

GUIDELINE
ON
ENVIRONMENTAL & SOCIAL RISK MANAGEMENT (ESRM)
FOR BANKS AND FINANCIAL INSTITUTIONS



NEPAL RASTRA BANK
CENTRAL OFFICE
BANKS AND FINANCIAL INSTITUTIONS REGULATION
DEPARTMENT

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Abbreviations

BFI	Banks and Financial Institutions
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
CO	Credit Officer
CRA	Credit Risk Analyst
DoE	Department of Environment
E&S	Environmental & Social
EIA	Environmental Impact Assessment
ESAP	Environmental and Social Action Plan
ESDD	Environmental & Social Due Diligence
ESIA	Environmental & Social Impact Assessment
ESMS	Environmental & Social Management System
ESRM	Environment and Social Risk Management
FI	Financial Institution
BES	Brief Environmental Study
IEE	Initial Environmental Examination
IFC	International Finance Corporation
IP	Indigenous People
MOITFE	Ministry of Industry, Tourism, Forests and Environment
ISO	International Organization for Standardization
MOFE	Ministry of Forests and Environment
MOPE	Ministry of Population and Environment
NPR	Nepalese Rupee
NSIC	National Standard Industrial Codes
OHSAS	Occupational Health and Safety Assessment Series
RM	Relationship Manager
SA	Social Accountability
SBN	Sustainable Banking Network
SME	Small & Medium Enterprises

Environmental & Social Risk Management (ESRM) for Banks and Financial Institutions

Introduction

Impressive growth of the urban and sub-urban populations and the related infrastructure in Nepal is leading to rapid increase in air and water pollution and solid waste management problem. The quality of water and air has deteriorated remarkably in past 15 years. The pollution level in major cities is above the WHO safe limit and Nepalese environmental standards creating environmental, health, safety and occupational risks leading to public health concerns. The risks are highest among populations living below poverty level. Nepal is highly vulnerable to climate change impacts and recent studies by the Asian Development Bank suggested Nepal faces losing 2.2% of annual GDP due to climate change by 2050¹(Ahmed et al., 2014). The negative effects of climate change have been directly experienced in forest and biodiversity, energy, human health, tourism, habitation, infrastructure development as well as in the areas of livelihood, while there has been a huge loss of lives and property due to climate induced disasters such as flood, landslide, and windstorm and wild fire every year (Nepal Climate Change Policy 2019) .

As capital providers, Banks and Financial Institutions (BFIs) are well placed to help the private sector adapt to new economic realities linked to environmental and social (E&S) sustainability such as climate change, changing communities, and increased resource scarcity, by increasing green financing and inclusive lending which also contributes to achieving sustainable development goals. In addition, BFIs around the globe are taking proactive steps to address the management of environmental and social risks within their own business operations by managing E&S risks in their portfolio and reducing their own carbon footprint.

BFIs frequently report that their biggest concern about implementing E&S risk management procedures is that they will be at a competitive disadvantage in the market place versus BFIs which choose not to implement such procedures. For BFIs to effectively integrate new practices in E&S risk management and green and inclusive lending, they require an enabling regulatory context that ensures a level playing field.

Formally launched in September 2012, 43 countries, represented by the banking regulators and banking associations, have joined to form the Sustainable Banking Network (SBN – now called Sustainable Banking and Finance Network - SBFN) dedicated to promoting a shift in how the financial sector contributes to achieving national environmental and social goals. Nepal Rastra Bank (NRB) became a member in 2014.

As part of the SBFN initiative, a growing number of emerging market banking regulators have partnered with international financial institutions to pioneer the development of regulatory guidance that requires or encourages local BFIs to adopt sustainable banking practices. These include more effective management of E&S risks in the transactions they finance and support for businesses that are greener, climate friendly and socially inclusive. So far 32 countries have developed national frameworks on sustainable finance with IFC/SBFN support.

For the last few years the International Finance Corporation (IFC), through SBFN, has been partnering with Nepal Rastra Bank (NRB) to help the NRB promote and improve environmental and social risk management practices for BFIs to strengthen portfolio performance, generate new business opportunities and boost competitiveness in the region.

The experience from other countries clearly shows that adopting and adhering to such sustainable finance principles and practices provides benefits to BFIs, their clients, the communities in which they operate and to the environment while contributing to the creation of a level playing field for the financial sector.

¹ Ahmed, M., & S. Suphachalasai (2014). Assessing the costs of climate change and adaptation in South Asia. Asian Development Bank. <https://www.adb.org/sites/default/files/publication/42811/assessing-costs-climate-change-and-adaptation-southasia.Pdf>

Overview of the ESRM Guideline

The core objective of the ESRM Guideline is to require BFIs to integrate Environmental & Social risk management into the overall credit risk management process in order to fully inform the credit authority of E&S risks prior to the financing decision regarding individual transactions. This ESRM Guideline introduces the following features:

- The Guideline focuses on environmental, social, and climatic risks, related to the business activities of the BFI's client, which are becoming increasingly relevant and crucial for Nepal.
- The Guideline defines its scope of applicability to various type of financing (i.e., SME finance, commercial leasing, Business Working Capital Finance/Term Finance, project finance).
- The Guideline requires all BFIs engaging in the types of transactions mentioned above to develop and implement an Environmental and Social Management System (ESMS) consistent with local environmental and social laws and regulation and overtime with recognized international standards such as IFC's Performance Standards on Environmental and Social Sustainability and the Equator Principles.
- The Guideline incorporates E&S Risk Management Tools and Templates to enable non-technical BFIs staff to oversee and facilitate the management of E&S risk.
- The Guideline describes the necessary organizational roles and responsibilities built on the principles of integrating E&S risk management into the BFI's overall credit policy.

Typical E&S Risks for BFIs Clients

Environmental risks pertain to the potential for damage of the environment and ecosystem. The principal sources of such potential damage are pollution of the air, water and land resulting from industrial activity. Environmental risks are largely a function of the nature (i.e., sector) of the business activity. Environmental risks, including climate-related risks, refer to risks posed by the exposure of BFIs and/ or the financial sector to physical or transition risks caused by or related to climate change (such as damage caused by extreme weather events or a decline in asset value in carbon intensive sectors). While BFIs may have direct exposures to environment- and climate-related risks, most exposures are indirect and arise from their clients' and investees' exposures to these risks. Physical risks of climate change are increasing severity/frequency of extreme weather events (e.g., floods) and longer-term climate shifts (e.g., water scarcity and power shortage) resulting in economic and financial disruption and business losses. Transition risks of climate change are major policy, legal, technology, and market changes as economies and the financial sector adjust to a lower carbon and/or net zero status, impacting the asset values. Social risks pertain to the potential of business activities to cause an adverse impact such as damage, injury or loss to persons (e.g., employees, customers) and communities (e.g., neighbors). Social risks can include violation of labor standards, unsafe working conditions, community impacts such as public health, safety and security, discrimination, impacts on indigenous peoples and cultural heritage, or involuntary resettlement. Social risks are largely a function of the client's behavior (Please see Annex 1 for details on typical E&S risks to which that a BFI's clients are exposed).

Every business activity has some inherent potential to cause adverse impact on communities or the environment, and the extent of that potential varies greatly among different types of businesses and how they are managed. If BFI's clients don't recognize and manage those inherent E&S risks in their business, they can incur unexpected financial, legal and/or reputational liabilities. Similarly, if BFIs don't manage their exposure to such clients, they too can incur unexpected financial, legal and/or reputational liabilities.

Typical examples of environmental issues include generation of polluted waste water (e.g., textile dyeing and tanning units), harmful fumes (e.g., brick kilns, metal re-rolling units), particulate air emissions (e.g.,

wood-burning), and land contamination from use of chemicals (e.g., agriculture). Major climate-related issues in Nepal include floods, landslides, drought, epidemics, and fires which have been posing threats, not only to lives and livelihoods of people, but also to service delivery and economy. In terms of social issues, concerns include employee safety, community health and safety, child labour, discrimination, and vulnerable populations. As investments are ramped up to generate increased electricity, develop infrastructure, and expand manufacturing activities in the short to medium term in order to achieve higher growth rate and create jobs, a key challenge will be to ensure that these activities are environmentally and socially responsible and climate resilient so that the resulting growth is not only high and inclusive, but also sustainable.

Even investments in projects which offer environmental and social advantages are not without inherent environmental and social risks. For example, Nepal has the potential to deliver higher and more inclusive growth by properly utilizing the large amount of water available for generating hydropower. However, the sustainable development of hydropower has its environmental and social challenges which must be considered by developers and BFIs when financing such projects (Please see Annex 2 for guidance on Management of E&S issues in hydropower projects).

From an environmental and social risk perspective, developers must consider such factors as watershed management, habitat management, water quality, effects on aquatic populations, reservoir management, pollution prevention and control, health and safety during construction and operation, and emergency preparedness and response (e.g., in case of a dam failure or flooding).

Potential E&S risks in a transaction may not seem significant or relevant at the time of approval of a financial transaction but may become so post-disbursement. For example, such risks may result from higher regulatory or supply chain standards for, and increased levels of enforcement, by both regulators and customers of the BFI's client. In other cases, E&S risks, such as spills, fires or explosions, may seem unlikely to occur, but when they do, the E&S impact is potentially extremely high. Please refer to Typical E&S Risks for BFIs Clients (Annex1) for descriptions of some of the common E&S risks which may be associated with a BFI's client's business activity.

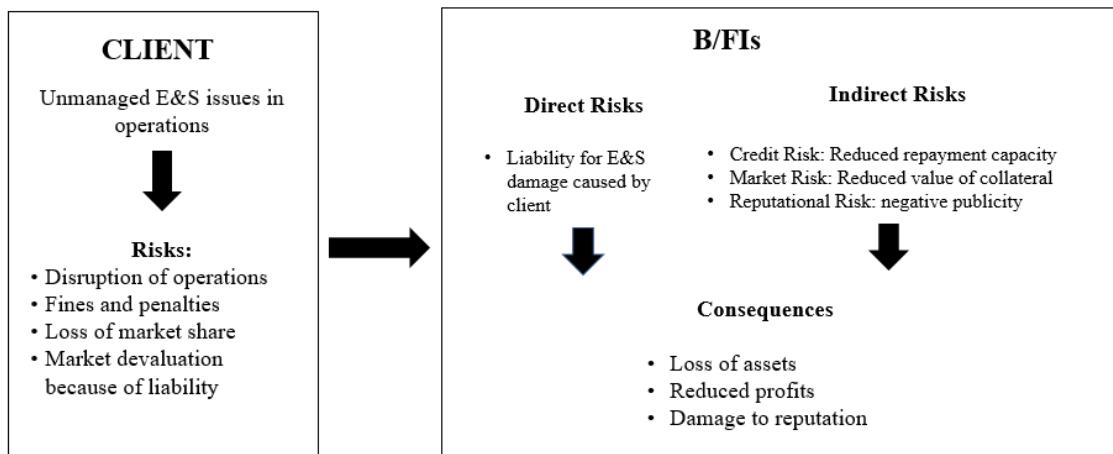
To reduce exposure to Environmental and Social (E&S) risks associated with their clients, BFIs must ensure that their clients' financial and operational sustainability is not undermined by adverse impacts on the environment or communities resulting from their clients' business activities. BFIs require a good understanding and evaluation of the E&S risks associated with a potential client's operations, and their implications to the client and the BFIs, prior to making a financing decision.

This requires proactive identification, assessment, and management of E&S risks before they become significant or result in an adverse outcome for the client. BFIs can best achieve this by developing and implementing an Environmental and Social Management System, to systematically assess the E&S risks arising from their clients' operations and manage its exposure to those risks.

Risks to BFIs Associated with Client E&S Risks

BFIs are exposed to some level of E&S risk through their clients. If left unmanaged, these risks can lead to a decline in the BFI's reputation, costly litigation, or loss of revenue. The type, quantity and severity of E&S issues that present a risk to a BFIs for any given transaction depend on a variety of factors, including geographic context, industry sector, scale of the activity, and the type of transaction (e.g., SME finance, Term Finance, project finance, commercial leasing). Please refer to E&S Risks of Various Types of Credits in Annex 3 for risks typically associated with different types of financial transactions.

