ESRs, particularly in projects with significant post disbursement E&S risk, the EBRD will put in place financial and legal instruments sufficient to maintain leverage commensurate to project E&S risk throughout the project cycle.	The use of leverage is now addressed in the Policy.
40	ESP	Contractors	Introduce the ability for the EBRD to require specific assessments where there are concerns regarding ESRs compliance or E&S impacts. Proposed text: Where there exist reasonable concerns regarding project compliance with the ESRs or project E&S impacts, the EBRD may commission or require the client to commission E&S audits or assessments following gip.	ESR 1 is clear that the assessment must cover all relevant E&S risk and impacts.
41	ESP	Definitions	Remove definition of environmental and social.	Not accepted.
42	ESP	Definitions	Define the guidance notes and documents supporting the policy that underpin the environmental and social framework.	Noted, but not included in the ESP. The overall E&S framework, including guidance note, will be presented on the EBRD's website and in an E&S procedures document.
43	ESP	Definitions	Section II: Definitions. Clarify if the two elements incorporated in the definition of vulnerable people are cumulative or separate and also ensure that hard-to-reach workers are included in the definition.	This has been clarified.
44	ESP	Definitions	Clarify: <ul style="list-style-type: none"> <li>a. the requirement that the ESSs be implemented "within a timeframe acceptable to the Bank"</li> <li>b. timeframes for the disclosure of documentation of different kinds, such as E&amp;S assessments, audit reports and monitoring reports for category B projects</li> <li>c. conditions under which the EBRD should undertake its own independent consultations with stakeholders</li> <li>d. requirements regarding site visits and third-party monitoring</li> <li>e. obligations of the EBRD to proactively seek information necessary for project appraisal (rather than depend exclusively upon information provided by the client).</li> </ul>	Timeframes for disclosure are detailed in the DAI. Paragraph 7.18 of the Policy has been expanded to clarify when the EBRD will carry out its own consultation.
45	ESP	Definitions	Clarify the specific role of environmental and social safeguards in reference to Paragraph 6.3: does this statement help or hinder the understanding of how safeguards work? While due diligence is certainly required on both risks "of" and "to", safeguards are focused on the "of", that is, their purpose is to safeguard communities. Could this distinction be better made?	Unclear what specifically this comment is referring to. The scope and application of safeguards are well defined in the ESP.

Ref no.	ESP/ESR	Theme	Comment	Response
46	ESP	Digitalisation	Section referring to digitalisation should include stronger emphasis and examples of mitigation strategies to guide clients on the use of technologies in sectors like agriculture, food security, environmental protection, natural disaster resilience, and climate change mitigation. Additionally, the critical intersection of climate change and AI/digitalisation should be specifically addressed, highlighting how advanced technologies can help reduce emissions, influence sector investments in net zero, protect biodiversity, and build social resilience.	Not accepted. Digitalisation is a new topic in the ESP. The scope may be expanded in future if required.
47	ESP	Digitalisation	Including a standalone ESR on digital risks.	Not accepted. Digitalisation is a new topic in the ESP. The scope may be expanded in future if required.
48	ESP	Digitalisation	Definitions, Section II. The definition of “digitalisation projects” should be amended to reflect not only privacy and data security considerations, but other relevant human rights risk factors potentially associated with digital projects, including environmental harms and climate change, non-discrimination and equality, freedoms of information, association and expression, economic and social rights, and access to justice and due process rights, subject to the legal, political and social context in which projects are designed and implemented.	Not accepted. Digitalisation is a new topic in the ESP. The scope may be expanded in future if required.
49	ESP	Digitalisation	Clarify that regarding digitalisation, EBRD clients must apply whichever is more stringent: national legislation or GIP. Paragraph 2.12 (now 2.13) proposed change: “... The Bank will consider where the use of significant digitalisation can have adverse environmental and social impacts in the projects, <del>it finances in line with</del> <b>taking into account any gaps between</b> national legislation <b>and international human rights and data protection standards.”</b>	Not accepted. Digitalisation is a new topic in the ESP. The scope may be expanded in future if required.
50	ESP	Digitalisation	Review the admissibility threshold for complaints to the IPAM and other relevant grievance mechanisms taking into account that digital risks may materialise over long periods of time.	This could be considered when the IPAM policy is next reviewed.
51	ESP	Disclosure	Reinstate the reference to the Aarhus Convention in the EBRD’s policy commitments section to demonstrate the EBRD’s commitment to public access to information and public participation in decision-making on environmental matters.	This is included in the AIP.
52	ESP	Disclosure	Section 2.11. (para now added to 2.8). Introduce the EBRD’s commitment to disclosure alongside mention of the principles of transparency, accountability and stakeholder engagement. (The EBRD is committed to the principles of transparency, accountability and stakeholder engagement ...)	This commitment is already included in the Policy.

Ref no.	ESP/ESR	Theme	Comment	Response
53	ESP	Disclosure	Clarify how significant impact will be measured with regard to disclosure requirements for Category B and why only biodiversity or land acquisition impacts are specifically called out in this clause.	Disclosure requirements are addressed in the AIP. Category B disclosure is being expanded.
54	ESP	Disclosure	Disclose ESIA, ESAP and technical cooperation impact reporting for at least public Category B projects.	Disclosure requirements are addressed in the AIP. Category B disclosure is being expanded.
55	ESP	Due diligence	Include more details on the Bank's due diligence and monitoring procedures.	Noted. This is more appropriate for guidance.
56	ESP	Financing agreements	Paragraph 6.4. Clarify that both the ESAP and the ESRs are part of any financing agreements. Proposed text: The client will undertake to implement the ESAP <b>and</b> to manage the environmental and social risks and impacts of the project in accordance with the ESRs. The <b>ESAP and the ESRs</b> will form part of any financing agreements.	This is addressed in paragraph 6.4 of the Policy.
57	ESP	Budget allocation	Paragraph 6.4. Introduce a requirement for ESAPs to include an indicative budget for capital and recurrent costs. Proposed text: ESAPs will include an indicative budget for capital and recurrent costs.	"Required resources" has been added to ESR 1, paragraph 5.
58	ESP	ESIA	Paragraph 7.4. Specify that existing impacts also need to be considered (and mitigated) as part of the EBRD categorisation.	Not accepted. The scope of the application of the Policy is already defined.
59	ESP	ESIA	Include provisions to assess the transboundary impact of renewable energy projects.	Not accepted. Supply chains and other transboundary issues are already addressed.
60	ESP	EU and national law	I would like to express my astonishment why the Bank does not seek closer alignment with the EU regulatory system. We recommend that the EBRD policy take into account whether the project is being prepared according to EU standards. The EU legal framework is one of the most stringent in the world. We propose to classify projects not only according to the nature of the construction itself (A, B and C), but also according to the key of whether the construction is in or outside the EU, as partly indicated in some of the points in the text.	The Policy requires compliance with EU environmental standards where they can be applied at project level.
61	ESP	EU and national law	Remove the reference that the project needs to comply with whichever is more stringent between host country legislation and the requirements set out in the ESRs, and instead rely solely on host country regulation.	Not accepted. The application of EU environmental standards is a core requirement of the EBRD's ESP.
62	ESP	EU and national law	Paragraph 6.4. Introduce a reference to international legal agreements, in addition to host country legislation and ESRs requirements when determining the applicability of the most stringent standards.	Not accepted. Applicable standards are defined in the ESRs.

Ref no.	ESP/ESR	Theme	Comment	Response
63	ESP	EU and national law	Clarify that if there are contradictions or inconsistencies between national legislation and international treaties and conventions, the EBRD must be guided by the international treaties and conventions.	Not accepted. International treaties generally apply to states, not projects.
64	ESP	EU directives and GIP	Define GIP in the ESP.	GIP is defined.
65	ESP	EU directives and GIP	Footnote 3. Explain why jurisprudence from the European Court of Justice is excluded from the definition of EU substantive law.	The EBRD is not an EU institution and is not subject to the European Court.
66	ESP	EU directives and GIP	Include reference to EU progress on supply-chain due diligence (Section III, Para 2.9) and the European Pillar of Social Rights; the presumption of employment could be helpfully incorporated.	Not accepted. The EBRD's approach to supply-chain risks is already addressed in the Policy.
67	ESP	Exclusion List	Pending the development of robust and reliable environmental, social and governance (ESG) metrics, any alternative E&S approaches should be subject to the EBRD's Exclusion List (Annex 1). Category A projects (Annex 2) should also be excluded, in line with EBRD's existing approach in relation to capital market transactions	Not accepted. The EBRD believes it is possible to finance Category A capital market transactions in line with the requirements of the Policy.
68	ESP	Exclusion List	<p>Add to the exclusion list:</p> <ul style="list-style-type: none"> <li>• projects in areas and sites included in the World Heritage List</li> <li>• production or activities involving harmful or exploitative forms of forced labour, child labour, or other forms of modern slavery</li> <li>• production of, trade in, or use of asbestos or other known carcinogens that can cause occupational cancer</li> <li>• any product or trade in pesticides subject to international phase-outs or bans</li> <li>• investment operations resulting in the limitation of individual rights and freedoms in violation of human rights or discriminatory labour practices</li> <li>• labour practices that prevent workers from freely exercising their right to association and collective bargaining</li> <li>• activities where workers are working in hazardous conditions</li> <li>• non-compliance with the key principles of the fundamental right to a safe and healthy working environment</li> <li>• non-compliance with workers' fundamental principles and rights at work</li> <li>• production or activities that have potentially significant adverse impacts and carry a high degree of risk to the safety and health of vulnerable working populations</li> <li>• investments that could drive people into the informal economy or precarious forms of employment, as seen in some forms of digital labour platforms</li> <li>• significant or commercial-scale volumes of hazardous chemicals</li> <li>• any product or activity deemed illegal under international conventions and agreements</li> </ul>	These activities are either already included in the exclusion list or are addressed in the relevant ESRs.



Ref no.	ESP/ESR	Theme	Comment	Response
69	ESP	Facilities – associated	Paragraph 6.5 should be revised to ensure that in cases where associated facilities cannot be structured to meet the ESRs, the project appraisal will include reasonable efforts to identify the environmental and/or social risks and impacts on people and the environment, not just those related to the project itself.	This is already addressed in the requirements for associated facilities.
70	ESP	Financial instruments	Define the financial instruments under the “other financial instruments” category and clarify EBRD’s approach for risk assessment for the different types of instruments under the “other financial instruments” umbrella.	The scope of this is not easily defined.
71	ESP	Financial instruments	Ensure that criteria of “capacity, commitment and track record” are consistently used across the ESP, in connection with project appraisal and the client’s ESMS.	Noted.
72	ESP	Financial instruments	Alternative approaches to E&S risk management for “other financial instruments” should be “substantially equivalent” to the ESRs, not merely “consistent with the objectives” of the ESRs.	Not accepted. The EBRD believes the totality of the requirements for other financial instruments provides sufficient E&S protections.
73	ESP	Financial instruments	Clarify what financial instruments are covered under the “direct investment” landing heading.	This is defined in the definitions.
74	ESP	Financial instruments	Ensure that “other financial instruments” are also defined across other key documents in the Bank, such as the Directive on Access to Information. This is important also to understand the related disclosure requirements.	Not accepted. The application of the AIP is already defined.
75	ESP	Financial instruments	Reinstate the financial intermediary referral list	Not accepted. The referral list has not proved to be effective. The EBRD believes it more effective to support FI clients in developing E&S management capacity.
76	ESP	Financial instruments	Mandate FIs to fully adhere to the EBRD’s ESP for all projects financed by the Bank, including those in the hydrocarbon sector and Category B and C projects.	Not accepted. This would not be consistent with the Bank’s approach to intermediated finance.
77	ESP	Gender	Section II: Definitions. Complete the definition of gender identity used in the text. It appears under the “sexual orientation and gender identity” definition but is not explained there. It is repeated in the text of the definition without further clarification.	Definitions section has been updated.

Ref no.	ESP/ESR	Theme	Comment	Response
78	ESP	General	As part of its commitment to the sustainability of operational activities, the EBRD should explicitly acknowledge its significant environmental impact and commit to fulfilling compliance obligations while continuously improving its performance.	The Bank is committed to developing an environmental management system for operational activities, which includes a requirement for continuous improvement.
79	ESP	General	Introduce in the exclusion list investment opportunities with borrowers, clients and other stakeholders that fail to identify, audit or assess the risks associated with technologies linked to digitalisation, cybersecurity, data privacy and artificial intelligence/machine learning (AI/ML) systems throughout the design, adoption, development and deployment stages of a project.	Not accepted, although past performance is considered when assessing new transactions with existing clients.
80	ESP	Human rights	Introduce explicit reference that the EBRD will respect human rights in projects financed by the Bank in accordance with the UN Guiding Principles on Business and Human Rights, the International Bill of Human Rights, the OECD Due Diligence Guidance for Responsible Business Conduct and Multinational Enterprises, the ILO's ten core conventions, and the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy.	Partly addressed. See the definition of human rights in the Policy.
81	ESP	Financial intermediaries	Clarify what are the alternative approaches to the assessment of risks that the EBRD will consider taken with certain financial instruments, including capital market transactions.	This is addressed in the "other financial instruments" section.
82	ESP	Human rights	Provide additional details regarding the EBRD's process to assess risks, in addition to what is currently outlined in 7.1, 7.2 and 7.3.	This will be addressed in guidance notes.
83	ESP	Human rights	Include a zero-tolerance policy against reprisals by Bank clients and recognise strategic lawsuits against public participation as a form of reprisal. Include related considerations as part of the risk assessment, due diligence process and throughout the project lifecycle. All of this will need to be supported by detailed procedures, which should be published.	Additional wording on reprisals has been included.
84	ESP	Human rights	Streamline the principles of Articles 1 and 8 throughout the ESP. This is especially important in the context of the crackdown we see on civil society.	Additional wording on reprisals has been included.
85	ESP	Sustainability reporting framework	Include specific reference in the EBRD's commitment and ambition to the following sustainability frameworks: ISO, the Principles for Responsible Investment (PRI), the Sustainability Accounting Standards Board or the UN Global Compact.	Given the proliferation and rapid development of sustainability standards, the Bank is refraining from committing to these in the Policy, but the EBRD is a PRI member and reports in line with the Global Reporting Initiative (GRI).

Ref no.	ESP/ESR	Theme	Comment	Response
86	ESP	Human rights	Strengthen human rights considerations to include the Corporate Sustainability Due Diligence Directive (CSDDD), Corporate Sustainability Reporting Directive (CSRD) and the EU Forced Labour Import Ban, in line with good European practice.	Human rights provisions have been strengthened.
87	ESP	Human rights	Introduce in the definition of human rights the “human right to a clean, healthy and sustainable environment”. This in line with UN Human Rights Council resolution 4/13.	Not accepted. Human rights are already defined with reference to international norms.
88	ESP	Human rights	Change the definition of human rights to: “Rights inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion or any other status as provided under the United Nations Guiding Principles on Business and Human Rights 2011, the International Bill of Human Rights, the ten core conventions of the International Labour Organization and one protocol, and additional universal human rights recognised by the United Nations Human Rights Council and/or General Assembly.”	Not accepted. Human rights are already defined with reference to international norms.
89	ESP	Mitigation	Change the mitigation hierarchy definition to: “Measures taken to avoid creating environmental or social impacts from the outset of considering development activities, and where this is not possible and acceptable within the bounds of this policy, to implement additional measures that would minimise, mitigate and as a last resort, offset and/or compensate for any potential residual adverse impacts.”	Noted, but not changed. Additional strengthening of the application of the hierarchy has been introduced in ESR 6.
90	ESP	Monitoring	Add explicit reference to the EBRD reviewing reports of E&S incidents and grievances in 7.23.	Not accepted. Clients are already required to report incidents, accidents and grievances to the Bank.
91	ESP	OSH	Explicitly mention the relevant requirements of internationally recognised standards such as the World Bank Group Environmental, Health, and Safety Guidelines and other good international practice for health and safety.	Not accepted. The Policy already references a wide range of standards.
92	ESP	OSH	Introduce as part of performance evaluation processes, indicators that emphasise human capital metrics and proactive (leading) OSH performance indicators.	Not accepted.
93	ESP	Operations	Explicitly include the three Statements of Principle with regard to all activities that the Bank undertakes (that is, to human rights, gender equality and the rights of Indigenous Peoples and local communities).	These issues are already referenced in the Policy.
94	ESP	Pollution prevention	Change in 3.2 the text to pollution prevention to the following: “prevent pollution that may arise as a result of its internal activities and prevent and minimise waste through the careful and efficient use of materials and/or resources”.	This is essentially the same as the text in the Policy.