The figure below summarizes the types of risks resulting from E&S issues to which a BFI's client can be exposed and how those risks can translate to risks for a BFIs financing such clients.



- **Credit risk:** A BFI is exposed to credit risk when a client is unwilling and/or unable to fulfil the contractual obligations associated with a transaction as a result of E&S issues. For example, if a client faces increased capital or operating costs of complying with regulatory or supply chain E&S standards or if operating permits or pollution control certificates are absent or expired resulting in regulatory fines or penalties, there is a risk that the client cannot meet its financial obligations to the BFIs. Also, a BFIs is exposed to credit risk stemming from a reduction in the asset value of collateral associated with a transaction due to E&S problems. For example, if a production site becomes contaminated, the market value of the underlying collateral may decrease. Severe weather events and long-term changing weather patterns may reduce collateral values which increases credit risk via a higher loss given default.
- **Legal risk:** By virtue of taking possession of collateral assets, a BFIs is exposed to liability risks stemming from a client’s legal obligations. This includes fines, penalties, and costs for addressing third-party claims for damages due to negligence in managing E&S risks in a client’s operations and clean-up of contamination.
- **Operational risk:** A BFI is exposed to financial risk stemming from potential disruption of client’s operations as a result of E&S problems. A client’s failure to effectively address E&S considerations can jeopardize its business operations, affect cash flow and ability to meet its financial obligations.
- **Reputational risk:** A BFI is exposed to reputational risk due to potentially negative publicity associated with a client’s poor E&S practices. This can harm a BFI’s brand value and image in the media, with the public, with the business and financial community, and even with its own staff. For example, if a client faces strong public opposition against its operations, the BFI’s reputation may be tarnished through its association with this particular client.

Applicability of the Guideline

The transaction types for which the ESRM Guideline is applicable are SME finance, commercial leasing, Term Finance, and project finance. In order to identify, manage and mitigate E&S risks, all BFIs engaged in any of the above types of financing are required to develop a robust Environmental and Social Management System (ESMS), consistent with national laws and international best practice.

All business purpose loans: For all business purpose loan applications subject to this Guideline, the B/FI must ensure that the activity financed is not on the Exclusion List (See Annex 4).

Small loan: a loan application (New/Renewal/Rescheduling/Restructuring) less than NPR 10 million (USD 100,000) will have to be checked with exclusion list and national laws and regulations. If transactions are in

any of the critical sectors listed below then despite of the loan size it will be subject to E&S due diligence using the *ESDD Checklist* (Annex 5).

Critical sectors²:

- Washing, dyeing and finishing units of RMG sector (water, chemical pollution)
- Small steel re-rolling mills (operational health and safety, thermal, air pollution)
- Brick kilns (air pollution, child labour, burning of fossil fuel)
- Units for tanning, dressing and dyeing of leather and fur (water, chemical, air pollution)
- Pesticides, agrochemical and nitrogen manufacturing units (land contamination, water, air pollution)
- Chemicals and chemical products manufacturing units (safety, pollution)
- Rubber and plastic products manufacturing units (pollution)
- Batteries and accumulators manufacturing units (chemical pollution)
- Paper manufacturing and paper pulp processing unit (water contamination, depletion of water source, chemicals)
- Small foundries (air pollution, safety, child labour)

Term Finance³: a loan application (New/Renewal/Rescheduling/Restructuring) from NPR 10 million (USD 100,000) will have to undergo E&S due diligence process using the *ESDD Checklist*(Annex 5)

Project Finance⁴: For all Project Finance transactions, apart from Exclusion List screening, the E&S due diligence will be performed by BFIs and a third party. Environmental Impact Assessment (EIA) may be required by law of Nepal. EIA will generally be arranged by the client at his/her/its own cost and submitted along with loan application. BFIs will ensure that the third party will be qualified to carry out the ESDD.

For all short-term loans⁵ including Business Working Capital Loan⁶, trade and retail the requirements will be Exclusion list screening and compliance with national laws and regulations.

²The critical sectors for small businesses are those where due to the nature of the business operation negative impacts on the surrounding environment, local community or workers' health and safety tend to occur if environmental or social issues are not managed properly by the business. Although small businesses can generally cause only limited damages to the environment or people (contamination of local water stream from untreated industrial effluents, illegal dump of wastes - particularly chemical ones, e.g. from tanning hides or dyeing textile or mixing chemicals to local water streams, local air pollution, such damages may have local (geographically limited) but considerable impact on the health & safety of local community or workers in these businesses. Therefore, businesses of these sectors should not be left out of the E&S due diligence. The E&S due diligence on such businesses is simplified to a quick review by using the ESDD Checklist. Refer to Rule 16 of EPR 2020 for further information related to Pollution Control Certificate needed for those relevant business activities.³Term Financing is payable over a term greater than 1 year

³Term Financing is payable over a term greater than 1 year

⁴Project finance is the financing of long-term infrastructure, industrial projects and public services based on a non-recourse or limited recourse financial structure, in which project debt and equity used to finance the project are paid back from the cash flow generated by the project.

⁵Short term loans are those with less than 1 year tenor

⁶A business working capital loan is a loan that has the purpose of financing the everyday operations of a company. Working capital loans are not used to buy long-term assets or investments and are instead used to finance a company's short-term operational needs (accounts payable, wages, etc.)

The chart below summarizes the ESDD activities appropriate for various types of financial transactions.

No.	Transaction Type	Exclusion List	E&S Due Diligence (incl. <i>ESDD Checklist</i>)	EIA Review
1.	Small loans in non-critical sectors	√		
2.	Small loans in critical sectors	√	√	
3.	Term Finance	√	√	
4.	Project Finance	√	√	√*
5.	All short term loans (less than 1 year tenor)	√		

* If the EIA is required by the Nepali law.

Applicable Standards

All proposals (New/Renewal/Rescheduling/Restructuring) for transactions subject to this Guideline will, at a minimum, require screening against the Exclusion List (Annex 4) to ensure that BFIs do not finance any excluded activities.

All national environmental, health, safety and labor regulations and relevant international conventions are applicable to all transactions subject to this Guideline. While carrying out E&S due diligence, all required E&S permits, licenses, and monitoring of E&S parameters are to be considered as mandatory compliance requirements for evaluation of a loan application. A list of key national E&S regulations, required documentation and permits, and International Labor Organization (ILO) treaties to which Nepal is a signatory is provided in Annex 6.

International frameworks such as ISO14001 (environmental management), ISO 45001:2018 (used to be OHSAS18001-occupational health and safety management), SA8000 (socially acceptable work practices) as well as supply chain environmental and social standards imposed by buyers (e.g., Apple, H&M, Ikea, Nike, Starbucks, Walmart) are considered as best practices and indicative of a B/FI's clients' commitment to sustainable operations.

Adherence to IFC Performance Standards⁷ will be considered as good practice in case of project financing focused on development of specific assets.

Environmental and Social Management System (ESMS) for BFIs

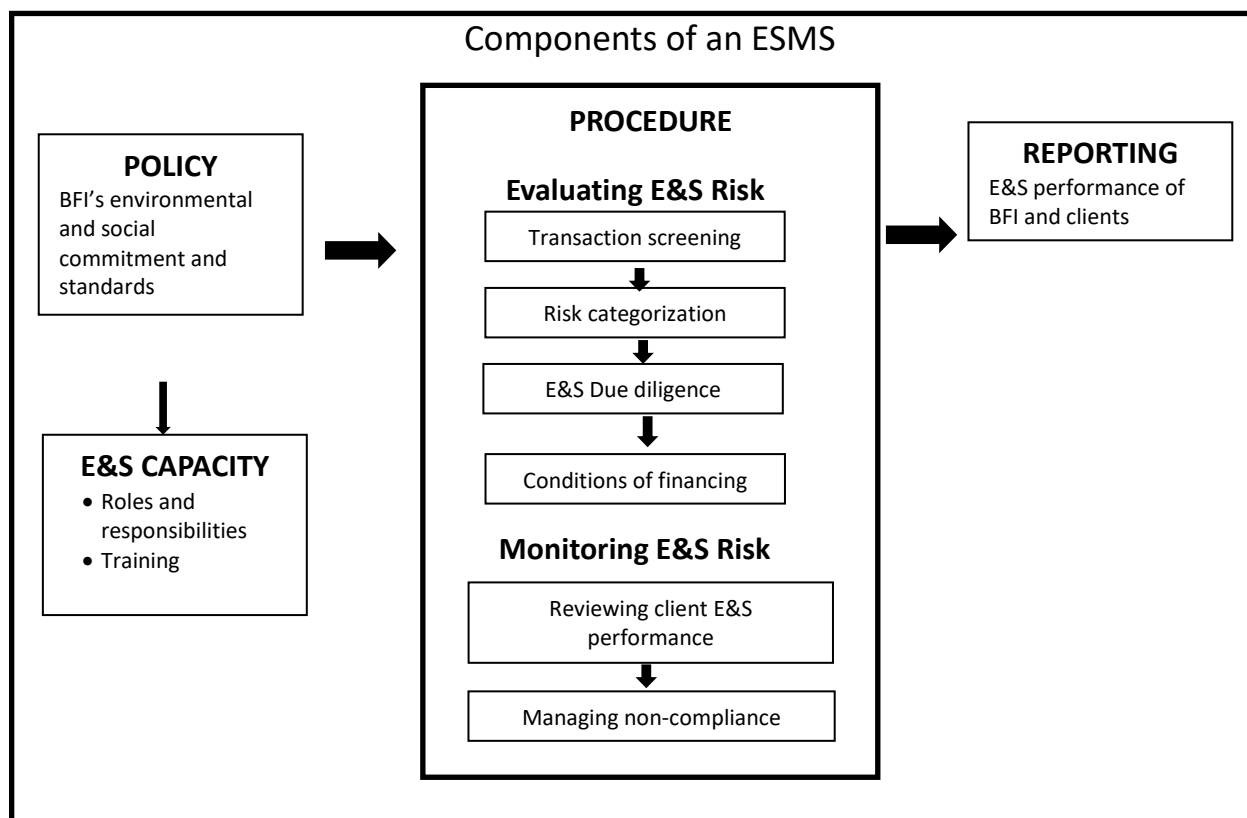
A sound ESMS consists of a policy, procedures, tools and internal capacity to identify, appraise, manage and monitor a BFI's exposure to the E&S risks of its clients' operations. The policy includes a statement of the BFI's commitment to E&S management, while the procedures define the process for identifying, assessing and managing E&S risk of financial transactions, identifies required documentation and records, describes the decision-making process, and the roles and responsibilities of BFIs staff. An ESMS helps a BFIs to:

- Identify environmental and social risk associated with its borrower's operations and understand the potential impact of lending to such borrowers on its portfolio;
- Systematically assess and manage those environmental and social risks of the borrower's operation;
- Implement the necessary steps within its risk management system and its proper documentation;

⁷https://www.ifc.org/wps/wcm/connect/Topics_Ext_Content/IFC_External_Corporate_Site/Sustainability-At-IFC/Policies-Standards/Performance-Standards

- Monitor borrower’s compliance with national environmental and social regulations and international good practices and standards;
- Require borrowers to implement mitigation measures for identified unacceptable environmental and social risks and/or non-compliance with applicable standards;
- Identify social and environmental business opportunities; and
- Develop a good reputation among clients/investees, investors and other relevant parties in the financial market.

The schematic below illustrates the key components of an ESMS.



The effective implementation of a BFI’s E&S Policy is ensured through a set of detailed E&S Risk Management Procedures for:

- Screening transactions,
- Categorizing transactions based on the loan characteristics (e.g. size, type) or their inherent environmental and social risk,
- Conducting risk appropriate environmental and social due diligence,
- Rating transactions based on the level of their compliance with E&S requirements and magnitude of E&S problems
- Informed decision-making,
- Managing a client’s non-compliance with the applicable E&S standards, and
- Monitoring the client’s environmental and social performance.

The E&S risk management procedures should be integrated into the BFI’s overall risk management framework and must be appropriately applied to each transaction. For each transaction, this requires a BFI to (i) formally document its environmental and social review as part of its credit appraisal documentation, (ii) consider environmental and social findings during the decision-making process, and (iii) incorporate,

when appropriate, environmental and social requirements (e.g., Corrective Action Plan) as clauses in legal agreements with clients.

Specific details of key components of an ESMS are described below.

1.1 E&S Policy

An E&S policy states a BFI's vision and mission with respect to the environment, society and contributions to sustainable development. It is a short, written statement, approved and supported by senior management that articulates the BFI's commitment to integrating E&S considerations into its business activities as well as contributions to sustainable development. The typical E&S policy may include one or more the following statements and commitments:

- Incorporating E&S risk considerations into all financing activities;
- Setting strategic E&S objectives, such as offering new products that address E&S sustainability;
- Excluding financing clients whose business activities do not meet the BFI's principles;
- Establishing applicable E&S requirements for clients such as complying with national E&S regulations and international standards;
- Communicating E&S expectations to all staff, clients and other external stakeholders;
- Committing to improving the overall E&S performance of its portfolio through enhanced risk management;
- Committing to continually building capacity of its staff to manage E&S risks,

1.2 Roles and Responsibilities

For an ESMS to function properly, it is essential that roles and responsibilities for implementing procedures and making decisions are clearly defined. BFIs could assign ESRM responsibilities to the existing designated departments and/or business function for the purpose of analysis of the credit customers regarding ESRM Guidelines wherever applicable.

- **Relationship Managers/Loan Officers:** RMs or LOs should be responsible for identifying E&S risks in a client's operation (i.e., environmental and social due diligence [ESDD]) by talking to the client/ relevant officials, site visits, collecting documents, permits relevant for the proposed transaction. They are usually responsible for filling out the ESDD Checklist in consultation with the client at approval stage, collect additional information, if required and respond to credit authority queries if necessary, and follow up with client if there are any pre-disbursement actions.
- **Credit Risk Managers/Credit Officers:** CRMs or COs are the first point of contact for any transaction once the ESDD has been conducted by the RMs/LOs and should be responsible for review of the results of ESDD including the compliance check and E&S risk rating.
- **Legal Department:** The Legal Department should be responsible for ensuring that the any client E&S requirements (e.g., remedial actions, monitoring and reporting) identified during the ESDD process are incorporated in legal agreements for each transaction.
- **Credit Authority:** The appropriate credit authority is responsible for ensuring that it has sufficient information regarding the potential E&S risks associated with a transaction available to make an informed credit decision, and that it is comfortable that the provisions of the Loan agreement are sufficient to ensure identified E&S risks are managed so as to be acceptable to the BFIs.

In addition, a **E&S focal point** can be appointed to take the operational responsibility for E&S risk management in the financial institution, including the development, integration and implementation of the ESMS. (e.g., the Head of Credit Department can take this role). This person is responsible for updating the

Senior Management of B/FIs on the current status of the BFI's portfolio regarding ESRM, facilitating decision making process where there are unresolved E&S issues or non-compliance. The E&S Focal Point is also responsible for periodic reporting to NRB as/when required. The E&S focal point may be called upon by Senior Management to opine on critical E&S issues of a particular transaction. He will also be responsible for tracking latest E&S issues in the media and support transaction teams in identifying and managing E&S risks in lending.

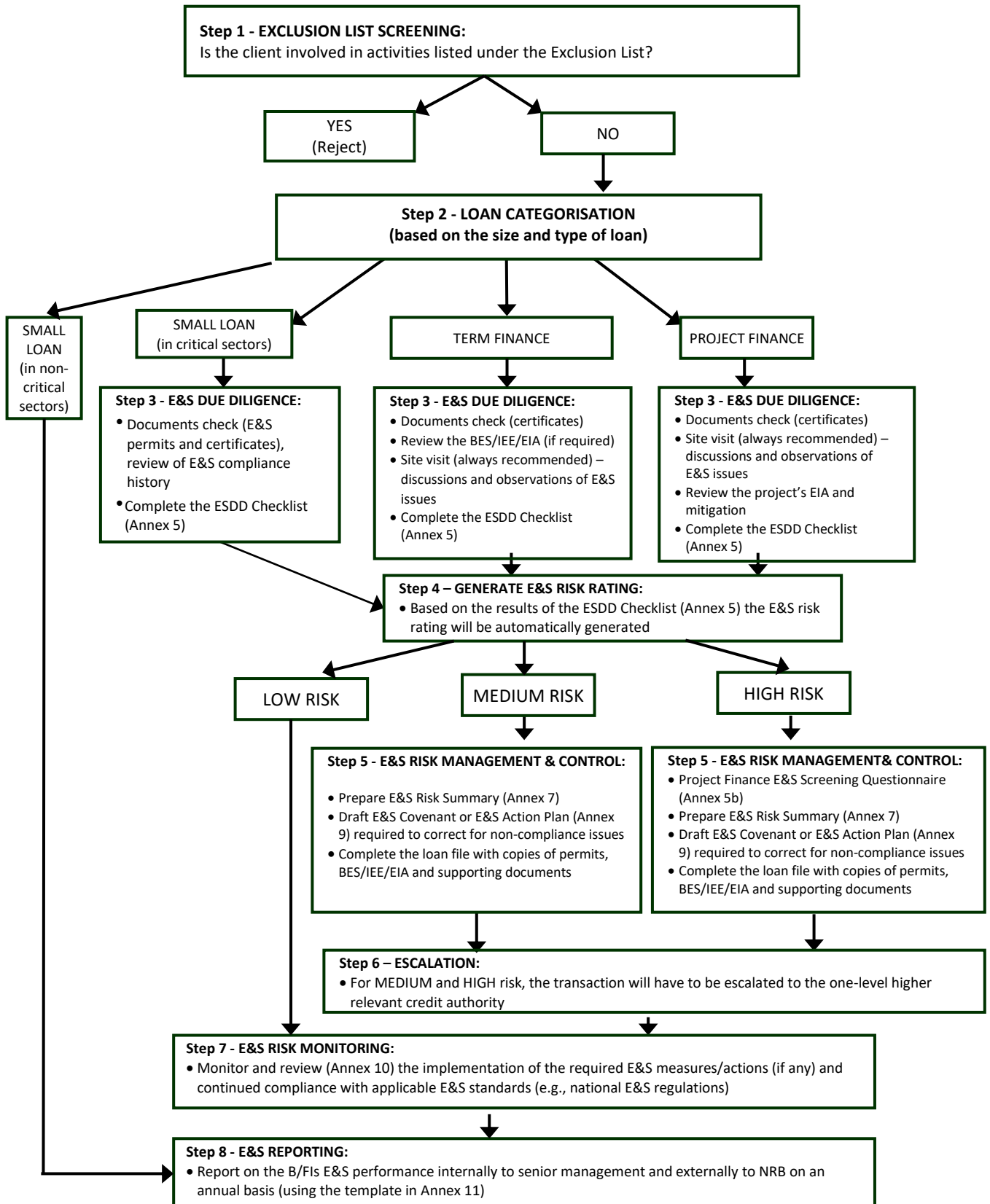
1.3 E&S Risk Management Procedures

Typical steps to follow for conducting an ESDD include:

- **Step1 - Exclusion List:** Screening of the project against a list of excluded activities adopted by the financial institution;
- **Step 2 - Initial Categorization:** Determining the category of loan by the size or type of the loan (e.g. Small loans in non-critical sectors, Small loans in critical sectors, Term Finance, Project Finance). The Loan Category determines the extent of E&S appraisal as it is specified in section 5 of this Guideline.
- **Step 3– Environmental & Social Due Diligence (ESDD):**
 - Review the project's compliance with applicable national environmental and social regulations including the document check (e.g., approval of BES (Brief Environmental Study), IEE or EIA, pollution control certificates, permits, etc. as specified in Annex 6 to this Guideline);
 - Review the project sponsors' track record on environmental and social issues, in terms of potential non-compliance with national regulations or negative publicity;
 - Review the project's compliance against international standards or industry best practice regarding environmental and social issues;
- **Step 4 - Generate E&S Risk Rating:** Upon completion of the *ESDD Checklist*(Annex 5) an E&S risk rating (High, Medium, or Low) will be generated automatically.
- **Step 5–E&S Risk Management & Control:**
 - For **LOW** Risk transactions, no mitigation measures are required.
 - For **HIGH** and **MEDIUM** Risk transaction, a time bound action plan and relevant covenants, addressing required remedial actions by the client, will have to be included in the loan documentation.
 - Prepare an **E&S Risk Summary** (Annex 7) for the Credit Authority describing the results of the ESDD and recommendations regarding any required remedial actions by the client.
 - Document all required information. Every loan file should have a fully completed *ESDD Checklist*, copies of all permits, clearances (Approval or BES/IEE/EIA, fire safety license, buyer's audit report), *E&S Risk Summary*, any E&S covenants in the loan agreement and, after disbursement, subsequent E&S supervision reports.
- **Step 6 -Escalation:** Depending upon the risk rating, the transaction will have to be escalated to the relevant authority.
- **Step 7 –E&S Risk Monitoring:** Review of the proposed actions (if any) to mitigate potential environmental and social issues associated with the project throughout all phases of the project life cycle.

- **Step 8 –E&S Reporting:** BFI's must establish E&S performance reporting procedures for both internal reporting to senior management and external reporting to NRB, shareholders and stakeholders.

The following flow chart summarizes the steps to be followed while conducting ESDD:



1.3.1 Screening Transactions

At the initial stage of evaluating a potential financial transaction, BFIs staff (e.g., RM) should screen the activities of the potential client to determine if it is an excluded activity. If the activity falls on NRB's or the BFI's list of excluded activities, the transaction should not be considered for financing (Please see Annex 4 for a list of Excluded activities).

1.3.2 Categorizing Transactions

The Loan Category determines the extent of E&S appraisal as it is specified in section 5 of this Guideline:

Small loan in non-critical sector: a loan application (New/Renewal/Rescheduling/Restructuring) less than NPR 10 million (USD 100,000), in non-critical sectors, goes through a normal credit approval process.

Small loan in critical sectors: a loan application (New/Renewal/Rescheduling/Restructuring) less than NPR 10 million (USD 100,000), in critical sectors (see the list of critical sectors in section 5 of this Guideline), will be subject to E&S due diligence stage.

Term Finance⁸: a loan application (New/Renewal/Rescheduling/Restructuring) from NPR 10 million (USD 100,000) will have to undergo E&S due diligence process.

Project Finance⁹: the E&S due diligence will be performed by BFIs and a third party Environmental Impact Assessment (EIA) may be required as per prevailing law of Nepal.

1.3.3 Conducting E&S Due Diligence (ESDD)

E&S due diligence involves the systematic identification, quantification and assessment/evaluation of E&S risks associated with a proposed transaction and is a critical component of a BFI's ESMS. The results of, and conclusions from, ESDD should be summarized in an E&S Risk Summary which is included in the loan proposal to the credit authority, and factored in to the decision-making process before proceeding with a transaction. The objectives of the E&S due diligence are:

- Identify and assess potential E&S impacts and issues, both adverse and beneficial, associated with a proposed transaction;
- Assess the client's awareness of, and commitment and capacity to responsibly manage, the E&S risks inherent in their business activities,
- Evaluate the client's measures to avoid, minimize, mitigate, or offset/compensate for, adverse impacts on workers, affected communities, and the environment;
- Identify any areas of client non-compliance, if any, with national environmental, health, safety and labor laws and other applicable standards (e.g. missing pollution control certificate or violation the conditions specified in the certificate) and define remedial measures as needed;
- Ensure that the loan documentation includes appropriate definitions, covenants, clauses and associated elements to obligate the client to comply with all E&S laws and regulations and remedy areas of non-compliance.

⁸Term Financing is payable over a term greater than 1 year.

⁹Project finance is the financing of long-term infrastructure, industrial projects and public services based on a non-recourse or limited recourse financial structure, in which project debt and equity used to finance the project are paid back from the cash flow generated by the project.