Ref no.	ESP/ESR	Theme	Comment	Response
95	ESP	Remedy	Specify the leverage that the EBRD and its clients can deploy to address human rights risks. This should involve including as part of the project appraisal all available forms of leverage.	The text on leverage has been expanded, but leverage in relation to human rights will be context specific.
96	ESP	Remedy	The EBRD should conduct an assessment of the remedy ecosystem within the country, encompassing both judicial and non-judicial mechanisms, as part of its due diligence for higher-risk projects. This assessment should be integrated into project risk classifications, mitigation plans and technical guidance provided to project stakeholders on accessing remedies. In cases where governmental or client capacity is lacking, specific capacity-building efforts should be prioritised.	This is beyond the scope of the ESP.
97	ESP	Remedy	The EBRD should consider a client's failure to remediate social and environmental harm as grounds for debarment.	Past performance is considered when assessing new transactions with existing clients.
98	ESP	Reprisal	Include a definition of reprisals in line with the one proposed in the draft Asian Development Bank Environmental and Social Framework: "Retribution, intimidation, threats, harassment, punishment, judicial proceedings, or any other retaliatory acts against those who voice their opinion or opposition to a project, to a third party related to a project, or to a client."	A definition of reprisal has been included.
99	ESP	Responsible exit	<p>Include a reference to a responsible exit framework. Elements within this framework should be:</p> <ul style="list-style-type: none"> <li>• integrating potential environmental and social impacts of exit within project due diligence from the earliest stages of the project cycle</li> <li>• a clear requirement not to exit without first using all available leverage to address unremediated E&amp;S harms, and without assessing impacts of exit and consulting with all relevant stakeholders</li> <li>• a commitment to ensure that any promised project benefits have been provided and the project will operate in an environmentally and socially responsible manner after exit</li> <li>• a requirement that no community members or workers face risk of retaliation due to the exit</li> <li>• a commitment to seek a responsible replacement(s) for EBRD, or the client, as the case may be, on exit.</li> </ul>	Not accepted. It is not possible to define exit conditions in a Policy document of this type.
100	ESP	Retaliation	The EBRD needs to assess and mitigate retaliation risk and develop an effective response mechanism, as solely entrusting clients with tackling retaliation is not sufficient.	Additional text has been added on retaliation, clarifying the EBRD's approach.

Ref no.	ESP/ESR	Theme	Comment	Response
101	ESP	Retaliation	Ensure that there are mechanisms in place to report misconduct and afford protections to independent experts and advisory panels that report cases.	All misconduct allegations can be reported to the EBRD's Chief Compliance Officer.
102	ESP	Stakeholder engagement	Paragraph 7.18. Focus on the EBRD's own responsibilities and approaches in stakeholder engagement, including specifying that the EBRD commits to engaging directly with affected and potentially affected stakeholders and their legitimate representatives. Such engagement could, for example, be considered in high-human-rights-risk scenarios.	Noted.
103	ESP	Stakeholder engagement	Paragraph 7.18. Introduce a standalone section on stakeholder engagement, with information on how the EBRD consults stakeholders across the investment lifecycle, including ongoing monitoring.	Not accepted. The EBRD's approach to stakeholder engagement is already well defined in the Policy.
104	ESP	Verification	Paragraph 7.16. Clarify the Bank's role in verifying client information.	The EBRD reviews all information, but it is the client's responsibility, as the project owner, to ensure that it is complete and accurate.
105	ESP	Associated facilities	Paragraph 5.6. Clarify that as part of the environmental and social appraisal the client will be required to build and exercise all available forms of leverage to address the risks of associated facilities.	This is addressed in paragraph 6.5 of the Policy.
106	ESP	Supply chain	Need for risk-based due diligence throughout the value chain. Specific recommendations are for the ESP to clarify that clients should address all potential E&S (including human rights) impacts they may cause or contribute to, or which may be directly linked to their operations, products or services by their business relationships, downstream as well as upstream.	Requirements for supply-chain due diligence have been expanded.
107	ESP	Monitoring	The EBRD's monitoring requirements (Policy, paragraph 7.23, and ESR 1, paragraph 40) should include the following requirement: "The EBRD has the right to carry out, or require the client to carry out, an audit or assessment where there is evidence of a serious departure from the ESAP and/or the ESRs, the costs of which should be borne by the client." The latter requirement would be consistent with the auditing requirement for labour impacts in ESR 2.	Requirements for monitoring and remedial action have been expanded in paragraph 7.23.

## ESR 1

Ref no.	ESP/ESR	Theme	Comment	Response
1	ESR 1	Animal welfare	Streamline animal welfare considerations in the ESR by: <ul style="list-style-type: none"> <li>Adding an explicit reference to animal welfare in the Introduction, paragraph 1.</li> <li>Adding a paragraph in the requirements outlining how animal welfare should be considered in the assessment, management, and monitoring of environmental and social risks and impacts.</li> </ul>	Animal welfare is addressed in ESR 6.
2	ESR 1	Categorisation	Clarify in paragraph 24 that an ESAP might still be required if a project is categorised as “C”.	ESAPs can be required for any project.
3	ESR 1	Climate change	Specify in ESR 1 that alternative analysis must consider GHG emissions and climate change impacts, as well as include an assessment of technically feasible and financially viable alternatives. Specifically, National Environment Policy Act (NEPA) requirements should be mentioned, as they constitute GIP.	NEPA is US national legislation and is, therefore, not directly applicable to EBRD projects.
4	ESR 1	Definitions	Remove the reference to “marginalised and/or experience discrimination” in paragraph 15 and retain “vulnerable”.	Agreed.
5	ESR 1	Contractors	In instances when contractor works are already underway, include a requirement for the ESAP to incorporate actions identified during the due diligence conducted prior to EBRD engagement. These identified actions must be consulted with the client and contractors.	Not accepted. This is already addressed in the EBRD’s approach to project appraisal.
6	ESR 1	Digitalisation	“Digital risks” should be part of the definition of contextual risk, E&S risk assessment requirements (ESR, paragraph 17), and also be reflected in the definition of the project, the definition of the scope of due diligence (which should include downstream impacts on users and consumers), the client’s ESMS and other E&S risk management requirements, and the architecture for remedy.	Not accepted. Digitalisation is a new topic in the ESP. The scope may be expanded in future if required.
7	ESR 1	Digitalisation	The EBRD needs to enhance and better elaborate in paragraph 17 the human rights impacts associated with digital technologies. This is because the human rights associated with the negative impacts documented in digital activities go well beyond data protection and privacy and can include negative impacts on the rights to non-discrimination, freedom of expression, economic and social rights, and even the rights to life and liberty and security.	Not accepted. Digitalisation is a new topic in the ESP. The scope may be expanded in future if required
8	ESR 1	Digitalisation	Include requirements referencing digitalisation in paragraph 17 for EBRD clients to apply whichever requirements are more stringent between national legislation and GIP. This is because national regulation has been slow to emerge, and shortcomings in national regulation have contributed to heightened human rights risks.	Not accepted. Digitalisation is a new topic in the ESP. The scope may be expanded in future if required.

Ref no.	ESP/ESR	Theme	Comment	Response
9	ESR 1	Digitalisation	Include more details as part of ESR 1 on how impact assessment methodologies can be implemented in the context of digital activities to ensure that EBRD staff and clients are well equipped to manage human rights risks.	Not accepted. Digitalisation is a new topic in the ESP. The scope may be expanded in future if required.
10	ESR 1	Digitalisation	“Digital risks” need to be reflected in the definition of the project, the definition of the scope of due diligence (which should include downstream impacts on users and consumers), the client’s environmental and social management system and other E&S risk management requirements, and the architecture for remedy.	Not accepted. Digitalisation is a new topic in the ESP. The scope may be expanded in future if required.
11	ESR 1	EU and national law	Introduce explicit mention of applicable international human rights and environmental standards as one of the key aspects that need covering under the assessment process, in paragraph 12.	This is addressed in paragraph 1 of ESR 1.
12	ESR 1	Gender	Clarify in paragraph 16 how the client will be able to obtain gender-disaggregated data if this is not required under national legislation.	This is a matter for guidance.
13	ESR 1	Human rights	Include explicit reference in paragraphs 14 and 37 to the need to make the grievance mechanisms safe, secure, discreet and anonymous where necessary.	ESR 10 states that grievance mechanisms must allow for “anonymous complaints to be raised and addressed and ensure the safety, privacy and protection of stakeholders’ personal data”.
14	ESR 1	Incidents and accidents	Clarify in paragraph 38 that incident response includes investigation, underlying cause analysis and remediation where appropriate, consistent with ESR 4.	Wording added.
15	ESR 1	Positive outcomes	Introduce provisions on community investments by encouraging clients to conduct community investment activities in line with GIP to help communities in their areas of operation address community development priorities and take advantage of the opportunities created by private investment.	Community investments are outside the scope of this Policy.
16	ESR 1	Remedy	Articulate the EBRD’s expectations for clients to remediate adverse impacts they have caused or contributed to, in line with UNGPs. In ESR 1, as it stands, the only reference to remediation is in the context of addressing impacts as part of supply-chain management in paragraph 21.	Client’s responsibilities to remediate impacts are addressed in the Policy, paragraph 7.23.
17	ESR 1	Remedy	In paragraph 5 of the ESAP and in paragraph 28 of the ESMP, introduce a requirement to include a budget. These suggested changes would be consistent with costing/budgeting requirements for corrective action plans and resettlement plans (ESR 5, paragraphs 7, 52[vi] and 57) and would help to ensure that all E&S costs are internalised within the project.	A provision has been added for ESAPs to include resource estimates.

Ref no.	ESP/ESR	Theme	Comment	Response
18	ESR 1	Responsible exit	Develop responsible exit principles. The draft ESP adds a new requirement for clients to develop a “responsible disengagement plan” for ending relationships with suppliers who fail to prevent and address harm to supply chain workers (paragraph 47). There should be a parallel requirement for the EBRD to responsibly disengage from projects to ensure that negative environmental and social impacts are not left behind. In particular, the EBRD should commit to not prematurely exiting projects that are subject to an active IPAM complaint process, unless consultation with the impacted community indicates that such an exit is desired. Premature exit often takes away most of the financial institution’s leverage and, with it, any hope that harmful impacts will be addressed.	The Bank’s overarching approach to compliance is addressed in the expanded paragraph 7.23, which includes a statement that: “If the client fails to comply with its social and environmental commitments, as set out in the financing agreements, the EBRD will agree with the client remedial measures to be undertaken by the client to achieve compliance and rectify any harm resulting from the failure to comply”. Responsible exit is a matter of ongoing discussion among MDBs, but there is no consensus yet on how it should be addressed.
19	ESR 1	Supply chain	Include in paragraph 21 reference to both upstream and downstream value chains – this is to ensure that the approach is aligned with the baseline requirement established in the UNGPs.	Downstream risks are partly covered under different matters (for example, product safety, digitalisation, disposal, and so on).
20	ESR 1	Supply chain	Include in paragraph 21 a requirement for the client to exercise all available forms of leverage to prevent and mitigate supply-chain risks and remediate impacts as necessary.	This is implied here and made more explicit under ESR 2 in relation to child labour, forced labour and OSH.
21	ESR 1	Supply chain	Clarify in paragraph 21 that remedy should follow UNGP guidance on remediation, the OECD Guidelines for Multinational Enterprises or the OHCHR report on remedy in development finance.	This is a matter for additional guidance.
22	ESR 1	Supply chain	Provide additional guidance in paragraph 21 on the principles underpinning responsible exit, as terminating relationships with suppliers can have impacts on workers in the supplier firm, as well as workers or independent micro-suppliers down their supply chain.	This is a matter for additional guidance.
23	ESR 1	Supply chain	Add a requirement for clients in paragraph 21 to provide maps of their suppliers’ workers and worksites.	This is a matter for additional guidance.
24	ESR 2	Supply chain	Paragraph 21. We appreciate the strengthening of the language on the client’s due diligence responsibilities in supply chains. Likewise, the change in the scope from primary suppliers to core supply chain (regardless of tier) is interesting, as it could extend the protection to workers in need. The inclusion in the management system of “likelihood” as a criterion to assess risks and impacts seems to align with the UNGPs.	Noted.



Ref no.	ESP/ESR	Theme	Comment	Response
25	ESR 1	Workers	Include in ESR 1 (paragraphs 1 and 37) an explicit requirement for communication with “workers and trade unions at the local, national and international level” or at least “workers’ organisations” per ILO Convention 87. This is because in many instances, project workers have not yet been hired at the time of initial assessment, but risks regarding the employer, sector or area can be identified by trade unions. Furthermore, it is not uncommon for representative organisations connected to other risk factors to be consulted.	Para 1: The reference to “other stakeholders” implicitly includes trade unions, as relevant. Para 36: “third parties” implicitly includes trade unions, as relevant.
26	ESR 1	Contractors	Paragraph 31. Introduce reference to sub-contractors in the same way as sub-suppliers are referenced.	Not accepted. The definition of contractors is considered to be adequate and covers all project contractors.

## ESR 2

Ref no.	ESP/ESR	Theme	Comment	Response
1	ESR 2	Project workers	Paragraph 4. The new definition of project workers, which includes contracted and self-employed (including through platform) project workers, is a real step forward. We welcome, in particular, the recognition of the need to protect the fundamental rights of self-employed project workers. However, we were not sure about the criteria to define “on-site work” and “work directly related to the project”. Is there a new guidance note?	This will be addressed in the revised guidance note for ESR 2.
2	ESR 2	Labor rights	Paragraph 2. We believe that the goal of the ESP should be not only to “respect and protect” the Fundamental Principles and Rights at Work (paragraph 2), but to promote them.	Agreed in principle, but not suitable as a compliance requirement.
3	ESR 2	Child and forced labour	Paragraphs 30, 31. Are these contradictory? 30 says that project should not use child labour, while 31 defines criteria by which it should not be used, implying circumstances where it can.	Paragraphs have been updated for clarification.
4	ESR 2	Child and forced labour	The requirements on forced labour appear to reference only some of the ILO indicators. Paragraph 26. Reference should be made to state-sponsored forced labour as covered by ILO Convention 105. Paragraph 26: Add “state-sponsored forced labour” to “Forced labour includes involuntary or compulsory labour, such as indentured labour, involuntary prison labour, bonded labour or similar labour-contracting arrangements, or trafficking in persons.” Paragraph 27, 28. Include “abuse of vulnerability, deception, isolation, physical and sexual violence, intimidation and threats, withholding of wages, debt bondage, abusive working and living conditions and excessive overtime”.	The full list of ILO indicators has now been included in ESR 2 footnote 26.