The activities to be performed during the E&S due diligence include:

For **small loans in critical sectors**:

- **Documents check** – desktop review of the collected documents making sure the client has all required E&S related permissions (provisional/permanent Pollution Control Certificate, Certificate of completion of Sewage, Sanitary and Drinking water supply system where subject to those; Certificate of Fire Safety) and all permissions are valid (see Annex 6 for details on E&S permits and certificates); and
- **Review E&S compliance history** and ensure client compliance with E&S laws and regulations (e.g., written certification from client). See the Overview of the E&S permitting and regulatory requirements in Nepal in Annex 6.
- **Completion of the ESDD Checklist** (Annex 5) and preparation of *E&S Risk Summary (Annex 7)* – the *ESDD Checklist* has been designed to provide guidance for bankers to assist in addressing typical E&S risks

For **Term Finance**¹⁰ category:

- **Documents check** – desktop review of the collected documents making sure the client has all required E&S related permissions (Approval of BES/IEE or EIA if required; provisional/permanent Pollution Control Certificate, Certificate of completion of Sewage, Sanitary and Drinking water supply system where subject to those; Certificate of Fire Safety) and all permissions are valid (see Annex 6 for details on E&S permits and certificates).
- **Review the E&S compliance** history of the client. See the Overview of the E&S permitting and regulatory requirements in Nepal in Annex 6.
- **Site Visit** - conduct a visit to client's premises / project site to gain an impression of the environmental and social issues associated with the daily operations of a client's business. This provides insight into potential environmental and social risks. The focus of the site visit is to identify potential environmental and social issues that may represent a risk to the client's business activities if left unmitigated and to review a client's compliance with the BFI's and national environmental and social requirements.
- **Completion of the ESDD Checklist**(Annex 5) and preparation of *E&S Risk Summary (Annex 7)*–the *ESDD Checklist* has been designed to provide guidance for bankers to assist in addressing typical E&S risks.

For **Project Finance**¹¹ category:

- **Documents check** – desktop review of the collected documents making sure the client has all required E&S related permissions (Approval of BES/IEE or EIA; provisional/permanent Pollution Control Certificate; Certificate of completion of Sewage, Sanitary and Drinking water supply system where subject to those; Certificate of Fire Safety) and all permissions are valid (see Annex 6 for details on E&S permits and certificates).
- **Review the E&S compliance** history of the client. See the Overview of the E&S permitting and regulatory requirements in Nepal in Annex 6. For Hydropower projects see the Management of E&S Issues in hydropower projects in Annex 2.

¹⁰*Term Financing* is payable over a term greater than 1 year.

¹¹*Project finance* is the financing of long-term infrastructure, industrial projects and public services based on a non-recourse or limited recourse financial structure, in which project debt and equity used to finance the project are paid back from the cash flow generated by the project.

- **Site Visit** - conduct a visit to client's premises / project site to gain an impression of the environmental and social issues associated with the daily operations of a client's business. This provides insight into potential environmental and social risks. The focus of the site visit is to identify potential environmental and social issues that may represent a risk to the client's business activities if left unmitigated and to review a client's compliance with the BFI's and national environmental and social requirements.
 - The site visit should be conducted during hours of operation and should focus on key areas such as operations and processes performed on the site, size of the workforce and labor practices, surrounding land use, processing/manufacturing lines, installations for effluent treatment (if any), sources of air emissions and filters, storage areas for hazardous materials, storage areas for waste and disposal process worker facilities.
 - Signs of possible environmental and social concerns may include lack of use of appropriate personal protective equipment by workers, poorly maintained storage tanks/facilities with hazardous or flammable materials, discoloration of nearby streams or drainage channels, excessive noise, strong odour, proximity of surrounding communities and complaints by local residents.
- **Review of the results of BES,IEE or EIA**—BFIs staff should review the Approval of BES/IEE or EIA and any conditions included in the approval and ensure compliance with those conditions by the client.
- **Completion of the *ESDD Checklist***(Annex 5) and preparation of *an E&S Risk Summary*(Annex 7) to be included in the credit proposal to the Credit Authority – the *ESDD Checklist* has been designed to provide guidance for BFIs staff to assist in addressing typical E&S risks and mitigation gaps. Relevant documents will have to be collected to support E&S findings.

For complex transactions (e.g., project finance in high risk sector such as a hydropower), the BFIs should use the *Project Finance E&S Screening Questionnaire* (Annex 5b) or consider the services of an external expert/consultant to provide independent view of the related environmental and social risks and impacts and those views should be reflected in the *E&S Risk Summary* (Annex 7) and be factored into the credit decision-making process.

1.3.4 E&S Performance Risk Rating

Upon completion of the *ESDD Checklist* an E&S risk rating—ESRR (Low, Medium, High) will be generated automatically by the excel-based *ESDD Checklist* (in a separate annex to the Guideline). This rating is indicative of the E&S risk and compliance level in the actual transaction, irrespective of sector activity. So, for example, Mining and Quarry is a high environmental and social risk sector, however, if the client has managed all the E&S issues well, the ESRR of this transaction might be LOW based on actual management of E&S risk issues identified on the ground. Below is an interpretation of the transaction level risk ratings:

- **HIGH Risk:** Transactions typically involve clients with business activities with significant adverse E&S impacts that are diverse, irreversible or unprecedented. A potential impact is considered significant if it may be irreversible (such as loss of a major natural habitat, land use change like taking agricultural land to build hotels/resorts or converting agricultural land to industrial land), affect vulnerable groups or ethnic minorities, involve involuntary displacement and resettlement, or affect significant UNESCO enlisted cultural and natural heritage sites. "High" ESRR may also indicate serious non-compliance or irresponsible behavior of the client towards managing E&S issues.
- **MEDIUM Risk:** Transactions typically involve clients with business activities with specific E&S impacts that are few in number, generally site-specific, largely reversible and readily addressed through mitigation measures and international best practice. Potential adverse environmental impacts on human populations or environmentally important areas are less adverse than those of High Risk

transactions. "Medium" ESRR also indicates transactions with less serious non-compliance or unresolved non-material issues.

- **LOW Risk:** Transactions typically involve clients with business activities with minimal or no adverse E&S impacts. "Low" ESRR also means that all issues appeared to be sufficiently managed and that there were no compliance issues identified.

1.3.5 Decision Making - Corrective Action Plan and Covenants

For the transactions rated as "**LOW**" no further action is required.

For **MEDIUM and HIGH Risk transactions**, there may be identified risks which will have to be mitigated. A corrective action plan can be developed identifying the risk, mitigation measure, timeline for implementation and who should be responsible for implementation. Transaction specific corrective action plan and covenants can be part of the loan documents. A template of a **corrective action plan** is provided in Annex 8 and sample E&S covenants are outlined in Annex 9.

1.3.6 Escalation

All transactions rated as MEDIUM or HIGH (ESRR) will be escalated to the one-level higher related credit approval authority.

1.3.7 Risk Monitoring

BFI's staff should conduct periodic monitoring and review of the all transactions throughout all phases of the project life cycle to ensure that (i) any required actions to mitigate potential environmental and social issues associated with the project are implemented according to schedule, (ii) and the E&S risk profile of the transaction hasn't increased. Annex 10 provides a Monitoring and supervision Checklist template to assist BFI's staff in monitoring E&S risks during the term of the loan. In case of the transaction rated (ESRR) as Medium or High, monitoring of E&S issue should primarily focus of the compliance with the requirements of the Action Plan or E&S covenants (if any).

If BFI's staff identifies E&S issues, such as a client's non-compliance with the E&S clauses stipulated in the legal agreement, they should follow up with the client to resolve these in a reasonable time frame. Depending upon the complexity of the E&S issues, BFI's staff should require a new corrective action plan and/or periodic reports on E&S performance throughout the duration of the transaction. The reporting frequency should be tailored to each individual transaction and should be based on self-monitoring by the client or monitoring by independent third parties and/or regulatory authorities.

1.3.8 Internal Reporting and B/FIs Reporting to NRB

The BFI's will be required to report on their sustainability performance both internally to senior management, and externally to NRB on an annual basis (see Annex 11 for a template for reporting to NRB), and annually to shareholders and stakeholders. A BFI's ESMS should include periodic reporting on the E&S performance of transactions and measures taken to reduce its overall exposure to E&S risk. BFI's should aggregate and continuously monitor and manage its E&S risk profile at the portfolio level.

Implementing ESMS

Once the ESMS has been developed and formally approved by senior management it must be institutionalized, integrated into the overall risk management process, and rolled out across the organization.

To implement the ESMS, the BFIs should develop an implementation plan, including a strategy for fully integrating E&S risk management into the BFI's existing credit risk management framework (e.g., Credit Manual), and an ESMS testing phase, with a time schedule for completing each task and the designated staff responsible for doing so. Tasks should include a review of the E&S regulations of Nepal, communications and training plan for staff, assigning responsibilities to applicable staff, and review of the ESMS on a periodic basis for continuous improvement.

Senior management should be kept informed of challenges, successes and other important issues associated with the implementation of the BFI's ESMS.

NRB Monitoring and Control

The purpose of these Guidelines is to ensure BFIs better understand E&S risks and incorporate appropriate risk mitigation measures to be able to expand their lending portfolio while avoiding financing transactions which could result in unacceptable environmental and/or social impacts and encouraging those which directly contribute to sustainable development.

NRB will require BFIs to report annually on the:

- (a) Progress and performance integrating E&S risk management into the credit risk management process for credit activities subject to these Guidelines;
- (b) ESRM institutional capacity building activities conducted during the year;
- (c) Procedures for monitoring, evaluating and reporting their compliance with these Guidelines; and
- (d) E&S risk profile of the portion of the BFI's loan portfolio subject to these Guidelines.

See Annex 11 for a sample template for Annual Statement of Environment and Social Risk Management to be submitted to NRB annually.

BFIs should aggregate and continuously monitor and manage their E&S risk profile at the portfolio level, and report annually, (by standard industry sectors), the E&S risk categorization of both new credits issued during the period and total loan book for credits subject to these Guidelines.

Annexes

Annex1: Typical E&S Risks for B/FI Clients

<p>Air Emissions and Air Quality</p>	<p>Air emissions are typically associated with processes such as raw material mining and transportation such as limestone mining for cement industries, brick kiln industries, combustion of fuel for energy production, storage of raw materials or final products (e.g., cement, crusher industries etc.) or other industry-sector specific processes. The generation and release of air emissions can be managed through a combination of energy efficiency, process modification, selection of fuels or other materials and application of emissions control techniques at source and after disposal into the environment.</p> <p>Ministry of Forests and Environment or Provincial Environment Ministry has the right to decide on issuing Pollution Control Certificate to the industries. Before submitting the application for Pollution Control Certificate, the industries need to prepare latest report as per the environment standards formulated by the government (Rule 22, EPR, 2020).Detailed case specific requirements are prescribed along with the pollution control certificate. Emission standards for in-use and new diesel generators (DG) sets, industrial boilers, incinerator, cement industries, crusher industries, brick kilns and diesel generators were introduced by the government. Similarly, Nepal Vehicle Mass Emission Standard was introduced in 2012 which limits the imports of vehicles (except for heavy equipment vehicles) that do not comply with Euro III. In 2012, Nepal Air Quality National Standard was also formulated.</p>
<p>Water Use and Conservation</p>	<p>Typically,water use at the facility level is associated with processes such as production, manufacturing, cleaning, dyeing, cooling water, and heating systems. Beer and alcohol industries, packaged water bottle factories and soft drink production industries are some of the noticeable examples of highly water consuming industries in Nepal. Where possible, a client’s operations should reduce overall water use at the facility level by managing the water consumption associated with specific production processes to avoid excess costs.</p>
<p>Wastewater and Water Quality</p>	<p>A client'soperations may generate wastewater,which can be treated on site and/or discharged to the municipal sewage system for treatment, or directly to the surface water bodies without prior treatment. Where possible, a client’s operations should avoid, minimize and control adverse impacts to human health, safety and the environment from wastewater through wastewater treatment.</p> <p>Government of Nepal has generic and specific standards for specific industries. The specific standards are as tolerance limit for industrial effluents to be discharged into inland surface waters for tanning industries, wool processing industries, fermentation industries, vegetable ghee and oil industries, paper and pulp industries, dairy industries, sugar industries, cotton textile industries, soap industries, galvanizing and electroplating industries, paint industries, non-alcoholic beverage industries and pharmaceutical industries. Generic standards are also in place for industrial effluents to be discharged into inland surface waters, into public sewers, and into inland surface waters from combined wastewater treatment plant.</p>
<p>Solid Wastes</p>	<p>A client's operations may generate, store, or handle hazardous or non-hazardous solid wastes which can be discarded by disposal, open burning or</p>

	<p>incineration. Inappropriate waste disposal practices can lead to contamination of ground water or local air pollution through its burning or contamination of agricultural lands, transmission of diseases and infections or potential fines and/or penalties as stipulated in national regulations.</p> <p>Solid (non-hazardous) waste generally includes domestic trash (Paper, plastic, dust, kitchen waste), inert construction/demolition materials, empty containers (except those previously used to contain hazardous materials), and residual waste. Requirements on safe handling, collection and disposal of waste are specified in the Solid Waste Management Act 2011. Discharge of solid waste, discharge and management of harmful and chemical waste, discharge and management of health institution-related waste have been mentioned in Rules 4, 5 and 6 of Solid Waste Management Rules 2013 respectively. Similarly, the Section 11 (2) (i) and (j) of Local Government Operation Act 2017 has given responsibilities to the local government for sanitation and waste management, health-related waste management, control of hazardous waste, environment risk mitigation etc. Section 102 of the Act has also mentioned the rights of local government to formulate acts, regulations, guidelines and standards for environment protection pollution control, waste management among others.</p> <p>Section 17 of Environment Protection Act 2019 and Rule 16 of Environment Protection Rules 2020 has the provision of hazardous waste management. Hazardous waste shares the properties of a hazardous material (such as ignitability, corrosiveness, reactivity, or toxicity), that may pose a potential risk to human health or the environment if improperly managed. Some of the example industries are health care institutions, laboratories, pathology labs and batteries refining and manufacturing. Health Care Waste Management Guideline, 2014 is the specific guideline for safe and efficient waste management for health care institution in Nepal.</p> <p>Responsible approaches to waste management include waste management planning, waste prevention, recycling and reuse, and treatment and disposal.</p>
Labour & Working Conditions	<p>Failure to provide a healthy and safe working environment and establish sound worker-management relationship can undermine worker commitment, productivity, and retention, result in labour strikes, and can jeopardize a client's operations.</p> <p>A client should document and communicate to all employees (including contract workers) their working conditions and terms of employment. These include their entitlement to wages and benefits, hours of work, overtime arrangements and overtime compensation, and leave for illness, maternity, vacation, or holiday, that at a minimum comply with national law.</p> <p>A client cannot employ children in a manner that is economically exploitative, or is likely to be harmful to the child or to interfere with the child's education. A client cannot employ forced labour, which consists of any work or service not voluntarily performed by an individual but executed under threat of force or penalty.</p> <p>A client should take measures to prevent and address harassment, intimidation, and/or exploitation, especially in regard to women.</p> <p>The Labor Act 2017 and its Rules 2018 provides details on such measures as</p>

	<p>adequate supply of clean and fresh air and light, provision of separate modern toilets for male and female workers and employees; supply of adequate safe drinking water; provision of appropriate volume of ventilation, condition of light, temperature and sound; protection from dust; smoke, fumes and other impurities; avoidance of overcrowding in any room of the establishment, health checkup facilities and provision of extinguishing fire.</p>
Community Health, Safety and Security	<p>A client's operations can increase the potential for community exposure to risks and impacts arising from accidents, industrial fire, emission of polluting gases, and discharge of untreated effluents, haphazard waste disposal, high decibel noise, structural failures, and releases of hazardous materials. Some of the example industries are gas factory, petrol pumps, hydropower etc. Communities may also be affected by impacts on their natural resources and, exposure to diseases. While acknowledging the public authorities' role in promoting the health, safety and security of the public, it is also the client's responsibility to avoid or minimize these risks and impacts that may arise from operations.</p> <p>The client needs to prevent or minimize the potential for community exposure to hazardous materials, emission of toxic gaseous, discharge of effluents or clearing of forest they are dependent for their livelihood that may be released during pre-construction, construction and operations. If there is a potential for life-threatening hazards, the client needs to modify operations or substitute or eliminate substances causing the hazard. The client needs to inform surrounding communities of potential hazards associated with operations and collaborate with the community and local government agencies in preparing to respond effectively to emergencies.</p>
Biodiversity and Ecosystem Services	<p>These risks are particularly relevant for projects (i) located in modified, natural, and critical habitats (e.g., protected areas, wetlands, national forests); (ii) that potentially impact on or are dependent on ecosystem services (e.g. tourism related activities, hospitality, extraction and processing of non-timber forest products, transmission lines) or (iii) that include the production of living natural resources (e.g., agriculture, animal husbandry, fisheries, forestry).</p> <p>The client needs to prevent or minimize the potential for his activities to impact biodiversity and ecosystem services.</p> <p>The principle legislative instruments of biodiversity and nature protection are specified in Nepal in the <i>Forest Act 2019, National Parks and Wildlife Conservation Act 1973 and its Rules, CITES Act 2017 and its rules 2019, Environment Protection Act 2019 and Environment Protection Rules 2020</i>. Environmental protection considerations are incorporated into Brief Environmental Studies (BES) / Initial Environmental Examination (IEE) / Environmental Impact Assessment (EIA). Similarly, Plant Protection Act (2007) prohibits the import of any plant or plant part or related materials from any country without prior approval of the government.</p>
Land Acquisition and Resettlement	<p>Involuntary resettlement refers both to physical displacement (relocation or loss of shelter) and to economic displacement (access to resources for income generation or means of livelihood) due to land acquisition associated with a client's operations. Resettlement is considered involuntary when affected individuals or communities do not have the right to refuse displacement (e.g.,</p>

	<p>lawful expropriation or restrictions on land use based on eminent domain; negotiated settlements in which the buyer can resort to expropriation or impose legal restrictions on land use if negotiations with the seller fail).</p> <p>Unless properly managed, involuntary resettlement may result in long-term hardship and impoverishment for affected persons and communities, as well as environmental damage and social stress in areas to which they have been displaced. For these reasons, involuntary resettlement should be avoided or at least minimized.</p> <p>However, where it is unavoidable, appropriate measures to mitigate adverse impacts on displaced persons and host communities should be carefully planned and implemented with appropriate disclosure of information, consultation, and the informed participation of affected persons.</p> <p>The Land Acquisition Act, 1977 is the main governing legal document to guide the process related to land acquisition and relocation in Nepal. Section 52 of the Land Act 1964 has the provision of providing lands to landless, squatters and unmanaged settlers.</p>
<p>Indigenous Peoples (IPs) and Vulnerable Populations (VPs)</p>	<p>Indigenous Peoples (IPs) (<i>Adivasi Janajati</i>) are recognized as social groups with identities that are distinct from dominant groups in national societies and are often among vulnerable segments of the population.</p> <p>Indigenous Peoples and Vulnerable Populations are often closely tied to their traditional or customary lands and the natural resources on these lands. While these lands may not be under their legal ownership as defined under national law, the use of these lands by communities for their livelihoods or for cultural purposes is often recognized under customary law. However, their economic, social and legal status often limits their capacity to defend their interests and rights to lands and natural and cultural resources.</p> <p>IPs and VPs are particularly vulnerable if their lands and resources are transformed, encroached upon by outsiders, or significantly degraded. A client should ensure that during operations, the identity, culture and natural resource-based livelihoods of such populations are respected and exposure to impoverishment and disease is prevented.</p>
<p>Cultural and Natural Heritage</p>	<p>If a client's operations are initiated and operated without consideration for cultural and natural heritage, there are significant legal and reputational risks.</p> <p>Cultural and natural heritage encompasses properties and sites of archaeological, historical, cultural, and religious significance as well as unique natural features and cultural knowledge, and innovations and practices of communities embodying traditional lifestyles, which are protected for current and future generations. Consistent with the requirements of the Convention Concerning the Protection of the World Cultural and Natural Heritage, a client is required to avoid significant damage to cultural and natural heritage due to their business activities (e.g. businesses/industries near the UNESCO sites such as Basantapur Durbar Square, Patan Durbar Square, Bhaktapur Durbar Square, Pashupatinath, Chitwan National Park, Sagarmatha National Park, Lumbini, etc.)</p>

Climate-related risks and Financial Institutions

Tackling the climate crisis while meeting urgent development needs is the fundamental challenge. The COVID-19 pandemic and economic crisis have been devastating, and as the economy responds to the ongoing crisis and build back, there is an urgent need to integrate climate and development strategies to deliver green, resilient, and inclusive development.

Climate change is set to have a dramatic economic impact. It is already altering the availability of and demand for resources, supply and demand for products and services, the performance of physical assets, and the need for innovation. Failure to consider climate change in investment strategies can undermine projected financial returns and affect the non-financial risk management of institutions, particularly on development, environmental, and social issues.

As they channel investment, financial institutions have an opportunity and responsibility to take a leading role in mitigating and adapting to climate change. Institutions managing investments in long-term assets should consider the financial risks associated with climate change, as well as the opportunity to create value by working proactively with clients and stakeholders to manage the risks.

Clearly, not all investments will be affected by climate impacts, nor will they all be affected in the same ways. The severity of impacts will depend on several factors, including its climatic sensitivity, location, management practices, market conditions, existing policies and regulations, and so forth. However, it is likely that the impacts will have material effects on a significant number of investments over time.

Climate-related risks can translate into physical and transition risks that have a financial impact on the balance sheets of banks. These climate-related risks can potentially result in large financial losses and may present new challenges for banks' risk management practices.

Climate-related risks can have direct impact on businesses if left unmanaged which in turn can affect the financial performance and conditions for both debt and equity investment of the BFIs. Some common climate related factors may include:

- Market conditions, particularly supply and demand, can be a key determinant of future prices. Both supply and demand can be sensitive to climate factors. Future climate-driven changes in prices may, in turn, affect the competitiveness of investments.
- Efficiency, output, and performance of assets and equipment may decrease due to changing climate conditions, with consequences for revenue.
- Operating costs (OPEX) may increase due to changes in the price, availability, or quality of inputs. Maintenance costs may also increase.
- Insurance costs are likely to increase if climate-related claims continue to rise as projected. A more disquieting possibility, already a reality in some regions, is that insurance companies may completely abandon particular markets.
- Additional capital expenditure (CAPEX) may be required as a result of asset damage or decreased asset performance. Further, complying with environmental regulations may require additional CAPEX to upgrade facilities or equipment to cope with increased pollution risks.
- Staff health, safety, and productivity may be impacted by climate change, and this may lead to increased expenses.
- Loss contingency projections—reserves required to allow for potential disasters or other known risks—may need to increase as the risks of climate change become more likely and better quantified.

- Asset depreciation rates may increase. The rates currently used for accounting purposes generally reflect historical experience, but the effective depreciation rates of assets due to climate change may be considerably higher. Consequently, financial models may overestimate the real useful lives and value of physical assets. Faster capital depreciation could mean that assets need replacing more frequently, negatively affecting projected cash flows.
- Country risk may be aggravated by climate change impacts, particularly in economies where GDP is reliant on scarce water resources, or in smaller economies that are more vulnerable to catastrophic climate events.

While performing Environmental and Social due diligence, Banks and Financial Institutions will be required to consider climatic risks and potential mitigation measures and also opportunities for reducing GHG emission. An additional question related to Climate Change has been added to the ESDD questionnaire. Below are examples of climate risks transmitted to BFIs financial risks by the Network for Greening the Financial System (NGFS):¹²

Climate risks leading to Financial risks for BFIs	
Physical Risks	Sub-categories
Extreme weather events	Tropical cyclones/Typhoons
	Floods
	Winter storms
	Heat waves
	Droughts
	Wildfires
Ecosystems pollutions	Soil degradation and pollution
	Water pollution
	Marine pollution
	Environmental accidents
Sea-level rise	
Water scarcity	
Deforestation	
Desertification	
Transition Risks	Sub-categories
Public policy change	Energy transition policies
	Pollution control regulation

¹²https://www.ngfs.net/sites/default/files/medias/documents/overview_of_environmental_risk_analysis_by_financial_institutions.pdf

	Policies on resource conservation
Technology changes	Clean energy technologies
	Energy saving technologies
	Clean transportation
	Other green technologies
Shifting sentiment	
Disruptive business model	

Annex 2: E&S Risk Management Considerations in Hydropower Projects.