Ref no.	ESP/ESR	Theme	Comment	Response
5	ESR 2	Child and forced labour	<p>The language around remediation in paras 29 and 32 may create situations that are not always helpful or possible. The language “must take immediate action to remove individuals from situations of child labour” – in some supply chains, this can be domestic work and may cause further harm to the child through poverty and so on. Appropriate remediation and safeguarding the individual adequately covers this. It is also more realistic for a client to achieve this.</p> <p>Paragraph 29. Replace with: “If a case of forced labour is identified on a project, the client must take immediate action to prevent and address forced labour on the project, safeguard the individuals involved and to provide appropriate remediation. The client must also report any incidents of forced labour to the EBRD, as well as the corrective measures taken.”</p> <p>Paragraph 32. Replace with: “If a case of child labour is identified on a project, the client must take immediate action to prevent and address child labour on the project, safeguard the children involved and to provide appropriate remediation. The client must also report any incidents of child labour to the EBRD, along with the corrective measures taken.”</p>	<p>These paragraphs do not cover labour risks in supply chains, which are covered under paragraphs 44-47, where remedial action is more differentiated based on the responsibility and leverage of the borrower. In clients’ own operations or contractors’ operations, we want to maintain the requirement to immediately cease child or forced labour from occurring.</p>
6	ESR 2	Child and forced labour	<p>Why has the labour risk assessment been limited to child labour, forced labour and OSH, and not the standards in the ILO Declaration? We would expect risks across all of these to be necessary given the interlinkage between them.</p>	<p>The coverage of all fundamental rights was initially considered, but rejected as impractical and broadening the scope beyond the Bank’s ability to implement consistently.</p>
7	ESR 2	Grievance mechanisms	<p>Paragraph 38. “Effective” should not be the only descriptor used against grievance mechanisms. They should also be safe, secure, discreet and anonymous where necessary to protect workers.</p> <p>Consider adding descriptors such as “safe” and “anonymous where necessary” to the text.</p>	<p>We have added a footnote to refer to the effectiveness criteria of the UNGPs.</p>
8	ESR 2	Contracted workers	<p>Paragraphs 36–37. Contracted workers are not included in the Bank’s policy on collective dismissals, which is a major oversight, particularly as the Bank did improve the policy’s coverage of these workers in other respects. Collective dismissal of contracted workers has been an issue in multiple MDB projects in recent years. Since the provisions of Paragraphs 36 and 37 address contractual obligations and monies owed, applying these provisions to contracted workers should not create problems in the event of ordinary demobilisation. If that is not possible, paragraph 42 could potentially be expanded to explicitly hold clients liable for upholding the protections outlined in paragraphs 36 and 37 for contracted workers, including reference to ILO Convention 95 on Protection of Wages.</p>	<p>Contracted workers are covered by paragraph 17 (payment of wages and contributions) of the Policy and the demobilisation of contracted workers is included under paragraph 42.</p> <p>It is understood that there is, in practice, a distinction between (permanent) project workers whose legal employer is not the client and contracted workers engaged on fixed-term contracts for a particular assignment, such as civil works. However, this distinction is not currently reflected in ESR 2 and it would be difficult to do so.</p>

Ref no.	ESP/ESR	Theme	Comment	Response
				<p>It is not feasible to apply the full procedural requirements for a collective dismissals plan to short-term workers.</p> <p>Note that in many jurisdictions, the planned demobilisation of fixed-term contract workers would not constitute (collective) dismissal.</p> <p>No other international financial institution applies procedural requirements on collective dismissals to contracted workers.</p>
9	ESR 2	Labor rights	Paragraphs 23–25. While ESR 2 is clear that national law is a floor and not a ceiling, it still subordinates forms of worker representation and consultation to national law. This is true even on issues like occupational safety and health, which is considered a key area of engagement. This undermines the safeguard.	National law provides detailed procedural requirements that cannot be ignored or overridden by the Bank's requirement. Hence the reference to national law. However, we have reworded slightly, to not predicate the need to consult worker representatives on OSH on legal requirements.
10	ESR 2	Labor rights	The consequences for retaliation against project workers should be explicit. ILO Convention 135 on Workers' Representatives is clear on the importance of not dismissing workers' representatives, but clear consequences are not included either in the grievance mechanism (paragraphs 38, 39) or workers' organisations (paragraphs 23-25) sections. Explicit reference to UN Guiding Principle 31, outlining effectiveness criteria for grievance mechanisms, may be helpful to cite here as it is cited in ESR 10.	We have added a footnote to refer to the effectiveness criteria in the UNGPs.
11	ESR 2	Consultation	Paragraph 36 seems to imply that workers' consultation will only take place if required by national law. We would recommend starting consultation at an early stage, even if the law is silent on workers' information and consultation.	Noted. This is addressed in relevant guidance.
12	ESR 2	Labor rights	Paragraph 44. For supply chain workers, freedom of association risks should be explicitly identified by the client along with the others listed, because it is necessary for adequate monitoring of other rights.	The coverage of all fundamental rights was initially considered, but rejected as impractical and broadening the scope beyond the Bank's ability to implement consistently.

Ref no.	ESP/ESR	Theme	Comment	Response
13	ESR 2	GBVH/ CAPSEAH	<p>Urge the EBRD to embed into its ESP approach the Common Approach to Protection from Sexual Exploitation, Abuse and Harassment (CAPSEAH). CAPSEAH has a two-page summary, which all countries, institutions and so on involved in development, humanitarian and peace-related work can publicly endorse. If not possible, the ESR should reflect CAPSEAH in its ESP to align with current good practice.</p> <p>Paragraph 21. The document would benefit from adding something like: “The client’s approach to preventing and responding to sexual exploitation, abuse and harassment should be aligned with the internationally-agreed Common Approach to Protection from Sexual Exploitation, Abuse and Harassment.”</p>	Language has been proposed in the ESP with regard to the Bank’s support of the CAPSEAH, and additional language under ESR 4 now reflects two key principles of the CAPSEAH.
14	ESR 2	Supply chain	Paragraph 44–47: supply chain workers. The strengthening of the language regarding the client’s responsibilities in identifying significant risks and causing the supplier to take measures is welcomed, as is the addition of OSH- and GBVH-related risks. As mentioned in our previous comments, in our view, this requirement should be extended to the identification of risks and impact in relation to all fundamental rights.	The coverage of all fundamental rights was initially considered, but rejected as impractical and broadening the scope beyond the Bank’s ability to implement consistently.
15	ESR 2	Wages	Paragraph 16 on wages. The reference to the sector/region might still not be a living wage in some contexts. You might want to make some reference to a wage that enables a decent standard of living for workers and their families. This is the language used in the recent ILO tripartite agreement on living wages. The agreement foresees that the ILO will define a living wage for all countries according to a methodology to be agreed at the national level, but this work is only starting, so at this stage, we don’t have an estimation of a living wage for all countries.	We acknowledge that minimum wages are often inadequate. This is why the requirement is to offer wages that are comparable to the region and sector of a project, not the minimum wage (though this is, of course, also a legal requirement). The implementation of a living wage requirement is not practically feasible in the absence of an authoritative source setting such a benchmark.
16	ESR 2	ILO references	Requirements. We recommend this section also covers the inclusion of ILO codes of practice that set out practical guidelines for public authorities, employers, workers, enterprises and other bodies, as they tend to focus on specific economic sectors, or can address particular issues, hazards or labour and OSH measures.	Noted. We consider this to be a matter for guidance rather than policy.
17	ESR 2	Labour law	Paragraph 16 and 19. To prevent project-specific derogations of labour law [with regards to overtime and other employment T&Cs], language should either be inserted in paragraph 16 to explicitly prevent derogations or language inserted elsewhere (paragraph 19) to make sectoral agreements a reference point even when the client is not a party to it.	Exemptions and derogations may be enshrined in national law and cannot be overridden by a Bank requirement.

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				For example, it is common for certain categories of worker (such as medical professionals) to be exempt from certain provisions on working hours under defined circumstances. In other circumstances, bilateral agreements may provide for the temporary exemption of non-national workers from host-country labour-law and social-security requirements. It is not within EBRD's gift to override the content of these bilateral agreements.
18	ESR 2	Labour law	Paragraph 43. We would prefer greater flexibility here to allow for a range of different relationships between employers and subcontractors. Add "whilst also conducting reasonable due diligence to ensure broader compliance with national law".	Clients do not typically have a direct relationship with subcontractors. Hence, the contractor management approach is built on the model of cascading due diligence and labour requirements down the contracting chain.
19	ESR 2	Labour risk assessment	Paragraph 9. While the Bank asks clients to undertake an "independent labour assessment or labour audit" for projects with significant labour-associated risks, it does not ask for consultation with workers' representatives or trade union. We propose a multi-stakeholder approach to audits with involvement of workers' representatives in labour risk assessments.	We have added "following a credible and participatory approach".
20	ESR 2	Labour risk assessment	Paragraph 9. "Significant" alludes to the consideration of "severe" risks under the UNGPs; however, to be consistent with the UNGPs and to ensure more uniform implementation of human rights due diligence, the general requirement to consider severity in the risk identification process should be limited to prioritisation efforts. You can "prioritise" severe risk based on scope/ scale/irremediability. Freedom of association risks, for example, are themselves rarely considered severe.	Noted. The Bank considers freedom of association risks when assessing labour risks and they are a key factor in determining risk significance.
21	ESR 2	Labour audits	Paragraph 9. Audits have recognised weaknesses and vulnerabilities to be misleading or fabricated. The frontiers of innovative new practice include innovations that capture worker voice and experience via mobile phone-based platforms designed to be secure and discreet.  The EBRD might consider including language that encourages the use of alternative methods to just audits in high-risk contexts. Perhaps add: "In high-risk contexts or those where audit results cannot be relied on to be accurate, alternative innovative approaches to understanding the situation should be considered."	Noted. We have added "following a credible and participatory approach", but refrained from mentioning "alternatives", as this could signal to clients that they can avoid audits.

Ref no.	ESP/ESR	Theme	Comment	Response
22	ESR 2	Remedy	Paragraph 10. Consider adding a footnote reference that remedy should follow UNGP guidance on remediation, the OECD Guidelines for Multinational Enterprises, or the OHCHR report on remedy in development finance.	Not added.
23	ESR 2	Self-employed workers	We appreciate the requirement that self-employed workers be trained, equipped, registered with the state and so on and applaud that they are explicitly covered by the Fundamental Principles and Rights at Work. However, the introduction of the category of “self-employed workers” could introduce opportunities for artificial self-employment designed to prevent the exercise of labour rights. We recommend introducing language that explicitly prohibits disguised employment, such as that in the Inter-American Development Bank’s Environmental and Social Policy Framework (IDB ESPS2, paragraph 4).	Noted. This new provision aims to extend fundamental protections to self-employed workers. The Bank is not able to make a quasi-judicial determination on the existence of an employment relationship.
24	ESR 2	Supply chain	Paragraph 45. Should be amended as follows: “Where the client does not have a direct contractual relationship with a sub-supplier, the client will use reasonable efforts to <del>build their leverage by working with relevant entities</del> <b>and exercise all available forms of leverage</b> to prevent and mitigate the risks identified.” The term “leverage” should be defined to include “contractual, commercial, financial, relationship leverage, and/or collective leverage, and/or capacity building”.	We have changed to “and exercise all available forms of leverage”.
25	ESR 2	Forced labour	Paragraph 29. Include reference to supply chains “... identified on a project and in its supply chains ...”	Forced labour in supply chains is covered separately under paragraphs 26–29.
26	ESR 2	Vulnerable people	Paragraph 13. We might need to make a distinction between vulnerability in the project context and what we mean by vulnerable project workers.	Under paragraph 2, objectives, ESR 2 provides a list of vulnerability factors relevant for workers
27	ESR 2	Wages	Suggest that the section on “wages, benefits and conditions of work” include a requirement to provide project workers with a “living wage” and not (just) compliance with minimum wage legislation (where this is present), which forms part of PR 2’s existing commitment to adhere to national labour legislation. There is a risk that requiring clients to adhere to minimum wage legislation (and not a living wage) encourages workers to work excessive hours, particularly contracted workers.	We acknowledge that minimum wages are often inadequate. This is why the requirement is to offer wages that are comparable to the region and sector of a project, not the minimum wage (though this is, of course, also a legal requirement). The implementation of a living wage requirement is not practically feasible in the absence of an authoritative source setting such a benchmark.

Ref no.	ESP/ESR	Theme	Comment	Response
28	ESR 2	Wages	Paragraph 7. “Wages will be paid ...” for both client employees and contractor employees.	All requirements in ESR 2 apply to contractors with only one exception (collective dismissals). This is why it is not explicitly stated in every paragraph.
29	ESR 2	Workers	Reference “address any vulnerabilities” and “ensure that the treatment ...” Is this realistic in contexts where strong vested interests, political and legal positions or cultural norms work strongly against the rights of migrants? The implication perhaps being that if it is not possible to ensure this, then the work opportunity will be closed off to migrant workers. Perhaps mitigate would be a better word than address, as there are middle-ground ways in difficult contexts that have been tried, such as worker centres for migrants, that improve rather than solve their collective issues, while still keeping employment open to them.	The requirements are based on the fundamental principle of non-discrimination and it is not acceptable to relativize such concept.
30	ESR 2	Workers	Workers’ and their organisations should be included in all stages of a project, including design, implementation and monitoring, but that is not the case in this draft.	Workers are often absent in the early stages, especially for greenfield infrastructure projects.
31	ESR 2	Workers	Objectives and scope of application – project workers c). Non-standard forms of employment. The borrower/client will ensure that labour protections are provided to project workers and project-affected persons and communities that are at risk of deviating from standardised forms of employment. This includes temporary employment; part-time and on-call work; temporary agency works and other multiparty employment relationships; as well as disguised employment and dependent self-employment.	Scope of application updated to: “Project workers are those workers who work on a project site or perform work directly related to the project, including full-time, part-time, temporary, fixed-term, seasonal and migrant workers, as well as self-employed workers.”
32	ESR 2	Working conditions	Wages, benefits and conditions of work. Clients and borrowers need to make sure that every worker has the right to limitation of maximum working hours, to daily and weekly rest periods and to an annual period of paid leave. We have noticed that the paragraph on worker accommodation has now been deleted. We recommend that this be reinstated, as inadequate housing conditions for migrant workers continue to be a recurring feature in many infrastructure projects.	Such “limitations” are included in national labour laws, which apply. Worker accommodation is now covered under ESR 4.

## ESR 3

Ref no.	ESP/ESR	Theme	Comment	Response
1	ESR 3	Climate change/ GHG emissions	Develop a new ESR dedicated to climate change/greenhouse gas emissions and refer to it in ESR 3.	Not accepted. The EBRD has integrated climate considerations into the existing ESRs.
2	ESR 3	Climate change/ GHG emissions	Paragraph 23 (now 25). Should be amended as follows: “The client’s environmental and social assessment process will consider alternatives and implement technically and financially feasible <del>and cost-effective</del> options to avoid, <del>and if avoidance is not possible, to</del> or minimise, <del>mitigate and as a last resort, remedy any potential residual adverse impacts</del> arising from project-related GHG emissions during the design and operation of the project. We propose to add in: “ <b>The project alternatives assessment, which must be publicly disclosed, must take into account the lowest-GHG feasible alternative, not only the current situation, and not only alternatives that fall within the core business of the project promoter.</b> ”	Amended as follows: The client’s environmental and social assessment process will consider alternatives and implement technically and financially feasible and cost-effective options to avoid <b>and, if avoidance is not possible, to minimise, mitigate and, as a last resort, remedy any potential residual adverse impacts arising from</b> or minimise project-related GHG emissions during the design and operation of the project.
3	ESR 3	Climate change/ GHG emissions	All projects that will emit GHGs are significant and require a GHG emissions alternative analysis to avoid GHG emissions where feasible. The ESR only explicitly requires an alternatives analysis for Category A projects, and not for Category B projects with net positive GHG emissions, which could be significant and exceed the GHG emissions from Category A projects. This is distinct from an alternatives analysis, as referenced in ESR 3 paragraph 23 (now 25).	
4	ESR 3	Climate change/ GHG emissions	The ESP must be amended to explicitly require the inclusion of Scope 3 GHG emissions in the cumulative GHG emissions threshold for determining the applicability of ongoing monitoring and reporting of a financed project’s GHG emissions – the decision to include Scope 3 emissions should not be discretionary.	Treatment of Scope 3 is complex and will be addressed in guidance.
5	ESR 3	Climate change/ GHG emissions	We suggest that the following language be included in ESR 3 to specify when Scope 3 GHG emissions must be quantified: “Scope 3 emissions must be quantified, where feasible. Where feasible means as consistent with best available commonly practiced methods for quantifying GHG Scope 1, 2, and 3 emissions and when information is obtainable that would allow GHG emissions to be quantified.”	Treatment of Scope 3 is complex and will be addressed in guidance.