Documentation Requirements for Project Sponsors		
Capacity	Assessment	Suggested Documents for Financing
>50 MW	EIA	<ul style="list-style-type: none"> ➤ Company registration document (VAT, PAN, registration certificate, AOA and MOA) ➤ Survey license (Electricity generation, transmission and distribution or combined) ➤ EIA approved either by Federal Ministry or by Provincial Ministry ➤ Development license (Generation, Transmission and Distribution of Electricity or combined) ➤ Power Purchase Agreement (PPA)
1-50 MW	IEE	<ul style="list-style-type: none"> ➤ Company registration document (VAT, PAN, registration certificate, AOA and MOA) ➤ Survey license (Electricity generation, transmission and distribution or combined) ➤ Letter of approval IEE from Ministry of Energy, Water Resources and Irrigation through Department of Electricity Development. The EPA 2019 has given right to the Provincial Ministry responsible for Energy to approve IEE if proposed project will be executed in only one province. (Since this type of institution doesn't prevail at local levels, the reports are approved by MoEWRI) ➤ Development license (Generation, Transmission and Distribution of Electricity or combined) ➤ Power Purchase Agreement (PPA)
<1 MW	None	<ul style="list-style-type: none"> ➤ For projects using forest land, IEE might be required ➤ For project between 100kW to 1000KW, licenses will be issued by the local government which can also seek consent from Department of Electricity Development (DoED) or any other entity designated by the Government.

Typical environmental and social aspects for hydropower projects

Aspects	E&S Parameters
Construction-related issues	<ul style="list-style-type: none"> Wastewater discharges – Effluents from worker camp sanitary wastewater Storm water runoff – Total suspended solids (TSS) Rock extraction /tunneling discharges Solid waste – rock waste and topsoil storage Biodiversity – aquatic and terrestrial ecology surveys, vegetation reinstatement. As relevant, aquatic ecology should be assessed upstream and downstream of effluent discharges during construction. Air quality / emissions – PM at project boundary; black smoke from construction equipment, visible dust at construction sites Noise and vibrations at nearest receptor (include pre-blasting surveys of community infrastructure)
Hydrology/Morphology	<ul style="list-style-type: none"> Streamflow upstream and downstream (key selected points) Water consumption (downstream) Stored water volume (reservoirs) Flow, velocity, depth
Water quality	<ul style="list-style-type: none"> Temperature upstream / downstream (all types of hydropower) Dissolved oxygen; TSS; water clarity; phosphates / nitrates, in reservoir and downstream
Sediment transport	<ul style="list-style-type: none"> TSS (upstream and downstream); sediment transport and deposition (RoR and storage); stream morphology; structural risk to in-stream structures.
Emissions	<ul style="list-style-type: none"> CO₂, Hydrogen sulfide and methane in reservoir and downstream of dam (storage reservoirs)
Resettlement related	<ul style="list-style-type: none"> Acquisition of land, compensation of affected land and properties
Indigenous Peoples (IP) and vulnerable people/community	<ul style="list-style-type: none"> Impact on IPs land and religious places, culture, tradition, local economy, employment

Aspects	E&S Parameters
Aquatic ecology	<ul style="list-style-type: none"> Fish and invertebrate species / population size (upstream, downstream; and in reservoirs) Habitat preference by indicator species, considering different life-cycle stages and natural history
Terrestrial ecology	<ul style="list-style-type: none"> Forestation of upstream / reservoir riparian areas Forest types and major plant species including Non-Timber Forest Products Wildlife (species, distribution, numbers)
Land use	<ul style="list-style-type: none"> Vegetation cover / land use change in watershed
Community health	<ul style="list-style-type: none"> Water based vectors
Community safety	<ul style="list-style-type: none"> Dam structural safety - Construction and post-construction surveys Downstream population use of riparian resources

To assist in the sustainable development of hydropower projects IFC supported Ministry of Forests and Environment to develop the Nepal Hydropower EIA Guideline¹³ to guide practitioners, regulators and developers in the industry understand in detail the importance of several existing gaps like meaningful engagement of stakeholders, adequate definition of areas of influence and study areas, sufficient identification of baseline studies, knowledge on identifying and quantifying impacts, need of precision on impact predictions, and suitable alternatives analysis. IFC also maintains a Hydro Advisory website¹⁴ (including assistance to financial institutions by providing diagnostic tools and environmental and social guidelines to help lower risk when lending to hydropower companies and support banks in making sustainable investments that yield benefits for the local people, the environment, and investors.

¹³https://mofe.gov.np/downloadfile/Hydropower%20Environmental%20Impact%20Assessment%20Manual_1537854204.pdf

¹⁴http://www.ifc.org/wps/wcm/connect/Industry_EXT_Content/IFC_External_Corporate_Site/Hydro+Advisory

Annex 3: E&S Risks for Various Types of Credits

SME – Lending to small and medium enterprises focus on a particular set of clients, usually defined by annual sales but also by loan amount. Small and medium enterprises have specific funding needs in terms of their business growth. The monetary cut-off for classifying a company as a small and medium enterprise may vary by BFI.

Although less complex than for large business working capital / term Finance and project investments, the E&S issues associated with small and medium enterprises can be quite significant and are primarily related to worker health & safety and pollution. These E&S issues may not be closely monitored and the risks will vary depending on company size, the management's awareness of E&S issues and its capacity to manage E&S risks, as well as by industry sector, and location.

BFI's that lend or invest in small and medium enterprises generally try to develop long-term relationships, which may further expose lenders/investors to E&S issues associated with the enterprise, posing financial and liability risks. Due to the visibility of small and medium enterprises in a community, reputational risk is also a factor.

Commercial Leasing - The E&S risks associated with leasing transactions vary depending upon the nature of the transaction with the customer. The value of the asset will determine the lessor's overall exposure, while the term will determine the length of time the lessor is exposed to the lessee's environmental risk factors. The type of lease, principally whether a finance lease or an operating lease, will also determine whether the risk is primarily with the lessee (finance lease) or lessor (operating lease). For a Finance Lease, risk associated with any environmental obsolescence and use and maintenance of the asset is likely to remain with the lessee. For an Operating Lease, the lessor is exposed to environment related depreciation of the asset, and, depending on the nature of the agreement, may be considered responsible for certain aspects of the safe operation of the asset, such as maintenance and insurance.

Under certain circumstances it may be possible for leased assets to cause damage to human health and the environment, and for the leasing company to be liable for this damage. This could occur, for example, if an asset were repossessed, and is most likely where the asset has the potential to cause environmental damage, such as chemical process equipment or storage tanks. As owners, the leasing company could be liable for removal of the equipment and clean-up of any land or water contaminated, by default.

Direct liability for the inappropriate use or operation of leased assets is also possible. For example, if the lessor were responsible for maintenance of a fuel tanker truck which caused a spillage due to poor maintenance, the lessor could potentially be liable for the resulting environmental damage. However, where possible the terms of the lease agreement should place any such responsibility and liability with the lessee.

An asset that is leased may lose value due to environmental factors. For example, cars, trucks or heavy construction equipment which no longer meet emissions, noise or health and safety standards, or the use of a certain type of equipment may be banned or become obsolete for environmental reasons (e.g. manufacturing plant for hazardous chemicals), and property which is contaminated by past or current activities may lose value.

Term Finance- a loan that has the purpose of financing the everyday operations of a company. Working capital loans are not used to buy long-term assets or investments and are instead used to finance a company's short-term operational needs (accounts payable, wages, etc.). Term finance (debt) can be used by the commercial operation to finance a specific aspect of the operation, such as the purchase of equipment, or for renovation /expansion of the operation. Equity investments in a commercial operation provide operating capital for an operation in exchange for shares (equity) in the company /project.

The E&S risks associated with a term finance transaction will vary greatly and can be significant as a function of the operation's industry sector, size, location, and company commitment and capacity to managing E&S risks. E&S risks will be more significant for industry sectors and large-scale operations with increased risk such as mining, oil and gas, and heavy manufacturing, power generation which may result in loss of life, health impacts, and water contamination, community disturbance, among others, if not managed properly. For low-risk industry sectors such as retail operations and other services, the E&S risks will usually be low and mainly related to labour standards and life and fire safety, which can readily be addressed. Regardless of the industry sector, there may also be E&S risks, especially related to labour and working conditions, in the supply chain of raw materials and goods.

E&S issues may threaten the financial and operational viability of a commercial operation. For a commercial operation, the source of repayment of a loan or payment of dividends on an investment is from the operation itself, backed by its entire balance sheet, rather than a specific asset. A term finance transaction exposes a BFI to the entire commercial operation of the client's company, which presents a liability, reputational, and credit risk. When a loan is backed by a specific asset as collateral, the liability risk for the BFI may be increased if there are associated E&S issues.

Project Finance - financing of long-term infrastructure, industrial projects and public services based on a non-recourse or limited recourse financial structure, in which project debt and equity used to finance the project are paid back from the cash flow generated by the project. The financing is usually secured by the project assets such that the BFIs providing the funds will assume control of the project if the sponsor has difficulties complying with the terms of the transaction.

Project finance is generally used for large, complex and sizable operations, such as roads, oil and gas explorations, dams, and powerplants. Due to their complexity, size, and location, these projects often have challenging E&S issues, which may include involuntary resettlement, loss of biodiversity, impacts on indigenous and/or local communities, and worker safety, pollution, contamination, and others. Because these projects generally face high scrutiny from regulators, civil society, and financiers, the project's sponsoring companies allocate more resources to managing E&S risks.

If not managed properly, the E&S risks can result in disrupting or halting project operations and lead to legal complications and reputational impacts that threaten the overall success of the project. Because anticipated project cashflows typically generate the necessary resource store pay the loan, any disruption to the project itself, regardless of the financial standing of the sponsoring companies involved, poses a direct financial risk to the BFIs.

Annex 4: Exclusion List

S.N.	Sector / Activities
1	<p>Production or trade in any product or activity deemed illegal under host country laws or regulations or international conventions and agreements, or subject to international bans, such as pharmaceuticals, pesticides/herbicides, ozone depleting substances, PCB's, wildlife or products regulated under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).</p> <p>Links: United Nations (UN) list of banned chemicals and products: http://www.un.org/esa/coordination/Consolidated.list-13FinalFinal.pdf CITES list of endangered species: http://www.cites.org/eng/app/E-Apr27.pdf.</p>
2	Fishing with the use of explosives or cyanide
3	Operations impacting UNESCO World Heritage Site or other cultural heritage in Nepal
4	Illegal logging, and logging operations or conversion of land for plantation use in primary tropical moist forests
5	Production or activities involving forced labour/ child labour or resulting in violation of human rights or human trafficking
6	Production or activities that impinge on the lands owned, or claimed under adjudication, by Indigenous Peoples, without full documented consent of such peoples
7	Production or trade in radioactive materials. This does not apply to the purchase of medical equipment, quality control (measurement) equipment and any equipment where the radioactive source is considered to be trivial and/or adequately shielded.
8	<p>As per Schedule 1 , Section 8 of the Industrial Enterprises Act 2020, license from the Industrial and Investment Promotion Board shall be obtained in order to establish the following industries.</p> <ol style="list-style-type: none"> 1. Industries producing arms, ammunition, gunpowder or explosives; 2. Security printing, bank notes and coin industries; 3. Industries producing cigarette, bidi, cigar, chewing tobacco and other goods utilizing tobacco as the basic raw materials, and electronic cigarettes; 4. Microbrewery, beer, alcohol, or alcoholic substances producing industries; 5. Stone, ballast, sand excavation, processing industries; 6. Industries producing radio communication equipment; 7. Industries like excavation of precious minerals and petroleum products; 8. Liquefied petroleum gas (L.P.G) refiling industries; 9. All kinds of industries producing drone products or providing services through drone; 10. Other industries requiring permission under the prevalent laws.