Ref no.	ESP/ESR	Theme	Comment	Response
6	ESR 3	GIP	Add language referencing upcoming regulations, policies and frameworks, such as the future international instrument on plastic pollution, or the Directive on Industry Emissions, currently under revision, which is expected to increase the focus on energy, water and material efficiency and reuse, in addition to promoting the use of safer, less toxic or non-toxic chemicals in industrial processes. This would also be important to add in Annex 1: EBRD Environmental and Social Exclusion List.	The Policy is not able to commit to regulations that are not yet finalised or implemented.
7	ESR 3	GIP	We recommend that the next update of the EBRD's ESP take into account new legislative frameworks, as during 2024 and 2025, we expect positive progress towards a new international standard covering biological hazards, as part of the review of the ILO's occupational safety and health normative framework. We suggest the inclusion of the Global Framework on Chemicals (GFC) and the Bonn High-Level Declaration on Chemicals, as well as the ILO guidelines for handling biological hazards in the working environment to better protect the environment and human health, including that of vulnerable groups and workers.	The Policy is not able to commit to regulations that are not yet finalised or implemented.
8	ESR 3	Climate change/ GHG emissions	Paragraph 24 (now 26). Should be amended to (a) require the client to disclose its estimated annual and lifecycle GHG emissions estimates for the project, along with the GHG emissions alternatives analysis and proposed adopted mitigation hierarchy, to the EBRD when any of these thresholds (20,000 tCO <sub>2</sub> e over a project's lifecycle, 500 tCO <sub>2</sub> e/year, or 500 tCO <sub>2</sub> e during construction) are crossed, and (b) require that 120 days prior to project financing, the EBRD publicly disclose these GHG emissions estimates, alternatives analysis and mitigation measures.	Not accepted. The GHG threshold has been lowered from 100kt CO <sub>2</sub> e/year to 20kt CO <sub>2</sub> e/year.
9	ESR 3	Climate change/ GHG emissions	Paragraph 24 (now 26). Remove the requirement that the client quantify GHG emissions in accordance with the 2017 EBRD Protocol for Assessment of Greenhouse Gas Emissions (EBRD GHG Protocol). The Bank needs to update the EBRD Protocol for Assessment of Greenhouse Gas Emissions to include Scope 3 emissions.	Agreed. The Protocol will be updated.
10	ESR 3	Climate change/ GHG emissions	The ESR should include Scope 3 GHG Emissions in the cumulative GHG emissions threshold for determining the applicability of ongoing monitoring and reporting of a financed project's GHG emissions. The decision to include Scope 3 emissions should not be discretionary.  Proposed update: "For projects that either have, or are expected to have, gross emissions in excess of 20,000 tonnes CO <sub>2</sub> equivalent annually, <b>including Scope 3 emissions</b> , or are expected to result in a net change in emissions, positive or negative, of more than 20,000 tonnes of CO <sub>2</sub> -equivalent annually post-investment, the client will quantify these emissions in accordance with the EBRD Protocol for Assessment of Greenhouse Gas Emissions <b>and, where an ESIA is required, include them in the study.</b> "	Scope 3 is not applicable to all projects, but will be included where relevant. This will be addressed in guidance.

Ref no.	ESP/ESR	Theme	Comment	Response
11	ESR 3	Pollution prevention and control	Paragraph 22 (now 25): Add a reference to impacts. “The client will provide the Bank with project information related to pollution risks, liabilities, provisions or costs associated with meeting the requirements of national legislation and applicable EU substantive environmental standards, proportionate to the nature and scale of the project’s risks and <b>impacts.</b> ” Add a reference to impacts.	Added.
12	ESR 3	Pollution prevention and control	We recommend strengthening the section for projects that are subject to EIA or EISA processes under the Directive on Industry Emissions, or similar processes under applicable regulation, by requiring the clients to provide the EIA/EISA report, and where applicable the competent authority approval or permit, and to implement the environmental conditions defined by the competent authority in its decision.	Not accepted.
13	ESR 3	Noise and vibration	Paragraph 31 (now 32). Could we say that clients will have to conduct supplementary noise and vibration impact assessment studies where such impacts are identified through the EBRD's due diligence process.	ESR 3 requires the assessment of noise and vibration.
14	ESR 3	Financial intermediaries	We strongly recommend that ESR 3 apply to all projects directly finance by the EBRD, but also to projects categorised as “financial intermediary” (FI). FI clients should also be required to comply with ESR 3. This change should also be made in Article 7.9, Section IV – ESP.	Not accepted. ESRs are only applied to Category A FI sub-projects.
15	ESR 3	Resource efficiency and pollution prevention and control	According to the EBRD’s Energy Sector Strategy 2024-28, the Bank is meant to prioritise the urgent need to accelerate energy decarbonisation. In practice, this will mean further investment in green infrastructure projects. ESR 3 should place an emphasis on the environmental health risks associated with deteriorating and abandoned infrastructure.	Green investments are defined in the EBRD’s Country and Sector Strategies and in the Green Economy Transition approach.
16	ESR 3	Human rights	Scaling up renewables will have a knock-on effect on the demand for mineral raw materials. The accelerated green energy transition, while a facilitator of sustainable development, can also be the contributing cause for adverse social and human rights impacts related to the whole cycle of extraction, production and commercialisation processes. Human rights should be integrated into ongoing energy transition plans and programmes to address adverse human rights impacts. Failure to engage in more comprehensive due diligence with a greater focus on risk mitigation strategies might impact the effectiveness of clean transitions programmes.	Noted. Human rights are mainstreamed across the Policy.
17	ESR 3	Hazardous substances	Objectives. In the third bullet point related to avoiding, minimising and managing the risks and impacts associated with hazardous substances and materials, add a reference to plastics and microplastics.	Added reference to single-use plastics.

Ref no.	ESP/ESR	Theme	Comment	Response
18	ESR 3	Resource efficiency	Objectives. In the fourth bullet point, related to identifying project-related opportunities for resource efficiency improvements, also refer to circularity improvements.	Final bullet added related to the transition to a circular economy.
19	ESR 3	Safe use and management of hazardous substances and materials	Objectives. In the fifth bullet point, the client responsibility is not only to have an integrated approach but also to incorporate such integrated approach in its strategy and to have meaningful targets, credible transition plan and robust monitoring and control system. Also, update: “outline the client's responsibility to ensure an integrated approach to resource efficiency, pollution prevention and control of emissions and discharges, <b>including safe management of hazardous substances</b> , and plastic waste reduction, as well as waste management”.	Not accepted. Detailed requirements are defined in the body of the ESR.
20	ESR 3	Biodiversity loss	Objectives. In the last bullet point, outline as well the client’s responsibilities with respect to biodiversity loss.	Biodiversity protection is addressed in ESR 6.
21	ESR 3	Safe use and management of hazardous substances and materials	Paragraph 25 (now 27). Unclear if this is trying to avoid contamination of desired naturally occurring microorganisms or trying to avoid contamination of the environment with microorganisms. Proposed re-wording: “To prevent and minimise environmental impacts <del>by and</del> contamination <del>of</del> with hazardous microorganisms and chemicals with antimicrobial properties, the client will apply GIP wastewater treatment and livestock faecal waste treatment.”	Agreed.
22	ESR 3	Noise and vibration	Para 31 (now 32). The requirement to meet the WHO recommended limits is highly questionable. In other areas of the ESP/ESRS, reference is made to compliance with existing international agreements or with existing EU standards. The WHO recommendation is not an EU standard. The WHO limits may be unachievable in inner-city areas. Para 31 does not clearly set out the criteria by which the permissible level of noise or vibration should be assessed.	Updated to reference “good international practice” rather than the WHO.
23	ESR 3	Pollution prevention and mitigation	While referring to the “mitigation hierarchy” generally, ESR3 does not refer to the responsibility to remediate pollution impacts should they occur. The text of ESR3 needs to set out a more explicit requirement to follow the EU waste hierarchy. Suggested addition: The Policy should expressly adopt a “polluter-pays” approach reflecting relevant principles from Directive 2004/35/CE of the European Parliament relating to the remediation of environmental damage.	This is covered by the overarching requirements of the Policy and ESR 1.
24	ESR 3	Resource use and waste generation – lifecycle	Introduction. We recommend specifying that the project-related risks and impacts associated with resource use, and the generation of waste and emissions needs to be assessed across whole lifecycle and value chains.	Not accepted.

Ref no.	ESP/ESR	Theme	Comment	Response
			<p>Paragraph 6 (now 8). Specify that the identification and assessment of the effectiveness and efficiency of the project's use of materials and natural resources, waste management practices and energy use should be across the whole project life cycle and should also assess impacts on the environment and human health. More explicitly require adherence to the EU waste hierarchy.</p> <p>Paragraph 14 (now 16): the assessment should be for the full life cycle of the project.</p>	
25	ESR 3	Best available techniques/GIP	Introduction. In addition to Best Available Techniques (BAT) and good international practice (GIP), a reference to emerging techniques could be added (such as in the EU Directive on industrial emissions definition of 'Emerging technique')	Not accepted.
26	ESR 3	Biodiversity	Introduction. Point 3. We recommend adding a reference to the use of natural resources as one of the drivers of biodiversity loss.	Biodiversity protection is addressed in ESR 6.
27	ESR 3	Resource efficiency and circular economy	<p>Paragraph 6–7 (now 8 and 9). A reference could be added to the development and use of business models that increase the circularity of the client's activities.</p> <p>Paragraph 6 (now 8). In the second sentence, add that the assessment should focus on design (in addition to production processes).</p> <p>Paragraph 7 (now 9). Should also refer to minimising its impact on nature and on health (in addition to minimising its impact on resources) and refer to the waste hierarchy and to waste prevention and reduction, and not only to waste management. It should refer to emissions to air, soil and water, and not only to air emissions.</p> <p>Paragraph 7 (now 9). "The client will adopt technically and financially feasible and cost-effective measures to minimise its environmental and social impact on resources, <b>in line with the EU waste hierarchy, (...)</b>".</p>	Additional references to circular economy have been added.
28	ESR 3	Mitigation hierarchy	<p>Paragraphs 6 (now 8), 7 (now 9), 11 (now 13), 12 (now 14) and 13 (now 15) more explicitly require adherence to the EU waste hierarchy.</p> <p>Paragraph 7 (now 9). Update as follows: "The client will adopt technically and financially feasible and cost-effective measures to minimise its environmental and social impact on resources, <b>in line with the EU waste hierarchy, (...)</b>".</p> <p>Paragraph 11 (now 13). Update as follows: "The client will avoid or minimise the generation of waste materials and reduce their impacts as far as practicable. Where waste generation cannot be avoided but has been minimised, the client <b>will apply the remainder of the EU waste hierarchy, prioritising reuse, recycling and composting, or, where suitable, backfilling. Organic waste may be used</b> as a source of energy in a manner that is safe for human health and the environment. Where waste cannot be recycled, reused or <b>materially ...</b>"</p> <p>Also, highlight that waste as a source of energy is the least preferred solution.</p>	The mitigation hierarchy is mentioned in the objectives of the ESR.

Ref no.	ESP/ESR	Theme	Comment	Response
			Paragraph 12 (now 14): should refer to international treaties and specify that the client is required to apply the most stringent regulation. It should also refer to enhanced labelling, record keeping, monitoring and control obligations for hazardous waste. We also recommend adding a requirement to monitor and report waste generated, and that when third parties provide for the final disposal of waste and hazardous waste, the clients is required to ensure that final disposal is done by licensed contractors.	
29	ESR 3	Pollution prevention and control	Paragraph 17 (now 19). Should refer to national legislation and to international treaties/MEAs and should apply the most stringent regulation.	Requirements for compliance with national legislation are defined in the Policy and in ESR 1.
30	ESR 3	Pest management	Paragraph 29 (now 32). We recommend including the promotion of alternative approaches or techniques such as non-chemical alternatives to pesticides. We also recommend strengthening the requirement to monitor and report the use of pesticides.	Avoidance and phase-outs are part of the ESR requirements.
31	ESR 3	Safe use and management of hazardous substances and materials	Recommend strengthening the principle of a prevention-first approach to the management and safety of hazardous chemicals, substances, materials and wastes. Preventing hazardous waste from being produced in the first place needs to be prioritised. A similar approach should be followed for incentivising the reuse, recycle and recovery of hazardous waste rather than the disposal and hazardous chemicals and substance products. We recommend strengthening the wording of this section, for example, by using “eliminate” in addition to “avoid” and “minimise” the use of hazardous substances and materials; by using “encourage” rather than “consider” the use of less hazardous substitutes.	Avoidance and minimalisation are embedded in the ESR.
32	ESR 3	Pest management	Paragraph 28 (now 31). Need careful thought on how to include both the permissive use of pesticides in the short term and the phase-out in the medium-long term without the statements being contradictory. Proposed wording updates: “Clients who manage or use pesticides <b>including chemicals with antimicrobial properties</b> will formulate and implement an integrated pest management (IPM) and/or integrated vector management (IVM) approach for pest management activities, <del>including their phase out in line with GIP.</del> The client’s IPM and IVM programme will coordinate <del>the</del> use of pest and environmental information together with available pest control methods, including cultural practices, biological, genetic and chemical means to prevent unacceptable levels of pest damage. <b>Clients will work towards phaseout of pesticide use in line with GIP.</b> When pest management activities ...”	Phase-out in line with GIP and international agreements added.
33	ESR 3	Introduction	Paragraph 2. Rephrase the last part of the paragraph by mentioning that valuable products can be created or derived from waste classified as byproducts, also using eco-design development principles This would be in line with new EU Waste Framework Directive and Byproduct criteria established in it.	Not accepted.

Ref no.	ESP/ESR	Theme	Comment	Response
34	ESR 3	Water	Rename section as “water and wastewater”. Add a para on wastewater reuse, treatment options and discharging requirements. Section should also cover water quality and what the requirements are to address water pollution.	Not accepted. “Water” includes wastewater.
35	ESR 3	Water	Paragraph 9 (now 11). There is no recommendation to use a fixed amount to define high water demand. Recommend requiring water-related monitoring and disclosure for all projects and not only for projects with high water demand. In the last bullet point, in addition to identifying opportunities for continuous improvement, it should be required to put in place targets, action plan and monitoring to materialise identified opportunities.	High water demand is defined in the ESR as exceeding 5,000m <sup>3</sup> /day.

## ESR 4

Ref no.	ESP/ESR	Theme	Comment	Response
1	ESR 4	Contracts	Paragraph 22 (now 23). Assessment of past OSH performance of contractors. Maybe it would be possible to include here something about OSH requirements included in the tender procedure, selection procedure for contractors.	Noted.
2	ESR 4	EU directives and good international practice	Paragraph 40 (now 41). Add a paragraph article to mention that similar provisions should apply for railway, as needed in accordance with GIP requirements (including the Regulation concerning the International Carriage of Dangerous Goods by Rail).	Not accepted. This may be more appropriate for guidance.
3	ESR 4	Traffic	Paragraph 37 (now 38). Rename to “traffic safety”, as this article is also applicable to other transport systems than roads.	Not accepted. Road safety is a widely recognised concept.
4	ESR 4	GBVH	Paragraph 21 (now 22). Clarify that the ESR for GBVH response builds on the general requirements under ESR4. Suggested: In addition to the measures provided for in paragraph 10 of this ESR, GBVH survivors will be provided with or referred to appropriate medical, psychosocial and judicial support services. Incidents and allegations of sexual exploitation and abuse associated with the project will be reported to the EBRD.	Not accepted. GBVH provisions are already well defined.
5	ESR 4	Contracted and supply chain workers	We applaud the clear and explicit reference to relevant ILO conventions, though note the absence of C190. <ul style="list-style-type: none"> <li>It is good that the Bank is expanding the client's responsibilities for ensuring contractors adhere to OSH requirements (paragraphs 22-23), however clearer language is needed to ensure that contracted and supply chain workers are covered by OSH protections.</li> </ul>	A reference to C190 has been added.

Ref no.	ESP/ESR	Theme	Comment	Response
			<ul style="list-style-type: none"> <li>We are glad that the Bank requires clients to provide project workers with PPE at no cost (paragraph 13). However, while gender-specific hazards are addressed in paragraph 17 (now 18), the PPE employers provide should also be gender-appropriate.</li> </ul>	
6	ESR 4	OSH	Introduction 3. (The client has the primary responsibility...). We recommend the inclusion of a duty to cooperate with different government ministries, between inspection services, with social partners and other stakeholders, and in international partnerships on OSH-related matters. Any condition that impacts negatively on health and which is due to a work accident or an occupational disease and resulting in the incapacity to work and earn must be covered.	The EBRD is not able to impose duties on ministries or other official bodies.
7	ESR 4	Insurance	On the issue of adopting a group personal accident insurance for certain types of activities, we recommend a thorough review as insurance policies may include several exclusions of coverage related to circumstances surrounding events, accidents, or diseases, resulting eventually in the inability to be compensated. Investigations to determine the qualification to benefits may also be cumbersome, long and costly for project-affected workers and communities.	This has been addressed in ESR 4.
8	ESR 4		Paragraph 10. The text for this provision must include “medical and allied care”, with a view to maintaining, restoring or improving the health of the injured person and her or his ability to work and attend to personal needs. A specific mention needs to be made that occupational safety and health measures will be designed and implemented to enhance a more effective reporting of occupational accidents, injuries, ill health and diseases. We believe that this wording is not robust enough considering how prevalent the lack of OSH data and poor reporting systems are, together with under-reporting of occupational incidents, accidents, diseases and work-related injuries.	The requirements for provision of support have been strengthened in ESR 4.
9	ESR 4	OSH	Paragraph 15 (now 16) and 33 (now 34). This requirement of due diligence should be seen as a comprehensive continuum of workplace safety governance in conjunction with mental health and wellbeing. A risk-based approach to these risks should entail the inclusion of psychosocial risk management into workplace design, business operations and the wider corporate risk agenda, irrespective of the business context, sector or size (for example, including risks of a psychosocial nature into existing occupational safety and health management systems and risk management frameworks /assessments). Business practices in the field of workplace mental health and wellbeing and work-related psychosocial risks are expected to evolve as organisations mature in its journey from more compliance-based to safety to prevention-based approaches reason why this ESP needs to account for these changes.	Noted.



Ref no.	ESP/ESR	Theme	Comment	Response
10	ESR 4	OSH	Paragraph 17 (now 18). This section represents a good opportunity to reinforce gender differences in the development of OSH policies and prevention strategies by borrowers/clients such as the implementation of gender-sensitive OSH risk assessments. This approach can help to improve the understanding biological differences, employment patterns, social roles and social structures within the workforce or the community can play to gender-specific patterns of occupational hazards and risks.	The wording has been revised to address gender identity and ensure non-discrimination.
11	ESR 4	Infrastructure, building and equipment design and safety	Infrastructure, building, and equipment design and safety. This section could include a more robust call for the adoption of a prevention-first approach to infrastructure and construction projects. The relationship between design and construction accidents is of critical importance, as a significant number of accidents have a strong correlation to how OSH is embedded in the design phase of the project. To reduce the inherent hazards in the design, designers of construction and infrastructure projects need to be increasingly educated and trained on occupational safety and health aspects. Integrating sound occupational safety and health principles into the design process needs to be seen as critical for borrowers and clients to ensure a safe working environment for project workers and project-affected persons and communities, the public, and the long-term sustainability of the infrastructure, building and equipment design.	This section does require safety to be considered as part of project design.
12	ESR 4	Exposure to disease	Exposure to disease. This section doesn't address with the required detail the reporting of occupational health exposure and disease, therefore lacks a stronger focus on both the prevention of harm and promotion of health (as the Sustainable Development Goals recommend). To this extent, recommend the inclusion of a more balanced set of health-related metrics. It is recommended that borrowers/clients take into consideration how regions, workers and people in different occupations are affected by emerging health issues, such as climate change-driven infectious disease, and incorporate OSH-related mitigation and adaptation interventions. We believe the field of emerging infectious disease prevention, preparedness and response is a critical one for the interests of the Bank to help strengthen selected national and provincial systems in the EBRD's constituency regions.	Noted. The EBRD believes the current provisions are sufficient for the projects it finances. This does not preclude additional measures being taken where diseases pose a particular risk.
13	ESR 4	Mental health	Paragraph 33 (now 34). The primary response to work-related stress should be to try to prevent it in the first place, with appropriate controls in place to manage cases if prevention is not possible. Replace "reduce" with "prevent" potential negative impacts on workers' mental health.	Agreed and implemented.
14	ESR 4	Hazardous substances	Paragraphs 28 (now 29) to 30 (now 31). More emphasis should be put on the client considering whether there are safer alternatives or less hazardous substances that can be used as part of the hierarchy of risk controls. Amendment suggested as follows: The client will prevent or, where it is not practicable to prevent the risk completely, reduce the potential for worker and project-affected community exposure to hazardous materials that	The approach is inherent in the hierarchy of risk controls.



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			may be released by the <del>activity project</del> , by controlling exposure through <b>safe alternatives or by use of less hazardous substances or materials</b> and adopting <del>the</del> a hierarchy of risk controls. Where there is a risk of any intentional or unintentional release of chemicals, energy or other potentially dangerous materials that will result <del>in serious</del> in a risk to project workers or project-affected communities during project implementation, the client will carry out a risk assessment at the initial design stage to eliminate a risk of release. The risk assessment will identify process safety concerns and address these through GIP and good engineering design prior to construction. Where hazardous materials are part of existing facilities or operations associated with the project, the client will exercise due care and implement appropriate <b>control</b> measures to prevent, prepare, respond and learn when conducting commissioning, operating, maintenance and decommissioning activities in order to prevent the exposure of workers and project-affected communities to such hazardous materials. Where the use of such materials cannot be avoided, the client will take the necessary measures <b>such as risk assessment</b> , for safe handling, labelling, storage, transport and disposal in accordance with GIP.	
15	ESR 4	Overtime and hours	Paragraph 12. Trade union recommendations emphasised the importance of safeguarding improvements regarding overtime or excess hours – as a safety hazard and as a forced labour issue. This is not reflected in the draft safeguard.	Reference to excessive overtime have been added
16	ESR 4	Overtime and hours	<p>Proposed working time language:</p> <p>Noting the EU's Working Time Directive (2003/88/EC) requires guaranteeing the following rights for all workers: <b>a limit to weekly working hours:</b> the average working time for each seven day period must not exceed 4 hours, including overtime; depending on national legislation and/or collective agreements, the 48-hour average is calculated over a reference period of up to 4, 6 or 12 months; <b>a rest break</b> during working hours if the worker is on duty for longer than 6 hours; <b>a minimum daily rest period:</b> in every 24 hours a worker is entitled to a minimum of 11 consecutive hours of rest; a minimum weekly rest period: for each 7-day period a worker is entitled to a minimum of 24 uninterrupted hours in addition to the 11 hours' daily rest; <b>paid annual leave</b> of at least 4 weeks per year; <b>extra protection in case of night work:</b> average working hours must not exceed 8 hours per 24-hour period, night workers must not perform heavy or dangerous work for longer than 8 hours in any 24-hour period, night workers have the right to free health assessments and, under certain circumstances, to transfer to day work.</p> <p>Any time overtime work is required, it needs to be limited, voluntary, officially agreed to by workers with written confirmation, and not exceed national standards. Workers need to be provided with adequate notice. Excessive overtime, including consistent overtime scheduling, should never be permitted. To address the exceptional circumstances and with due regard to the protection of the health and safety of workers, the Working Time Directive allows <b>derogations</b> from these rights. When these exceptions apply, we suggest the</p>	It would not be reasonable or practical for the EBRD to require implementation of the Working Time Directive in non-EU countries, however, ESR 2 does address many of the issues covered by the directive.

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			following language to control fatigue risk (from the ILO Code of Practice for Construction): A fatigue risk assessment should be carried out and written fatigue risk control measures drawn up for all operations and in accordance with national laws and regulations. The fatigue risk assessment should consider work-related fatigue, resulting from features of the work and the workplace. The fatigue risk control measures should specify working-time arrangements where workers: a) carry out work between 7 pm and 6 am; b) work more than 48 hours in any consecutive five-day period (working on each day) including unplanned work, emergencies, overtime, breakdowns and call-outs; c) are employed on rotating or irregular shift patterns; or d) do not have a minimum of two consecutive days off in any seven-day period.	
17	ESR 4	Overtime and hours	The fatigue risk assessment and the fatigue risk control measures should be developed in consultation with workers and their representatives and there should be a demonstrated commitment from all parties that it will be supported by the whole organisation. It should cover the rosters, roles and responsibilities of managers, professional staff, contractors, subcontractors, those who work on planned rosters and unplanned work such as overtime and call-outs. Commuting times as well as the suitability of employer-provided accommodation should also be considered.	Not accepted. This issue may be more appropriate as part of guidance.
18	ESR 4	Health and safety risks in community services	Paragraph 36 (now 37). Where the project involves the provision of health services and/or the production, distribution and use of antimicrobials biotics, the client will incorporate antimicrobial stewardship to minimise <b>antimicrobial resistance</b> .	AMR is addressed in ESR 6.
19	ESR 4	Right to leave the workplace	Paragraphs 14 and 15. The lack of a right for workers to leave an unsafe workplace is a major problem, and the current draft places the responsibility for determining safety on the client rather than the worker. Language should be clear that workers can leave if they are in immediate danger, as workers are already prevented from leaving work unnecessarily by ordinary disciplinary proceedings. We propose the following edit: "Workplace processes ... Project workers will not be retaliated against or otherwise subject to reprisal or <del>negative action</del> <b>undue consequences</b> for such reporting or removal." The reason we use "undue consequences" rather than "negative action" – in line with ILO Convention 155, Article 13 – is that even well-intentioned actions such as a job transfer could result in lower pay, less suitable shifts or other second-order effects.	Not accepted.
20	ESR 4	Worker accommodation	Paragraph 55 (now 56). Include contractors. There are projects where contractors are providing sleeping accommodation facilities for workers engaged in a project. Require a code of conduct to be developed for accommodation facilities and each worker should receive a brief induction training where the code of conduct should be explained.	Not accepted. The proposed worker accommodation requirements and guidance are sufficient.

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21	ESR 4	Worker accommodation	We applaud the inclusion of worker accommodations in ESR 4, including specific provisions detailing minimum requirements. However, it is crucial to avoid confusion in the way the text is written (regarding what applies to welfare facilities vs. worker accommodations) and to ensure national law and ILO standards are upheld.	Noted.
22	ESR 4	Worker accommodation	<p>Paragraph 54 (now 55) and 55 (now 56). Proposed language:</p> <p>Paragraph 54 (now 55). The client will identify and make available appropriate worker welfare arrangements relevant to the work being undertaken throughout the project lifecycle. Project workers will have access to safe, hygienically clean and project-appropriate facilities where project workers of different genders can rest, eat and wash. Welfare facilities will be well-ventilated, offer protection from extreme temperatures and be appropriately maintained. Welfare facilities will also include free and unrestricted access to wholesome drinking water for all project workers.</p> <p>Paragraph 55 (now 56). Where a client provides sleeping accommodation for project workers and visitors, the client will put in place and implement policies governing the quality and management of the accommodation and provision of services. The accommodation facilities provided needs to ensure structural safety and reasonable levels of decency, hygiene and comfort (ILO R115). The accommodation facilities will be well ventilated, have suitable and safe arrangements for heating/cooling and be appropriately maintained. The accommodation services will be provided in accordance with GIP and in a manner consistent with the principles of non-discrimination and equal opportunity, including safeguards against sexual harassment and other forms of GBVH. Workers' freedom of movement to and from the employer provided accommodation will not be unreasonably restricted.</p>	Requirements for “decency, hygiene and comfort” in worker accommodation have been added.
23	ESR 4	Worker representation and freedom of association	Paragraph 15. We are very encouraged by language requiring the establishment of an occupational health and safety committee with elected worker representatives. It would be helpful to specify that if an elected committee or trade union already exists, this language does not undermine their work or any existing collective bargaining agreement.	Agreed and added.
23	ESR 4	Worker representation and freedom of association	Paragraphs 13 and 15. Where applicable, trade unions should be consulted on matters relevant to project workers.	Not accepted. Requirements for engagement with workers' organisations are included in ESR 2.

## ESR 5

Ref no.	ESP/ESR	Theme	Comment	Response
1	ESR 5	Forced eviction	<p>Paragraph 13. There are situations where evictions will take place, but these will not be considered forced evictions. Please clarify that ESR 5 acknowledges that some projects may generate eviction situations and some will be forced evictions and some will be evictions done with the support of local/regional/national authorities and cooperation with project-affected persons.</p> <p>The client's obligations should be to inform project-affected persons in a timely and effective manner about the evictions and document the way this was done, and to cooperate with all national/regional and local authorities during the eviction process.</p>	<p>The requirement for clients to avoid forced eviction is included in ESR 5. In addition, forced eviction is listed in the Exclusion List. The requirements for “legal evictions” are outlined in paragraph 14 of ESR 5. These requirements stipulate that evictions must comply with national law and the provisions of ESR 5, and they must be conducted in a manner consistent with basic principles of due process. This includes: i) the provision of adequate advance notice, ii) meaningful opportunities to lodge grievances and appeals, iii) avoidance of unnecessary, disproportionate, or excessive force, iv) ensuring evictions do not result in homelessness, and v) providing adequate compensation before the eviction takes place. Further guidance can be found in the PR 5 Guidance Note.</p>
2	ESR 5	Forced eviction	<p>Paragraph 14. Does this mean that force can be used? Consider deleting. If force is used, then it is a forced eviction situation.</p>	<p>Forced eviction is strictly prohibited, as outlined in ESR 5 and included in the Exclusion List. Paragraph 14 of ESR 5 explains the conditions under which evictions are inevitable, provided they comply with national law and the objectives of ESR 5. This paragraph specifically addresses the initial concern expressed above.</p>

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3	ESR 5	Forced eviction	Paragraph 15. The EBRD will have to react to this notification prior to eviction?	Per paragraph 15 of ESR 5, the client is required to notify the EBRD before any eviction takes place. This notification must include a statement confirming that the aforementioned conditions have been and are being met. The EBRD will then review the evidence provided by the client to ensure the process complies with the requirements outlined in ESR 5. However, EBRD internal processes are for the guidance note on ESR 5.
4	ESR 5	Livelihood restoration	<p>Paragraph 4. As it currently stands, this puts the emphasis on improving the livelihood of people. Could this be rephrased so that it emphasizes the restoration of livelihood and if possible, improving it?</p> <p>Restore the livelihood and standards of living at least at same standards as before and, whenever possible and feasible, improve them.</p> <p>The objective should be more towards restoring the living conditions of physically displaced persons and improving them as much as possible. Consider saying living conditions are to be restored rather than improved.</p>	The requirement to “improve, or at a minimum, restore the livelihoods and standards of living of affected persons to pre-displacement levels” aligns with other MDBs. The requirements section establishes that the minimum requirement is the restoration of livelihoods, while promoting improvements wherever possible.
5	ESR 5	Livelihoods restoration	Paragraph 7. I would suggest avoiding most vulnerable. This might lead to additional requirements on defining who is the most vulnerable. Maybe better just say vulnerable persons (as these are clearly defined in the glossary).	Agreed. Text amended.
6	ESR 5	Physical & Economic Displacement	<p>Please consider the Dublin Declaration on Fair and Equitable Land Access in your review process. This is marked relevant under ESR 5.</p> <p>The Dublin Declaration was endorsed by acclaim on 25 April 2024 at the International Association for Impact Assessment conference in Dublin.</p>	The EBRD has reviewed the Dublin Declaration on Fair and Equitable Land Access and believes that ESR 5 is broadly aligned with its key principles. Both the EBRD's ESR 5 and the Dublin Declaration aim to protect and enhance the well-being of people affected by development projects through various standards. These include, but are not limited to, adherence to international human rights standards, requirements to avoid forced eviction, zero tolerance for retaliation, special provisions for vulnerable people, recognition of the rights of affected individuals and the promotion of

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				inclusive, fair and transparent decision-making processes throughout the project lifecycle. It is important to note that principles related to robust community participation are detailed in ESR 10 and, therefore, are not duplicated under ESR 5.
7	ESR 5	Objectives	Paragraph 4. Overall, I find these objectives a bit too ambitious. From practice, we notice that the main objective of ESR 5 is to assess and manage the resettlement, economic displacement and livelihood impacts generated by projects and to ensure that fundamental human rights of resettled persons are properly, timely and effectively considered when resettlement processes occur.	The objectives of ESR 5 are designed to align with international best practices and standards set by MDB and the UNGPs. These objectives aim to ensure comprehensive assessment and management of resettlement, economic displacement and livelihood impacts, while safeguarding the fundamental human rights of resettled persons. We understand your concern about the perceived rigidity of these objectives. However, their ambition is necessary to uphold the highest standards of human rights and development impact. Please note that the specific and measurable requirements for clients across ESR 5 are designed to help them achieve these broad objectives effectively. In addition, a guidance note for each performance requirement is developed to help clients implement these requirements with a view to achieving ESR 5 objectives.
8	ESR 5	Physical and economic displacement	<p>Paragraph 7.</p> <p>a. Can it include something about the duration of ESR applicability? Sometimes the resettlement processes can take more time than EBRD engagement in a project. Thus, the client might/should implement the resettlement under the same conditions as applicable during EBRD engagement, but there is no leverage to ensure this.</p> <p>f. Could it refer to situations where land acquisitions processes started and were finalised before the EBRD stepped in. In such cases, ESR 5 is still applicable and if any gaps are identified during the project due diligence/audit phase, then a remedial action plan/measures should be developed.</p>	<p>a. While land acquisition is typically completed before construction of facilities financed by the Bank, resettlement processes may extend beyond the EBRD's engagement in the case of ongoing operations. During the loan agreement period, the EBRD requires clients to establish an ESMS, allocate necessary resources and monitor</p>