Annex 5: E&SDue Diligence Checklist¹

(¹This *ESDD checklist* is also available as a separate interactive MS-Excel Tool)

Basic Information	
Date	
Name of Client/Account	
Transaction ID	
Location	
Industry / Sector	
Product Manufactured / Traded	
Name of Relationship Official	
Business line (Sub-sector)	

GENERAL RISK		
#	Mark the answer X	
1.1		Are there any legal issues associated with the client's E&S performance? (for detailed guidance check the Guidance Notes at the end of the Checklist)
		a) Client has all valid permits AND has not faced any legal claims or any serious environmental/social incident in last three years
		b) Client does not have all valid permits but has taken definite steps to acquire them in next six months AND/OR client has faced legal claims but has addressed or has definite plan to address all of them
		c) Client does not have all valid permits and has not taken any definite step to acquire them AND/OR client has faced legal claims and has no definite plan to address them
		d) Not applicable
	Remarks:	
1.2		Have operations ever been affected by local stakeholder grievances, media or non-governmental organization (NGO) campaigns over E&S issues? (for detailed guidance check the Guidance Notes at the end of the Checklist)
		a) There is no evidence of stakeholder grievances, negative media or NGO protest
		b) There is evidence of stakeholder grievances, negative media or NGO protest for a particular operation AND client has taken adequate steps to address the issue
		c) There is evidence of stakeholder grievances, negative media or NGO protest and client has not taken any step to address the issue
		d) Not applicable
	Remarks:	
1.3		Is project site and/or its routing likely to have negative impacts on sensitive areas (residential or protected sites) near the project site? (for detailed guidance check the Guidance Notes at the end of the Checklist)

		<i>a) No sensitive areas observed</i>
		<i>b) There are a few sensitive areas and the client has taken adequate measures to mitigate the impact of their operation on the sensitive areas as per regulations</i>
		<i>c) There are sensitive areas observed and mitigation measures are not adequate as per regulations and the client may face legal challenge in future</i>
		<i>d) Not applicable</i>
	Remarks:	
1.4	<i>Is the project involved or will involve acquiring land with resettlement?</i> <i>(for detailed guidance check the Guidance Notes at the end of the Checklist)</i>	
		<i>a) Neither land acquisition nor involuntary resettlement observed</i>
		<i>b) There is land acquisition and voluntary resettlement and the client has taken adequate measures as per regulations to mitigate the negative impacts of displacement, to identify development opportunities for all affected persons.</i>
		<i>c) There is land acquisition and involuntary resettlement and the client has not taken adequate measure as per regulations and the client may face legal challenge in future</i>
		<i>d) Not applicable</i>
	Remarks:	

ENVIRONMENTAL HEALTH AND SAFETY RISKS		
2.1	<i>Is there any evidence of air and noise pollution from the client's operation violating the Environment Protection Rules 2020 or the conditions specified in the client's Pollution Control Certificate?</i> <i>(for detailed guidance check the Guidance Notes at the end of the Checklist)</i>	
		<i>a) There is no evidence of air /noise pollution and non-compliance and/or all mitigation measures and monitoring systems are in place</i>
		<i>b) There is evidence of air/ noise emission and non-compliance AND partial mitigation measure, monitoring system is in place AND client is addressing or has a definite plan to address the remaining issues</i>
		<i>c) There is evidence of air emission/noise and non-compliance AND there is no mitigation measure/monitoring system in place AND client has no definite plan to address the issues</i>
		<i>d) Not applicable</i>
	Remarks:	
2.2	<i>Is there any evidence of water pollution due to client's operation, violating the Environment Protection Rules 2020 or the conditions specified in the client's Pollution Control Certificate?</i> <i>(for detailed guidance check the Guidance Notes at the end of the Checklist)</i>	
		<i>a) There is no evidence of water pollution and non-compliance and /or all mitigation measures and monitoring systems are in place</i>
		<i>b) There is evidence of water pollution and non-compliance AND partial mitigation measure monitoring system is in place AND client is addressing or has a definite plan to address the remaining issues</i>
		<i>c) There is evidence of water pollution and non-compliance AND there is no mitigation measure/monitoring system in place AND client has no definite plan to address the issues</i>
		<i>d) Not applicable</i>
	Remarks:	

2.3	Is there any evidence of land pollution and lack of waste handling mechanism in the project operation violating the Environment Protection Rules 2020 or the conditions specified in the client's Pollution Control Certificate? (for detailed guidance check the Guidance Notes at the end of the Checklist)	
		a) There is no evidence of land contamination or lack of waste handling mechanism or non-compliance OR all mitigation measures and monitoring systems are in place
		b) There is evidence of land contamination or lack of waste handling mechanism or non-compliance AND partial mitigation measure, monitoring system is in place AND client is addressing or has a definite plan to address the remaining issues
		c) There is evidence of land contamination or lack of waste handling mechanism or non-compliance AND there is no mitigation measure/monitoring system in place AND client has no definite plan to address the issues
		d) Not applicable
	Remarks:	
2.4	Has the client made any investments in technologies or measures in its operation leading to cost savings by reducing energy consumption (increasing energy efficiency) or using renewable energy (solar, wind, mini-hydropower, organic fuel)? (for detailed guidance check the Guidance Notes at the end of the Checklist)	
		a) The client made investment in energy efficiency technologies / measures OR in renewable energy generation (electricity or heat) OR analyzed its operation from the energy efficiency standpoint (e.g. energy audit) and is actively pursuing opportunities for energy related cost savings.
		b) The client is considering identifying opportunities for cost savings from improved energy efficiency or renewable energy use but has not made any particular steps in this direction yet
		c) The client has never made any investment in technologies or measures for energy related cost savings and appears to be unaware of the opportunities in these areas
		d) Not applicable
	Remarks:	
2.5	Are there any Climate Change related risks (flood, drought, cyclone etc.) and opportunities (GHG emission reduction) associated with the client's operation?	
		a) Client has a robust disaster management plan to combat climatic risks AND client has procedures in place to measure, disclose, set targets and mitigate its GHG emissions
		b) Client has a disaster management plan but it is not robust AND there is evidence that client has intention to measure, disclose, set targets and mitigate its GHG emissions in near future
		c) No disaster management plan AND no definite plan to measure, disclose, set targets and mitigate its GHG emissions in future
		d) Not applicable

SOCIAL RISKS		
3.1	Is there any evidence of increased fire risk or occupational health & safety (OHS) risk, i.e. risk of injuries at work?(for detailed guidance check the Guidance Notes at the end of the Checklist)	
		a) The client does not have any OHS concern or have mitigated them adequately
		b) The client has some OHS concern but has taken definite steps to correct them

		<i>c) The client has OHS concern in its operation and have no plans of correcting them</i>
		<i>d) Not Applicable</i>
	Remarks:	
3.2	Are the labor and working conditions poor and breaching local regulations / standards? <i>(for detailed guidance check the Guidance Notes at the end of the Checklist)</i>	
		<i>a) There is proper working condition and labor practice AND there is no evidence of poor working condition or labor practice for which client may face legal challenge or labor unrest or negative media coverage or protest from activist</i>
		<i>b) There are a few evidences of poor working conditions BUT no significantly poor labor practice such as child/forced labor is present AND the client has a definite plan to improve the working condition to ensure there is no legal challenge or labor unrest or negative media coverage or protest from activist in future</i>
		<i>c) Working condition is very poor AND/OR there is presence of significantly poor labor practice such as child labor/forced labor AND client is not addressing/has no definite plan to address the issues</i>
		<i>d) Not applicable</i>
	Remarks:	
3.3	Does the project pose a threat to Community Health, Safety and Security? <i>(for detailed guidance check the Guidance Notes at the end of the Checklist)</i>	
		<i>a) there is no evidence of issues that may create nuisance/accidents/injuries to local community in future or the company has a robust plan for community health & safety which was developed in consultation with the local community</i>
		<i>b) There are a few evidences of issues that may create nuisance/ accidents/injuries to local community AND the client intends to address the gaps AND/OR the client has a plan for community health & safety but it is not robust or it is not developed in consultation with the community</i>
		<i>c) there is evidence of significant issues that can create nuisance/ accidents/injuries to local community AND client has no definite plan to address the gaps AND/OR does not intend to manage its impact on community health & safety</i>
		<i>d) Not applicable</i>
	Remarks:	
3.4	Is there any evidence of community consultation with key stakeholders including indigenous people and local community? <i>(for detailed guidance check the Guidance Notes at the end of the Checklist)</i>	
		<i>a) There is evidence that the client consults /engages with the stakeholders including local community, indigenous people on(such as rehabilitation, compensation, their expectations as the case may be)</i>
		<i>b) There is limited /inadequate consultations with the stakeholders</i>
		<i>c) No consultations with the stakeholders</i>
		<i>d) Not applicable</i>
	Remarks:	

Guidance notes:

1.1 Are there any legal issues associated with the client's E&S performance?

- Check for all the relevant environmental, health & safety licenses and permits and their validity. See the list of permitting requirements in most common sectors in Nepal in Annex 6 of the ESRM Guideline. The licenses and permits may include for example land layout permit, the approval of the Initial Environmental Examination or Environmental Impact Assessment, the provisional/permanent pollution control certificate, Certificate of completion of Sewage, Sanitary and Drinking water supply system, Certificate of Fire Safety. If the permits and certificates are not up to date and it doesn't impact the immediate operations then up to six months time can be given for their renewal. If even after six months the required permits and certificates are not renewed then the transaction can be escalated further.
- Check if there are any notices/fines/penalties received for breaching environmental, labour safety or community health and safety regulations and pollution limits in past three years. These notices/ fines / penalties are issued by Ministry inspectors or by local communities impacted by the client's business activities.
- In the Remarks section please provide details of the past fines - mainly amount, reason and current status.

1.2 Have operations ever been affected by local stakeholder grievances, media or non-governmental organization (NGO) campaigns over E&S issues?

Media or activist campaigns targeting the company/asset can be indicative of poor E&S performance. Check media or NGO reports for any serious environmental incidents (like major fire, explosion, release of poisonous fumes, discharge of large quantity of wastewater and hazardous waste into the open environment etc.) in the last three years. If there was any incident in the past, then the client should have implemented mitigation measures to avoid any similar incident in future. Some of the common reasons which trigger NGO/Media activities are:

- The local community is adversely affected by pollution or loss of livelihood.
- Worker unrest resulting into riots/road blocks
- The operations of the business is harmful for the environment for example discharge of untreated toxic effluent from a manufacturing unit into the only source of water in the local area, business operations continuously generating large amounts of dust or noise effecting the local community.
- If the project is resulting in land acquisition and involuntary resettlement without proper compensation and benefits. For e.g. land based compensation not being provided in case of displacement of community whose livelihood is dependent on land.
- If the project is causing restriction on land use and use of other natural resources like freshwater, forest products etc.
- If the project involves activities like converting rice fields into industrial land, filling out water bodies (river, ponds) for business purpose, encroaching into forest lands, use of old buildings or buildings without permit for industrial activities etc.
- If the business operations adversely impact UNESCO World Heritage site (e.g., the cultural heritage of the Kathmandu Valley, Chitwan National Park), RAMSAR sites or critical natural habitat.
- Please specify in the Remarks section what sort of media report has been published or the extent and details of NGO/ Stakeholder grievances.

1.3 Is project site and/or its routing likely to have negative impacts on sensitive areas (residential or protected sites) near the project site?

- The project operations may impact the ecological balance of the local environment. It is critical that the site is not situated in the vicinity of eco-sensitive zone. The area may be eco-sensitive because of

presence of national park, wildlife reserve, forest conservation areas, biological corridors, water bodies (river, pond etc), Ramsar sites and other important wet lands, environment conservation areas, special area for protecting biodiversity etc. Such information is available from the Department of National Parks and Wildlife Conservation, Department of Forests and Soil Conservation, Ministry of Forests and Environment, and Department of Archaeology, Ministry of Culture, Tourism and Civil Aviation.

- Please specify in the Remarks section what kind of sensitive area is present and at what distance and how they have verified the presence or absence of a sensitive area (e.g. observed from google map, interviewing client and local community, visual observation during site visit). Also mention what sort of mitigation action the client has undertaken in case there is any sensitive area in the vicinity.

1.4 Is the project involved or will involve acquiring land with resettlement?

- Does the project involve land acquisition that does not involve purely voluntary market transactions (such as land rights acquired through expropriation under the country's legal system; or through negotiated settlements where expropriation is possible; or involuntary restrictions on access to natural resources to which a community or group has had recognizable usage rights; or project situations requiring the evictions of people with no recognizable rights; or restrictions on access to land or use of other resources.)
- Is there potential for any involuntary physical or economic displacement? If displacement can't be avoided, how compensation has been handled? Best practices of compensation are:
 - At full replacement cost of the asset
 - Transparently and consistently applied to all people affected by the displacement,
 - Where livelihood has been land-based, have the displaced been offered land-based compensation?
- If the land has already been acquired, were people compensated fully beforehand? If resettled, were they able to move to their resettlement site beforehand?
- Does the client prepare a Resettlement Action Plan (RAP) or Resettlement Framework (RF) that mitigates the negative impacts of displacement, identifies development opportunities and establishes entitlement for all affected persons?
- Does the client prepare a Livelihood Restoration Plan (LRP) (if economic but not physical displacement is involved) or Livelihood Restoration Framework (LRF) to offer compensation or other assistance that will establish entitlement for affected persons or communities?