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				<p>land acquisition throughout the project lifecycle. ESR 5 also mandates resettlement action plan close-out audits to ensure responsible project exit. Although the EBRD's leverage is limited to the loan agreement period, we encourage clients to uphold the same resettlement standards and conditions established during the EBRD's involvement to ensure responsible resettlement practices continue beyond the EBRD's active engagement.</p> <p>g. Please see paragraph 7 of ESR 5 for past land acquisition cases.</p>
9	ESR 5	Physical and economic displacement	Paragraph 8. There are situations where voluntary agreements are signed with project-affected persons and still the ESR are applicable. Maybe it should clearly indicate that the ESR is not applicable to voluntary land transactions where full replacement costs can be demonstrated.	<p>Paragraph 8 of ESR 5 already states that "This ESR does not apply to: resettlement resulting from voluntary land transactions (market transactions in which the seller is not obliged, coerced, intimidated or bribed to sell and the buyer cannot resort to expropriation or other compulsory process if negotiations fail), and where such transactions affect only those with legally recognised rights. However, this ESR will apply where such voluntary land transactions may result in the displacement of persons, other than the seller, who occupy, use or claim rights to the land in question such as informal tenants or other land users that have no right under national law." Further guidance is provided in the PR 5 guidance note.</p>
10	ESR 5	Physical and economic displacement	Paragraph 12. As a policy, I think it is better if the document says clearly that avoidance is the preferred approach.	<p>This is already stated in paragraph 12: "Avoidance is the preferred approach in accordance with the mitigation hierarchy in ESR 1 and ESR 5."</p>

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11	ESR 5	Physical and economic displacement	<p>Paragraph 5. As a result of the implementation of development projects in specially protected natural areas (tourism, rental, ski resorts, hydroelectric power stations, construction of mudflow protection structures, and so on), people lose access to natural resources, primarily water and recreational ones, and the resources themselves are depleted and even lost (for example, biodiversity).</p> <p>We believe that, in such cases, the project should not be implemented, especially in the context of the current environmental crisis, in particular rapid climate change. Otherwise, this can be interpreted as preference being given again to business projects.</p>	<p>Sustainable management of living natural resources is detailed in ESR 6, which ensures continued access to these resources. ESR 7 and ESR 5 require projects to ensure the equivalent replacement of natural resources or, as a last resort, provide compensation. Projects that do not meet or commit to meeting these requirements will not be supported by the Bank.</p>
12	ESR 5	Land banking	<p>The EBRD provides financial support to companies working in the agricultural sector that aim to increase their land bank. The process of land consolidation (concentration) can cause negative impacts on local communities and should be properly considered. This process of buying up vast tracts of land by a single company in certain areas has long-term effects through changes in land ownership (control), resulting in shifts in the balance of power between stakeholders (for example, large landowners, local governments and local communities).</p> <p>The issue of land concentration was highlighted by the Office of the United Nations High Commissioner for Human Rights (OHCHR) in its Benchmarking Study of Development Finance Institutions' Safeguard Policies. The study points out the need to adjust international financial institutions' policies to avoid negative impacts of land transactions</p>	<p>ESR 5 requires borrowers to avoid or minimise involuntary resettlement, assess and mitigate impacts on affected persons, and establish accessible grievance mechanisms. It emphasises participatory resettlement planning, involving affected communities in decision-making and ensures resettlement does not cause negative long-term effects, such as adverse significant changes in land ownership patterns. In addition, ESR 1 and ESR 5 require the assessment of cumulative impacts on affected people and communities. These standards aim to protect the rights and livelihoods of affected populations, mitigating risks/impacts, including land consolidation. These wider issues are covered in ESIs for high-risk projects.</p>
13	ESR 5	Physical and economic displacement	<p>The list of objectives for ESR 5 is entirely focused on the avoidance of resettlement and compensations for resettled people. These objectives narrow down the scope of the requirements listed to those associated with the loss of land, rather than those associated with limitations on the use of land.</p> <p>We suggest that the policy clearly spells out the need to assess the impact of large-scale land acquisition as a dedicated assessment aimed at avoiding land concentration by individual companies. Such an assessment should not be the sole responsibility of the</p>	<p>Conducting an impact assessment in line with the Bank's ESP/ESRs is the responsibility of the client. However, the Bank conducts its own E&amp;S due diligence (ESDD), including assessing land resettlement risks/impact on people through its own independent resettlement experts before making a lending decision. This process involves</p>



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			<p>client. The impact of such land consolidation on smaller landowners and communities should be part of the Bank's project due diligence.</p> <p>There are issues over small landowners where clients have treated locals who were unwilling to lease their land to the company harshly or have been pressurised to sign leases at a community rather than individual level. The most vulnerable people, usually elderly, single or widowed women, were targeted.</p> <p>There are also issues over the loss of the ability to lease land to anyone other than the dominant land lessee or have a say what would be the development on their land.</p>	<p>engaging with communities, workers and other local stakeholders. If the ESDD identifies gaps or issues not assessed by the client, the Bank may require additional assessments by competent experts approved by the Bank, including additional baseline surveys, consultations and impact assessments on land use. Therefore, the Bank does not solely rely on the client's data during the appraisal process.</p> <p>The requirements for meaningful consultation and disclosure are strengthened in ESR 5 and ESR 10, which also include provisions on avoiding retaliation. Additional provisions are added to negotiated settlements to avoid power imbalances and to document and monitor the process through qualified social experts. The EBRD will enhance its internal and external ESDD tools to proactively address retaliation risks. Through enhanced ESDD and monitoring, the Bank aims to mitigate these risks. However, we acknowledge potential shortfalls during implementation. To address this, in the new Policy, the Bank proposes a management-level grievance mechanism for CSOs and communities to effectively raise and resolve issues.</p>
14	ESR 5	Access	Sometimes it is difficult for other potential users to physically access the land because they have to cross someone else's land. In other cases, a potential alternative lessee may find it difficult to work on several unconnected plots of land. In this situation, landowners have no choice but to agree to terms offered.	Provision of access to lands is a requirement of ESR 5. Also the new version states that payment of cash compensation for lost land or assets at full replacement cost in lieu of in-kind compensation may be appropriate where: (i) livelihoods are not land-based; (ii) livelihoods are land-based, but the land taken for the project is a small fraction of

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				the affected asset and the residual land is economically viable; or (iii) active markets for land, housing and labour exist, displaced persons use such markets, and there is sufficient supply of land and housing.

## ESR 6

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1	ESR 6	AMR	ESR 6, paragraph 22 (now 24). We are broadly content with the proposed approach but consider that it could be strengthened by referencing principles 6-15 of the Codex standards, explicit reference to responsible farming practices (Codex section 5.5) and by showing consideration to the responsible use of antimicrobials in plants.	Noted. As a good practice standard, it will be referred to in the guidance note and explored during due diligence.
2	ESR 6	AMR	Paragraph 22 (now 24). Change to: To minimise antimicrobial resistance (AMR), the client will only use antibiotics on healthy on food-producing animals, in accordance with EU substantive environmental standards.	Changed.
3	ESR 6	Vulnerable species	Paragraph 12 section (ii). please change “vulnerable species” to “vulnerable or near-threatened species”. This is because near-threatened species (as defined in the IUCN Red List) are still of notable conservation concern and (as per paragraph 4).	No change. Aligned with other MDBs.
4	ESR 6	Biodiversity action plan	Paragraph 19 (now 20). Update as follows: “In instances where biodiversity offsets are proposed for priority biodiversity features or critical habitat, the client’s <del>will develop a biodiversity offset strategy or biodiversity offset management plan, as appropriate,</del> biodiversity action plan (BAP) <del>to</del> must demonstrate that the project’s significant residual impacts on biodiversity will be adequately mitigated.” The BAP can and should incorporate all the key features of a “biodiversity offset strategy” or “biodiversity offset management plan” so separate reports would not be needed.	Noted. No change. In the Policy, projects may require different mitigation strategies. Notwithstanding this, paragraph 11 strengthens the implementation of the mitigation hierarchy and prioritises avoidance.
5	ESR 6	Climate change	In the second sentence of paragraph 7, please add the word “mitigation” so that the last part of this sentence would read, “... as well as impacts relevant to climate change mitigation and adaptation”.	No change. The text refers to the impact of climate change on biodiversity (according to the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services [IPBES], the third most significant driver of biodiversity loss). Adaptation refers to the adaptation of species to climate change.

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6	ESR 6	Biodiversity	The ESP refers to “risks and impacts” of biodiversity, including in the assessment process on page 54. Suggest expanding this to “risks, impacts and dependencies” (as captured in para 9) in line with the Taskforce on Nature-Related Financial Disclosures (TNFD) framework.	Noted and changed.
7	ESR 6	No loss	To stop and reverse biodiversity loss, the EBRD should prohibit harmful financing to critical habitat. The EBRD should move from a no net loss to a no loss approach. All EBRD-financed activities should fundamentally aspire to achieve no loss to stop accelerating biodiversity loss. This primary goal of the Global Biodiversity Framework should be prominently reflected in ESR 6 as a key goal. “No loss” should be defined in a separate footnote, replacing footnote 90, explaining that project-affected biodiversity losses should not be significant, independently from any biodiversity offsets or compensation. There is broad experience of what “significant” should mean from applying the EU Habitats Directive, including in European Court of Justice cases.	Strictly speaking, “no loss” is simply not possible, as any human activity entails negative impacts on nature. Combined with the strict application of the mitigation hierarchy (as reflected in paragraph 11), “net” ensures that any residual impact, albeit limited, is duly compensated for – as a net gain in case of critical habitats.
8	ESR 6	No loss	Paragraph 4. We suggest the following changes: “(...) adopt the mitigation hierarchy in the screening, appraisal, design and implementation of projects with the aim of achieving no loss, and where appropriate, a net gain of biodiversity” Paragraph 13. “(...) ensure no loss and preferably a net gain of priority biodiversity features” Paragraph 18 (now 19). “(...) result in no net loss and preferably a net gain of biodiversity”	No change. See above response.
9	ESR 6	Offsetting	Further clarity is required on what impacts can be “offsetable” and how to assess “like-for-like”. Biodiversity offsetting should include socioeconomic, cultural and spiritual impacts as well as ecological characteristics.	See footnote 93. Details of the development of BAPs and BOSs are included in guidance note 6. In addition, the valuation of natural capital included in ESR 6 tries to capture the socioeconomic value of biodiversity, including for compensation purposes.
10	ESR 6	Biodiversity protection	Focus should be on protecting biodiversity and ecosystem viability instead of compensation/ offsets while contributing to habitat destruction. Paragraphs 18, 19, 20. These three paragraphs should be substituted by one: “Where a project is expected to have significant impacts that cannot be avoided or mitigated, the client shall undertake to redesign the project. Biodiversity compensation/offsets are not an acceptable measure to achieve no loss or net gains of biodiversity.”	Noted and partially addressed. As indicated above, paragraph 11 strengthens the implementation of the mitigation hierarchy and prioritises avoidance. Notwithstanding this, offsets are still acceptable as a last resort in the application of the mitigation hierarchy.

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11	ESR 6	Alternatives assessment	In protecting internationally recognised areas, it is critical to emphasise the need for assessing alternatives and no project scenarios. Currently, the draft requires consideration of a “without project” scenario as part of the assessment process only for projects with “significant impacts” (page 21). The EBRD should require consideration of a “no project” option in assessments for all projects and eliminate the “offset” option when using the hierarchy.	No change. The purpose of assessing “no project” scenarios is unclear when impacts are not significant. On offsets, see response above.
12	ESR 6	Viable alternatives	Paragraph 15. “Critical habitat will not be further fragmented, converted or degraded .... unless the following conditions are met: <ul style="list-style-type: none"> <li>no other viable alternatives within the region exist for development.”</li> </ul> This provides for development to take place where there are no other alternatives. The term “critical habitat” should be clarified. The Policy should clearly state that the EBRD does not support development projects in protected areas, especially energy and tourism development projects.	Noted and partially addressed. ESR 6 paragraph 14 already includes a definition of critical habitat and this is further elaborated in guidance note 6. In addition, no-go areas have been introduced in ESP Annex 1: Exclusion List.
13	ESR 6	Cumulative impacts	Impact assessments should be required to consider how the impact of one project may influence or compound impacts of other, separate yet nearby projects. Risks should also be considered in combination with the risks and impacts of other relevant past, present and reasonably foreseeable developments, as well as unplanned but predictable activities enabled by the project that may occur later or at a different location.	Noted. Cumulative impacts are addressed in ESR 1.
14	ESR 6	No-go areas	Key Biodiversity Areas – recognised as globally significant sites for biodiversity under standardised criteria – should be included as internationally recognised areas. In terms of critical habitat, at a minimum, UNESCO World Heritage sites and Alliance for Zero Extinction sites, should be considered off limits to development activities, as recognised in the IFC PS6 updated Guidance Note 6, by the EIB and in the ADB’s draft safeguards. In line with the Banks and Biodiversity Initiative, we urge the EBRD to adopt no-go areas to categorically prohibit financing of harmful activities in or near sensitive areas. no-go areas include: i) internationally recognised areas; ii) nationally recognised and sub-nationally recognised areas; iii) habitats with threatened and endemic species, and Key Biodiversity Areas (KBAs); iv) intact primary and vulnerable secondary forests; v) free-flowing rivers; vi) protected and at-risk marine and coastal ecosystems; vii) areas where the free, prior and informed consent of Indigenous Peoples and local communities have not been obtained; and viii) iconic, transboundary ecosystems. Other recommendation for a new paragraph: Some areas of critical habitat are of such high importance that the borrower/client will not propose financing for projects in such areas, or project activities by suppliers in these areas, with the exception of those projects specifically designed to contribute to the conservation of such areas. These areas comprise: Alliance for Zero Extinction (AZE) sites	Noted. Additional text added to cover select no-go areas in ESP Annex 1: Exclusion List.

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			<p>UNESCO Natural and Mixed World Heritage (WH) Sites</p> <p>free-flowing sections of rivers 100 km or longer in length and any rivers that flow undisturbed from their source to mouth without encountering any dams, weirs or barrages and without being hemmed in by dykes or levees</p> <p>primary and old-growth forests that are the result of biological and evolutionary processes and that have not been degraded by significant industrial, human driven activities</p> <p>Key Biodiversity Areas (KBAs) and Important Bird and Biodiversity Areas (IBAs)</p> <p>IUCN Protected Area Categories Ia, Ib, II, III and IV</p> <p>Ramsar Wetlands of International Importance</p> <p>iconic, transboundary ecosystems, particularly the Amazon, Arctic, Sundarbans, Coral Triangle and Albertine Rift, among others</p> <p>at-risk marine or coastland ecosystems, including mangrove forests, wetlands, reef systems, sand dunes.</p>	
15	ESR 6	No-go areas	<p>Footnote 98. After “... Ramsar List of Wetlands of International Importance”, please add “... Key Biodiversity Areas, Important Bird Areas, and Alliance for Zero Extinction Sites”. This added language is consistent with the World Bank’s Environmental and Social Standard 6 (Footnote 16).</p> <p>The following change should also be made:</p> <p>“Sites identified under international conventions or agreements or other areas of international importance in terms of biodiversity conservation using globally standardised criteria, including, but not limited to, UNESCO Natural World Heritage Sites, UNESCO Man-and-Biosphere Reserves, the Ramsar List of Wetlands of International Importance, sites protected as part of the Natura 2000 network (including Special Areas of Conservation and Special Protection Areas), international marine protected areas and protected areas beyond national jurisdiction, potential Natura 2000 sites, sites of the Emerald Network, Important Bird and Biodiversity Areas (IBAs), Key Biodiversity Areas (KBAs), Important Plant Areas (IPAs), Prime Butterfly Areas, sites from the Alliance for Zero Extinction (AZE), and others as relevant.”</p>	Noted and partially addressed. See above response on no-go areas.
16	ESR 6 (9)	Financial intermediaries	<p>Scope of application. We suggest that financial intermediaries and supply-chain operations should also fall under the scope of the ESR, as the ADB is applying to its updated safeguards. Without this, it will not be possible to understand, deliver and track the commitment to nature-positive investments.</p> <p>The EBRD should ensure that compliance with social and environmental safeguards are included in legal contracts with financial intermediary clients and supervise their application in practice. The EBRD should extend environmental and social assessments to Category B and C projects.</p>	<p>Noted; not accepted. For FIs, full application of the ESRs is only required for Category A projects.</p> <p>Note that ESR 6 includes requirements related to supply chains.</p>

Ref no.	ESP/ESR	Theme	Comment	Response
17	ESR 6 (though applies generally)	Independent verification	The EBRD should ensure that specialised staff or processes are sufficiently resourced to interrogate and validate EIA findings, as well as disclose EIAs and relevant documents publicly to encourage independent verification of such assessments. Involve independent experts in regenerative economy in feasibility studies.	Noted. Through its ESDD, EBRD specialists review projects' ESAs and address gaps via an ESAP. A request for additional resources focusing on biodiversity will be put forward in the upcoming Strategic Implementation Plan.
18	ESR 6	Legislation	The Policy often refers to the laws of client countries. This can be ambiguous in countries with a high degree of corruption and where laws can change. Also, paragraph 22 (now 24). Many of the areas proposed for protection are proposed by scientific bodies or international non-governmental organisations, not governments (for example, for Key Biodiversity Areas). In these cases, and to avoid destruction of the areas before they are legally protected, the words "by national governments" should be erased.	Noted, but not changed. Governments need to propose sites for listing in the referred conventions.
19	ESR 6	Legislation	Paragraph 5. What if national laws contradicts or does not comply with international treaties and conventions? If there are contradictions and inconsistencies in national legislation with international treaties and conventions, the EBRD must be guided by international treaties and conventions.	Noted. These are referred to in paragraph 21.
20	ESR 6	Ambition	The EBRD safeguards should be much more ambitious to reflect becoming nature positive. Reference should be made to align with the Kunming-Montreal Global Biodiversity framework agreed by 196 Parties to the Convention on Biological Diversity. We therefore propose a new paragraph following paragraph 1: nature.html "This updated ESR reflects commitments made by EBRD and other multilateral development banks to 'foster and make nature-positive investments' including through 'strategic approaches' in a joint statement on nature, climate and people in 2021 [insert reference in new footnote: <a href="https://www.ebrd.com/news/2021/multilateral-development-banks-to-step-up-protection-of-nature.html">https://www.ebrd.com/news/2021/multilateral-development-banks-to-step-up-protection-of-nature.html</a> ], as well as the recognising the commitment made by 196 Parties to the Convention on Biological Diversity to halt and reverse the loss of biodiversity by 2030 under the Global Biodiversity Agreement agreed in 2022, and the EBRD's role in supporting this global goal."	Noted and addressed. The new ESP draft includes in paragraph 2.11: "The Bank will engage whenever appropriate, in initiatives to support the EBRD countries of operation to include measures to safeguard and enhance ecosystems and the biodiversity they support with the objective of achieving the goals <u>and targets</u> of the Global Biodiversity Framework." It also includes a footnote with the suggested text.
21	ESR 6	Ambition	Change "protect and conserve biodiversity using a precautionary approach" to "protect and conserve biodiversity using a precautionary approach <b>in order to support nature-positive investments</b> ". Change "adopt the mitigation hierarchy in the design and implementation of projects with the aim of achieving no net loss, and where appropriate, a net gain of biodiversity" to "adopt the mitigation hierarchy in the design and implementation of projects with the aim of achieving no net loss, at a minimum no net loss and <b>where possible</b> , a net gain of biodiversity".	Noted and partially addressed in paragraph 2.11 of the Policy. ESR 6 refers to the requirements applied by clients to mitigate negative impacts, so references to "nature positive" pertain to the objectives of the ESP (Section III).

Ref no.	ESP/ESR	Theme	Comment	Response
			Change “promote good international practice (GIP) in the sustainable management and use of living natural resources” to “promote <b>and achieve</b> good international practice (GIP) in the sustainable management and use of living natural resources”.	
22	ESR 6	Biodiversity standards	The policy should more clearly commit to improved biodiversity standards across all projects. This means setting measurable goals that ensure projects contribute positively to local ecosystems and offset their value chain impacts on biodiversity.	Noted and partially addressed by all changes included in the updated ESP and across ESRs, particularly in ESR 6.
23	ESR 6	Biodiversity funding	Prioritise funding for projects that actively improve biodiversity, such as those that restore natural habitats or integrate natural elements in urban designs.	Noted and partially addressed elsewhere.
24	ESR 6	Requirements	Paragraph 7. Suggest adding direct mortality or disturbance to threatened species (for example, through collision with buildings) to the list of things a baseline assessment should consider.	Noted, but not changed. These are specific risks and impacts that pertain to guidance note 6 and, as such, are included in that document.
25	ESR 6	GIP	Paragraph 8. Change “clients will use best efforts to follow GIP on the disclosure of project-related biodiversity data” to “clients will follow GIP on the disclosure of project-related biodiversity data”, as relying on best efforts weakens this substantially.	Noted, but not changed. GIP will focus on the sharing of biodiversity data with the Global Biodiversity Information Facility. The EBRD will be the first MDB to include this in its policy. The Bank’s late involvement in some projects may make it impossible to enforce GIP in those projects. Additional details and best-effort measures will be described in guidance note 6 and in the ESDD terms of reference for consultants.
26	ESR 6	Vulnerable and threatened species	Paragraph 12, point (ii). Change “vulnerable species” to “threatened species” to be in line with the IUCN Red List of Threatened Species Categories. Threatened species will cover vulnerable, endangered and critically endangered species under the IUCN categorisation. Paragraph 14 (now 15). Add in vulnerable species to point ii. Suggest aligning with criteria for Key Biodiversity Areas.	No change. The paragraph refers to priority biodiversity features linked to the existence of “vulnerable” species. Paragraph 14 refers to endangered or critically endangered species in defining critical habitats.
27	ESR 6	Net gain	Paragraph 15 (now 16). Change “the project is designed to deliver net gains for critical habitat impacted by the project” to “the project is designed to deliver net gains for critical habitat impacted by the project, with a clear, long-term monitoring system in place in order to demonstrate this”.	Change accepted.



Ref no.	ESP/ESR	Theme	Comment	Response
28	ESR 6	Biodiversity assessments	Require biodiversity assessments for all projects, that is, projects in urban areas should also be subject to rigorous biodiversity assessments.	Noted, but not changed, as this may require significant resources. Notwithstanding this, the Green Cities programme is considering the inclusion of the valuation of natural capital in its upcoming methodology.
29	ESR 6	Alternatives	Paragraph 13 and paragraph 15 (now 16). After “alternatives” add a footnote: “The alternatives may consist of a no project option or different: <ul style="list-style-type: none"> <li>• ways to achieve the objectives of the proposed development</li> <li>• locations that may be available for the development having regard to protected habitats and species, for example, by defining different land transportation corridors in master plans for roads and motorways or different housing development zones</li> <li>• scale and size of the development</li> <li>• design solutions for the development</li> <li>• techniques, methods of construction or operational methods for the implementation of the development</li> <li>• timetables (deferrals or compression) of the various activities and tasks at each of the implementation stages, including during construction, operation, maintenance and, if applicable, decommissioning or reconditioning.”</li> </ul>	Noted, but not changed. Specific details on the application of the mitigation hierarchy are included in guidance note 6. Notwithstanding this, the precautionary approach in ESR 6 has been further strengthened in paragraph 11 with the prioritisation of “avoidance”.
30	ESR 6	Appropriate assessment (AA)	Given that Appropriate Assessment (AA) is now in the EIB standards, we propose that this be included by the EBRD to cover all protected and internationally recognised areas in all countries in which projects are being proposed. Paragraph 21 (now 22). Recommend replacing with: “Where the project occurs within or has the potential to adversely affect an area that is legally protected, and/or internationally recognised, or proposed for such status by national governments, the client will identify and assess potential project-related impacts and apply the mitigation hierarchy so that project impacts will not compromise the integrity, conservation objectives and/or biodiversity importance of that area. The project should be subject to an Appropriate Assessment which will evaluate the project’s implications for the area in view of the area’s conservation objectives, individually and/or in combination with other projects, and identify relevant measures to avoid, prevent and reduce any significant impact). Where the Appropriate Assessment is undertaken as part of or alongside the EIA process, the client shall ensure that the information relevant to the Appropriate Assessment and its conclusions are clearly distinguishable and identifiable in the EIA report.”	Noted, but not accepted. AA will be considered in guidance note 6.



Ref no.	ESP/ESR	Theme	Comment	Response
			<p>“For projects located in the rest of the world, the Appropriate Assessment should be carried out using the methodological guidelines of the European Commission on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC and focus on the species and/or habitats from Annex I and II of the EU Habitats Directive, Annex I and II of the EU Birds Directive, as well as all near threatened, vulnerable, endangered or critically endangered species and/or habitats as defined by the IUCN Red List of threatened species and/or in relevant national legislation. The client shall provide the EBRD with evidence of: a) the outcome of the pre-assessment stage (“screening”) which justifies why the project is not likely to have a significant effect on the site/area concerned and, therefore, an Appropriate Assessment was not deemed necessary; or b) the Appropriate Assessment. During the screening procedure, no mitigation measures can be considered.”</p> <p>“In cases where there is no national legislation on Appropriate Assessment, the EBRD should take a decision in the pre-assessment stage (“screening”) as part of its due diligence process.”</p>	
31	ESR 6	Definition of critical habitat	<p>Paragraph 14 (now 15). This should be changed as follows:</p> <p>“The most sensitive biodiversity features are defined as critical habitat, which comprise one of the following: (i) highly threatened or unique ecosystems with unique, superlative natural, biodiversity, and/or cultural value which may sprawl across state boundaries, and thus may not be wholly or officially recognized or protected by host countries or international bodies; (ii) habitats of significant importance to near threatened, vulnerable, endangered or critically endangered species as defined by the IUCN Red List of threatened species and/or in relevant national legislation; (iii) habitats of significant importance to endemic or geographically restricted species; (iv) habitats supporting globally or nationally significant migratory or congregatory species; (v) areas associated with key evolutionary processes; (vi) priority habitats and habitats of priority species under the EU Habitats Directive; (vii) high status water bodies under the EU Water Framework Directive and free-flowing rivers, defined as bodies of water whose flow and connectivity (longitudinal, lateral and vertical) remain largely unaffected by human activities; (viii) intact primary and old-growth forests; (ix) protected or at-risk marine or coastland ecosystems, including mangrove forests, wetlands, reef systems.”</p> <p>A footnote should be added in points (ii) and (iii): “significant importance should be determined in relation to the specific species and environmental conditions of the area concerned by the project, taking particular account of the area’s conservation objectives and ecological characteristics. In case conservation objectives have not been defined for the area potentially impacted by the project, 1% of the national population should be used as a threshold.”</p>	Not accepted. The current ESP definition in paragraph 14 and footnote 86 is fit for purpose.

Ref no.	ESP/ESR	Theme	Comment	Response
32	ESR 6	Definitions	<p>Paragraph 14 (now 15), Point (viii). A footnote is recommended as intact and old-growth forests have different definitions around the world: “Intact and old-growth forests are natural forest ecosystems that are the result of biological and evolutionary processes and that have not been significantly degraded by industrial or other human driven activities. A key characteristic of these forests is that mature trees dominate the canopy and that they contain most or all of their native plant and animal species.”</p> <p>The change in this paragraph is in line with the Banks and Biodiversity Initiative.</p>	Not accepted. Old-growth forests will generally be priority biodiversity features of Critical Habitats.
33	ESR 6	GMOs	Paragraph 24 (now 25). On the release of GMOs into the environment, the EBRD should not be financing their use at all, as they contribute to an already excessive market concentration of agri-chemicals and seeds.	No change. The EBRD follows substantive EU environmental standards, which include GIP mitigants to the risks associated with GMOs.
34	ESR 6	Supply chains	<p>There is a need for strengthening these provisions with respect to the sustainable management of living natural resources (paragraph 24) and supply chains (paragraphs 25-27):</p> <p>Paragraph 24. <del>• where feasible, the client will locate land-based agribusiness projects on existing agricultural land, unforested land that does not have high carbon stock or high conservation value, or land that has already been degraded or converted from its natural state to avoid and</del> minimise impacts to priority biodiversity features and/or critical habitat.</p> <ul style="list-style-type: none"> <li>• <b>production in areas of high carbon stocks or high conservation value, including peatlands and mangroves and land that has been converted from natural forest or other natural state with high carbon stock or high conservation value in anticipation of the project is excluded from eligibility for financing</b></li> <li>• production and/or use of species with potential for invasiveness will not be used <del>without adequate controls to prevent their release/spread outside of the production area</del></li> <li>• for fishery or aquaculture projects, the client will assess, <b>avoid</b> and minimise the <b>residual</b> risk of escape of non-native species into the aquatic environment. The client will also assess, avoid, and minimise the potential for transfer of disease and or parasites into the environment</li> <li>• to <b>avoid and</b> minimise antimicrobial resistance (AMR), the client will only use antibiotics <b>for non-prophylactic treatment of disease (not growth-enhancement)</b> on <b>otherwise</b> healthy food producing animals, in accordance with EU substantive environmental standards.</li> </ul> <p>Paragraph 25. As part of the supply-chain assessment process outlined in ESR 1, the client will identify and assess whether there are <del>known</del> risks of significant land use conversion that could impact biodiversity <b>and ecosystem services</b> (such as deforestation) in the project’s core supply chain.</p>	Noted. Partially incorporated, where possible.

Ref no.	ESP/ESR	Theme	Comment	Response
			<p>Paragraph 26. If this risk assessment identifies a <del>known</del> risk of significant land use conversion that impacts biodiversity <b>or ecosystem services</b> (for example, deforestation) in the client's <del>core</del> supply chain, the client <del>will take appropriate steps to</del> find alternative suppliers or, if that is not feasible, <del>will</del> remedy this in accordance with GIP over a timeframe agreed with the EBRD <b>to avoid or minimise loss of biodiversity and ecosystem services, consistent with the objectives of this ESR</b> and as outlined in ESR 1, including establishing supply chain policies, procedures and verification practices.</p> <p>Paragraph 27. The client is expected to manage supply chain risks as outlined above and as set out in <b>other ESRs, especially ESR 1 and ESR 2.</b></p>	
35	ESR 6	Animal welfare	<p>Ideally, animal welfare would have its own ESR within the EBRD Environmental and Social Policy. Poor animal welfare practices represent a material risk to companies and financial institutions. Animal welfare also represents an important social issue that is often forgotten or not properly addressed. If animal welfare does not receive its own ESR, it could be included in ESR 6 – “Biodiversity Conservation, Animal Welfare and Sustainable Management of Living Natural Resources.”</p> <p>Objectives:</p> <ul style="list-style-type: none"> <li>• Protect and improve animal welfare using a precautionary approach.</li> </ul> <p>Requirements (animal welfare):</p> <ul style="list-style-type: none"> <li>• Through the assessment process, the client will identify current practices and planned practices related to animals (including animal procurement) and how they affect animal welfare, specifically: barren and unsuitable environments, space limitations and overcrowding, breeding and genetics, early weaning, inappropriate diets, painful procedures, transport, slaughter, and compliance and transparency. Specific details must be outlined, for example, an exact stocking density number.</li> <li>• The client will provide the EBRD with satisfactory evidence and information on its animal welfare practices as well as those of its contractors and suppliers at the project appraisal stage and throughout the life of the project. Focus should be placed on the use of confinement-based systems.</li> <li>• Where significant animal welfare risks have been identified in relation to the project, the client will commission an independent animal welfare assessment at the EBRD's request. The EBRD may require this animal welfare assessment or audit to be undertaken by a qualified animal welfare specialist. The results of the animal welfare assessment or audit will be communicated to the EBRD.</li> <li>• Based on the results of the assessment or audit, a time-bound corrective action plan with appropriate mitigation and remediation measures, as well as monitoring requirements, will be put in place and implemented by the client and/or contractors, as relevant. The corrective action plan will be agreed in advance with the EBRD.</li> </ul>	<p>Noted. The number of ESRs is limited and in line with other MDBs. Animal welfare is discussed in paragraph 24 and refers to the relevant EU standards and GIP, whichever is most stringent. More detailed implementation details are included in guidance note 6.</p>

Ref no.	ESP/ESR	Theme	Comment	Response
			<ul style="list-style-type: none"> <li>The client will follow up on the timely and effective implementation of the corrective action plan and report to the EBRD in a timely manner.</li> </ul>	

## ESR 7

Ref no.	ESP/ESR	Theme	Comment	Response
1	ESR 7	Standards and laws	Include explicit references to ILO conventions throughout the ESP and ESRs. For ESR 7, specifically, include a reference to Convention 169 on Indigenous and Tribal Peoples Convention.	ILO 169 is included in the guidance note.

## ESR 8

Ref no.	ESP/ESR	Theme	Comment	Response
1	ESR 8	Chance finds	Paragraph 20. Consider naming this section “assessment and management” and then reference here CHMP and chance find procedure – both dealing with management of identified risks/impacts. Alternatively, there could be a subsection named CHMP, as there is for the chance find procedure.	No change.
2	ESR 8	Chance finds	Paragraph 8. Add “and/or chance find procedure”.	No change.
3	ESR 8	Cultural heritage	Paragraph 3. The claim to recognise international conventions and obligations undertaken by individual countries under international agreements is questionable. EBRD clients, as well as national legislation, may violate them. We believe that “where impacts on cultural heritage cannot be avoided,” the EBRD should require changes to the project and not finance it until impacts on cultural heritage are completely eliminated.	ESR 8 does recognise international conventions and treaties – and if there is UNESCO site or other internationally designated site, the EBRD would expect the client to reach out to the secretariat of the convention in question to seek guidance on what mitigations are acceptable before the project can be developed. This would be also aligned with the mitigation hierarchy and GIP.

Ref no.	ESP/ESR	Theme	Comment	Response
4	ESR 8	Chance finds	<p>It is unclear how bilateral agreements and other international legal acts are taken into account.</p> <p>Situations in which national laws do not allow the project to be implemented are not taken into account.</p> <p>Paragraph 23. The requirement to apply national legislation should apply not only to chance finds, but also to the entire complex of cultural heritage.</p> <p>EBRD specialists should take into account the provisions of the preamble to the Convention for the Protection of the World Cultural and Natural Heritage.</p>	This reads like a matter of implementation, rather than a policy, as such, and will be addressed elsewhere, for example, in guidance notes.
5	ESR 8	Standards and Laws	Paragraph 10. Add “in line with national legal provisions where applicable”.	Accepted.

## ESR 9

Ref no.	ESP/ESR	Theme	Comment	Response
1	ESR 9	Legislation	Paragraph 13. Should be amended to ensure that FI sub-projects are monitored in accordance with national law, international law, and the ESRs, whichever sets the highest standard.	Accepted.
2	ESR 9	Financial Intermediaries	<p>Paragraph 6. E&amp;S requirements should apply to both equity and debt investments in FIs. Suggested: If the EBRD becomes a direct equity investor in an FI <b>or makes a general-purpose loan to an FI</b>, the requirements of this ESR will apply to all sub-projects of the FI from the time of the EBRD’s investment. <b>If the EBRD makes a loan to an FI for a designated purpose and the FI reports on their use of EBRD funds traceable to specific types of sub-projects, the requirements of this ESR will apply only to the types of sub-projects that are within the scope of the EBRD’S financing agreement.</b></p>	<p>We have developed six new guidance documents tailored to different financial instruments: SME finance, leasing, bonds, equity funds, non-performing loans (NPLs) and the Trade Facilitation Programme (TFP). These were identified as key investment activities with FIs and have been created to ensure we address E&amp;S requirements effectively.</p> <p>These guidance documents will be updated regularly.</p>

Ref no.	ESP/ESR	Theme	Comment	Response
3	ESR 9	Referral list	We are concerned that the deletion of the FI referral list, which we have identified as good practice in a recent publication on financial intermediaries, is a regressive step. The EBRD should re-assess the removal of the referral list.	The referral list has historically proven ineffective, as only a handful of sub-projects have been referred since the ESP 2019 became effective. This is most likely due to the nature of most sub-loans, which did not trigger the PRs in the referral list. We will work closely with clients to ensure their ESMS is appropriate to the projects we have with them. We will also remain available to support clients on our ESR requirements if they consider a Category A project.
4	ESR 9	Financial Intermediaries	The EBRD requires only Category A sub-projects, arguably a minority of FI's clients, to meet ESR 1 to 8 and 10, with the only expectation set for the other sub-projects being compliance with national law and the Exclusion List. This can be a potentially significant protection gap for stakeholders affected by Category B and C projects. The restrictive approach to the application of the ESR for FI's sub-projects raises questions about the consistency of the EBRD's commitments, given that all direct clients (irrespective of their risk categorisation) are required to comply with the ESRs. To illustrate, it appears that a Category B project could be subject to different requirements depending on whether it is funded directly or indirectly by the EBRD.	Applying the ESRs to sub-projects not categorised as Category A is impractical, given the volume and low E&S risk of most loans and sub-projects. For example, Women in Business and Youth in Business small and medium-sized enterprise (SME) and micro, small and medium-sized enterprise (MSME) loans form a large part of the portfolio.
5	ESR 9	Stakeholder engagement	Paragraph 15. Only includes expectations for FIs in respect to external communication and grievance mechanism. Require FIs to conduct stakeholder engagement, including with affected rightsholders, and to play a role in the remediation of negative impacts in accordance with the expectation of the UNGPs. A requirement on stakeholder engagement is particularly important given that the EBRD Guidance Note on Financial Intermediaries only recommends "(...) that FIs identify and map relevant external stakeholders ..." (Paragraph 3.5.2).	Accepted.
6	ESR 9	Remediation	Ensure that a broader range of FI sub-projects with human rights risks is required to comply with ESRs. In the absence of references to remediation in the ESR 9, it is unclear what the EBRD expectations are for FIs in this important human rights area. Not only financial institutions should require remediation of adverse impacts by their clients, but they should also be prepared to contribute to remediation efforts where they have contributed to harm.	Accepted.

Ref no.	ESP/ESR	Theme	Comment	Response
7	ESR 9	Monitoring	The sections on monitoring and reporting to EBRD appear minimal and a missed opportunity for the EBRD to further specify the modalities available to exercise leverage over FIs to ensure FIs remain in compliance with ESMS requirements and that their own due diligence and monitoring is effective.	The policy intends to maintain high-level options. We plan to enhance our monitoring approach in alignment with point 17: “The EBRD will monitor the environmental and social performance of FIs and their sub-projects financed by the Bank by undertaking site visits and/or through annual reporting mechanisms.”
8	ESR 9	Reporting	<p>FIs should also be required to report to the EBRD the most severe risks and impacts identified and mitigated across portfolio in that respective year, information on grievances handled and notification of incidents in respect to sub-projects.</p> <p>The Guidance Note on Financial Intermediaries stipulates that the EBRD “may request a detailed sector and investment portfolio breakdown and other project documentation, such as ESIAs for Category A and ESDD reports for high-risk investments/ loans” (para 3.5.2) – that should be made mandatory.</p>	We agree with the points made and apply them where appropriate. However, given the low-risk nature of most of our portfolio – such as loans for women and youth in business, SMEs and MSMEs – it would not be reasonable to apply this approach to the entire portfolio.
9	ESR 9	Disclosure	At a minimum, FIs should be required to disclose core project information and E&S documentation for higher-risk projects and information on the involvement of the EBRD in the financing arrangements, including the possibility of lodging complaints with the EBRD’s Independent Project Accountability Mechanism. The Directive on Access to Information should be amended to require that the EBRD disclose the name, location and sector of higher-risk sub-projects financed through FIs, regardless of the financial instruments used, and all E&S documentation for higher risk sub-projects.	We discussed extensively the disclosure of E&S information for high-risk sub-projects, aligning with practices observed at the International Finance Corporation and the Asian Development Bank, and as requested by the United States of America. The decision not to disclose information on high-risk projects stems primarily from the fact that most of our sub-loans are low to medium risk in nature.
10	ESR 9	Delegation system	Paragraph 2 states that “the nature of delegation may take various forms depending on a number of factors such as the type of finance provided and where FIs make equity investments”. Specifying how the delegation system might look different across financial instruments needs to be spelled out for stakeholders, to better understand expectations of clients and the EBRD’s own responsibilities, and are critical for ensuring accountability in those situations where human rights risks might materialise.	<p>The policy aims to maintain high-level options. We have developed six new guidance documents tailored to different financial instruments: SME finance, leasing, bonds, equity funds, NPLs and the TFP. These were identified as key investment activities with FIs and have been created to ensure we effectively address E&amp;S requirements.</p> <p>These guidance documents will be updated regularly.</p>

Ref no.	ESP/ESR	Theme	Comment	Response
11	ESR 9	Sub-projects	Paragraph 5 states that “the requirements of this ESR will be applicable to all sub-projects and sub-borrowers that received EBRD financing”. However, most of the requirements in ESR 9 are tailored to the realities of the FI and it is not clear which sections/paras could be applicable to sub-projects. If by sub-projects is meant other financial institutions that the FI clients on-lend or on-invest to, that should be explicitly stated.	Clarification appears in paragraph 4. In this ESR, “sub-project” denotes investments or activities eligible for financing by FIs using funds provided by the Bank under an FI project. “Sub-borrower”, in contrast, refers to the entity to which funds are channelled by an FI, encompassing investee companies in the context of equity financing.
12	ESR 9	Sub-projects	We recommend that all sub-projects financed by financial intermediaries (FIs) – and not only sub-projects that meet the criteria in the list of Category A projects – be required to meet ESR 3 (as well as other ESRs), and that FIs have corresponding monitoring and reporting requirements.	Applying ESR 3 to sub-projects not categorised as Category A is impractical, given the volume and low E&S risk of most loans and sub-projects. For example, Women in Business and Youth in Business SME and MSME loans form a large part of the portfolio.
13	ESR 9	Sub-projects	ESR 9 should require compliance by sub-projects with international law, national law and the ESRs, whichever sets the most stringent standard.	Accepted.
14	ESR 9	Supervision	ESR 9 should require specific supervision requirements for the EBRD, including site visits and/or third-party monitoring for higher-risk sub-projects.	The policy intends to maintain high-level options. We plan to enhance our monitoring approach in alignment with point 17: “The EBRD will monitor the environmental and social performance of FIs and their sub-projects financed by the Bank by undertaking site visits and/or through annual reporting mechanisms.”
15	ESR 9	Reporting	Paragraph 35. ESR 9 should require time-bound notification by the FI to the EBRD of significant E&S events, including human rights violations, in line with the AfDB’s Integrated Safeguard System, paragraph 35.	We perform annual monitoring and due diligence with existing clients ahead of new projects, meaning that we have several contact points to review significant E&S events.
16	ESR 9	Disclosure	ESR 9 should require the publication of ESIs and other relevant E&S documentation for high-risk projects 120 days prior to FI or EBRD Board approval, whichever is earlier; and time-bound disclosure of the name, sector and location of sub-projects on the EBRD’s and the FI client’s website, prior to the FI operation’s approval and periodically thereafter.	The disclosure timeframe is specified per the AIP in paragraph 7.14 of the ESP and applies to all Category A projects financed by the EBRD, whether directly or indirectly financed.



Ref no.	ESP/ESR	Theme	Comment	Response
17	ESR 9	Grievance mechanism	ESR 9 should require the establishment and effective operation of an FI grievance mechanism, in accordance with the effectiveness criteria in the UN Guiding Principles on Business and Human Rights (principle 31) and disclosure at the project site of the EBRD's involvement in sub-projects, and of the existence of the EBRD-IPAM and project-level grievance mechanism, ensuring that this information is clearly visible, accessible and understandable to affected communities.	Paragraph 15 has been updated to reflect that the mechanism complies with the “effectiveness criteria” of the UNGPs. Disclosing all sub-projects is impractical, given the volume and the low E&S risk of most loans and sub-projects.
18	ESR 9	Consumer financial protection.	The Policy should include reference to consumer financial protection risks which are not mentioned directly in ESR 9. EIB E&S requirements provide an example of this, requiring financial service providers, such as microfinance organisations, serving “clients from the poorest socioeconomic groups” to “operate in alignment with strict client protection principles” (see EIB Standard 11, paragraph 21).	Accepted.

## ESR 10

Ref no.	ESP/ESR	Theme	Comment	Response
1	ESR 10	Grievance mechanism	The proposed management-level grievance redress mechanism might have negative unintended consequences. The proposed management-level grievance redress mechanism should not be included in the policy. The proposed approach risks weakening the EBRD's existing mechanisms, such as the Independent Project Accountability Mechanism, the Office of the Chief Compliance Officer, the Access to Information Appeals Panel, and project-level grievance redress mechanisms. The Bank should focus on improving the effective operation of the existing problem-solving and accountability mechanisms.	Noted. The language referring to the grievance mechanism has been agreed with the IPAM. The relevant procedures and system will also be agreed and designed with the IPAM team.
2	ESR 10	Common approaches	The EBRD must require that its proposed common approach to assessing, developing, and implementing projects co-funded by other financial institutions align with the EBRD's Environmental and Social Policy. The draft safeguards indicate that the environmental and social performance of projects should be measured against a common approach agreed by the client and lenders. This strategy is likely to undermine the EBRD's environmental and social standards and its accountability for its own policy commitments and aspirations.	Noted. Paragraph 2.15 includes language on “consistency in content and outcomes with this [EBRD ESP] Policy”.
3	ESR 10	Aarhus Convention	The Bank should reinstate the reference to the Aarhus Convention in the EBRD's policy commitments section to demonstrate its commitment to public access to information and public participation in decision-making on environmental matters. This will send a clearer message to clients that they should act in line with the Convention, irrespective of whether their country is a party.	The AIP states that: “The EBRD recognises the developments made to advance the recognition and exercise of the right to access information as an enabling right crucial to the full realisation of other human rights, and the importance of the principles, purposes and ultimate goals on access to

Ref no.	ESP/ESR	Theme	Comment	Response
				information of the UNECE Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters.”
4	ESR 10	Disclosure	Is there any possibility of including in the policy an exact timeline for disclosure of Category A and Category B ESIA documentation? Should something be mentioned on the disclosure procedure implemented by the client due to national legal requirements, especially in environmental impact assessment (EIA) permitting processes?	Accepted. The timeline of disclosures for Category A and B projects will be included with reference to the DAI. Clients need to comply with national legislation, which includes the EIA permitting process so no additional reference to this in ESR 10 is considered necessary
5	ESR 10	Engagement	While we support stronger provisions on client consultation in ESR 10 (Paras 25, 26), we hope to see more specific engagement from and accountability to the Bank for this – it is not only the client’s responsibility to consult; the Bank should ensure this consultation is meaningful and leads to resolution.	Accepted. Additional information on the Bank’s role on engagement has been added to the ESP.
6	ESR 10	Stakeholders	ESR 10 could more effectively address social dumping by adding “social partners” as stakeholders and adding prevention of social dumping as a stated objective.	We believe that clarification has already been added to ESR 10 on the stakeholder identification process, which implicitly includes social partners. We agree that the prevention of social dumping can be enabled by effective engagement, but do not believe this should be explicitly stated as an objective of the ESR.
7	ESR 10	IPAM	Require clients and sub-clients to disclose the EBRD’s role as a project funder and the availability of the IPAM as a grievance mechanism. ESR 10 should include a provision requiring EBRD clients and sub-clients to disclose the EBRD’s role as a funder of the project during consultation with communities. Along with this disclosure, clients should be required to share information about the IPAM with local communities in a manner that is culturally appropriate and in an accessible language and format.	Partially accepted. A reference to the IPAM has been added to ESR 10, however, we have not included a requirement for clients to disclose the EBRD as a funder or information on the IPAM. Per current practice, we will continue on a best-efforts basis to include reference to the IPAM in client environmental and social policies.

## Notes

[illegible]

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Report on the Invitation to Comment

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