2.1 Is there any evidence of air and noise pollution due to client's operation, violating the Environment Protection Rules 2020 or the conditions specified in the client's Pollution Control Certificate?

- The sources of air pollution can be boilers, chimneys, incinerator, burning of waste in open air, diesel generator sets, vehicular emission etc.
- There can be physical evidence of dust emission (e.g. thick layer of dust on plant machinery, walkways, office areas etc.) due to improper material handling, storage and transport.
- The sources of noise pollution can be heavy machinery, fabrication line, industrial blowers, construction activities etc. High noise level (e.g. greater than 75 dB during day time or greater than 70 dB during night time in industrial areas) is an occupational hazard and needs to be minimized or mitigated. Noise can also cause nuisance to neighboring community, particularly in night hours.¹⁵
- At the minimum, the project should have, where needed, sufficient ventilation, i.e. provisions for cross ventilation (e.g., windows at regular intervals, exhaust fans, dust controller etc.) and noise mitigation measures (enclosed equipment, acoustic barriers, reduced operation at nights etc.).
- If air or noise pollution is evident in the client's operation, please provide details in the Remarks section and discuss with the client adopting mitigation measures.

¹⁵ Noise Pollution National Standard 2012 (Nepal Gazette 29 October 2012)

2.2 Is there any evidence of water pollution due to client's operation, violating the Environment Protection Rules 2020 or the conditions specified in the client's Pollution Control Certificate?

- The project may result in water pollution if it is generating hazardous effluent which is discharged into the open environment (within or outside the premises) without any or sufficient treatment.
- Check if the company/business comply the industrial waste water standards formulated by the government for aerated drink industry, paint industry, soap industry, leather tanning industry, sugar industry, dairy industry, galvanizing and electroplating industry, pharmaceutical industry, textile industry, pulp and paper industry, vegetable ghee and oil industry, fermentation industry etc.
- Check if the company's permission requires an Effluent Treatment Plant (ETP) to be installed. If so check for proper monitoring records of treatment of water (such as quantity of water treated, quality of wastewater before and after treatment, running hours of ETP etc.) and measures to keep wastewater discharge (quality and quantity) within the prescribed limit
- Check for any evidence of wastewater being discharged outside without treatment (e.g., coloured /turbid water /odor of chemicals in effluents) or effluent discharged to a location which is not according to the certificate, e.g. an agricultural field, a residential area, an enclosed water body which is a source of drinking water or used for domestic purpose etc.
- If water pollution is evident in the client's operation, please provide details in the Remarks section and discuss with the client adopting mitigation measures.

2.3 Is there any evidence of land pollution and lack of waste handling mechanism in the project operation, violating the Environment Protection Rules 2020 or the conditions specified in the client's Pollution Control Certificate?

- The project operation may cause land contamination because of activities such as leakages, spills, improper storage of waste, toxic effluent discharge etc leading to soil degradation.
- Check for any evidence of leaks and spills. Some of the common areas to look out for include – chemical storage and transfer area, diesel generator sets & transformers (diesel and waste oil), toxic waste storage area, around the process equipment using chemicals, left over raw materials dumped indiscriminately etc.
- Hazardous waste (i.e., waste of toxic nature e.g., automobile batteries, solvents, dry cleaning chemicals, metal cutting oil, waste oil and pesticides, paint sludge) if not properly handled and disposed can lead to occupational hazards, impact community health & safety, degrade local environment (flora & fauna), etc.
- Any media or third party reports on historical land contamination
- If the project is generating hazardous waste then, at the minimum, the project should have
 - Waste disposal system in accordance with the permission
 - Dedicated and marked place for storage of waste. Hazardous and non-hazardous waste should be stored separately. The hazardous waste should not be stored on site for a long time.
 - a. If land pollution or poor waste management is evident in the client's operation, please provide details in the Remarks section and discuss with the client adopting mitigation measures.

2.4 Has the client made any investments in technologies or measures in its operation leading to cost savings by reducing energy consumption (increasing energy efficiency) or using renewable energy (solar, wind, mini-hydropower, organic fuel)?

- An energy efficiency project aims at 1) reducing energy consumption for the same level of production or services; or 2) increasing productivity and creating more products/services output with the same level of energy consumption.
- Examples of energy efficiency measures from the manufacturing sector include process upgrades such as

improvements in heating and cooling equipment, heat exchangers, heat insulation, installing solar water heaters and examples from the housing sector include building envelope improvements such as upgrades to windows and insulation.

- Best potential for energy efficiency improvements are in sectors operating in high energy-consuming industries. (e.g. steel, cement, textile & dyeing, paper, rubber, plastic, beverage, sugar).
- Renewable energy is heat or electricity generated from sources that are natural, rapidly replenished and essentially inexhaustible such as sun, water, wind, organic materials or the earth's inner energy. This includes:
 - Small Hydropower - small scale Run of river generation projects (up to 10 MW)
 - Solar - Photovoltaic power and solar thermal systems or water heaters
 - Wind - Wind farms; stand-alone power system or individual turbines for small-scale use
 - Biomass & biogas - Organic matter used to generate electricity (e.g. wood and agricultural residues, animal waste, landfill gas)

2.5 Are there any Climate Change related risks (flood, drought, cyclone etc.) and opportunities (GHG emission reduction) associated with the client's operation?

- If the project site falls in the area which is prone to natural calamities such as floods, hurricane, draughts, etc. then there is a risk of operations getting affected due to a natural disaster. Some common examples where climatic risks can have impact on businesses include : agricultural farms impacted by draught, flash floods impacting hotels and other establishments, destroying structures and finished goods etc. Important for BFIs to identify these risks and ascertain clients have disaster management system or business continuity plan in place to deal with such a situation.
- Check if there are procedures for monitoring, measuring and disclosing GHG (CO₂, CH₄, N₂O, etc) emissions. Tracking GHG emission and working towards reducing it shows forward looking approach and also can be a source of revenue. Clients with more than 25,000 metric tons of annual CO₂ emission needs to report and ideally should have an emission reduction plan. In the comments section please list if the client has opted for renewable energy (rooftop solar) or energy efficiency/cleaner production measures (use of energy efficient boilers, lights etc) that results into GHG emission reduction.

3.1 Is there any evidence of increased fire risk or occupational health & safety (OHS) risk, i.e. risk of injuries at work?

- Check if the client has a system in place to identify and evaluate occupational hazards and risks on a regular basis
- Check if there are any media or third party reports on accidents and incidents on the site, their causes and actions taken. Look for trends (increasing or decreasing no. of incidents). If there have been regular major accidents in the past, see if the client has taken any measure to improve.
- The following practices are indicators of good health and safety condition. Absence or lack of any of the following may lead to health & safety incidences such as fire hazard, accident, health outbreak, absenteeism of workers
 - Notice boards in Nepali with information on Personal Protective Equipment (PPE)s, workplace safety, occupational hazards and fire safety
 - Workers using PPE at workplace as instructed
 - Regular trainings of employees on occupational health & safety
 - Onsite occupational health & safety treatment center
 - Firefighting equipment is available, accessible, identifiable from a distance, properly maintained and kept unlocked, has valid license
 - Appropriate number of independent emergency exit is available per working area and all

emergency exits and access routes are free from obstruction.

- Independent and functioning evacuation alarm is present with continuous sound to notify all workers about an emergency situation and to ensure a fast and safe evacuation.
- Fire safety plan and onsite emergency & disaster management plan is in place and if the employees are aware of such plans
- Please list in the Remarks section any OHS issues identified and client's response in mitigating them.

3.2 Are the labor and working conditions poor and breaching local regulations / standards?

- Good working conditions, facilities, timely payment of wages, non-discrimination, etc. can mitigate the risk of labor unrest, legal challenge, negative media coverage or protests from the activists. Issues like labor unrest otherwise can significantly affect continuous operation and may also lead to complete shutdown. Frequent accidents, absenteeism of workers are indicators of poor housekeeping.
- Absence or lack of any the following indicates poor working conditions and labor practices:
 - acceptable level of noise, temperature, light, air ventilation in the shop floor. Facilities such as clean drinking water, adequately equipped washing and toilet provided to all workers free of charge. Policies and safeguards are in place for child labor (minimum working age in Nepal is 14), forced labor, minimum wage, non-discrimination
- Poor labor practices include:
 - Remuneration and wages- minimum wages not paid
 - Working hours- excessive overtime, no weekends
 - Health and safety- dusty, unsafe workplace, exposure to hazardous vapours
 - Disciplinary procedures- verbal and physical abuse, fines
 - Discrimination- on gender or religious basis
 - Gender-based violence and harrassment including sexual, physical, psychological and economic abuse at workplace
- Well maintained age of workforce, wages, payment and attendance records
- For permanent work staff, presence of a written employment contract signed with each worker before they start work, which specifies terms of employment in a way understood by the worker. Whether the contract includes the name of employer, name of worker, birth date, position, salary, working hours, overtime compensation, benefits and notice period or if there is a Workers Handbook or equivalent with information about working hours, overtime compensation, benefits and notice period.
- In case of larger businesses, provision for labor unions, representation, collective bargaining and grievance mechanism.
- Check if the business with more than 20 workers has formed safety and health committee (Section 74 of the Labor Act 2017).
- Check if there is provision of epidemic control at working places by the management (Section 80 of the Labor Act 2017).
- Check if there is good labor practices (Section 91 of the Labor Act 2017).
- Check if the business with more than 10 worker has formed collective bargaining committee (Section 116 of the Labor Act 2017).
- Check for any labor inspector's report/ factory license to identify labor issues. Speaking to workers and managers can lead to risk identification also. Some companies may have international certification like SA 8000.
- Please list in the Remarks section various labor issues identified and if client has taken any measures to mitigate.
- Transactions should be terminated if instances of child labor or forced labor are found in client's

activities, unless immediate remedial actions are taken. Minimum working age in Nepal is 14.

3.3 Does the project pose a threat to Community Health, Safety and Security?

- The project operations can have a significant impact on the health & safety of the surrounding community members especially if it's a densely populated area.
- Among the usual community impact issues are:
 - Nuisance - check for any physical evidence of foul smell, noise, air pollution etc. due to project operations that may impact the local community.
 - Life and Fire Safety: The client should have made adequate provisions for detection, prevention, control and management of fire incidents. Adequate equipment need to be in place, including an emergency response, and safe evacuation plan. This is more critical in case of public access buildings such as hospitals, hotels, administration and commercial buildings etc.
 - Structural Safety and project infrastructure: In some large infrastructure projects such as hydro power with dam/reservoir, a chemical plant etc. has the potential to impact a large number of general public in case of an accident, equipment failure or damage to project assets such as dam breakage, chemical leakage etc.
 - Water quality and availability – a water intensive industry situated in a water stressed region can create imbalances and lead to social unrest which may impact the operations. This becomes a significant risk in case of a water intensive industry such as power, textile, beverage, cement, ceramic etc. Industries which are using wood as the raw material and are situated in an area where wood is used as the fuel can also lead to conflicts.
 - Hazardous materials: if using hazardous materials, the client should ensure sufficient safeguards in place, e.g. safe and guarded storage of pesticides, explosives, inflammable materials, to minimize or avoid community exposure to potential harmful impacts. Schedule 16 to 18 of the EPR 2020 mentions formats for management of hazardous waste.
- Some examples where business activities can adversely impact community health and safety include: tannery and other chemical toxic wastes dumped in water bodies, high noise and sound from power plants or generators, dust and emissions from cement, brick and other industries, foul smell from poultry farms, structural faults in industrial buildings impact adjacent houses, hot water discharge from steel rerolling mills killing fishes in the nearby water bodies, unsafe chemical handling resulting in explosion and loss of life in the community etc.
- Please list in the Remarks section what sort of risks might arise from the client's operation which can impact the community health and safety.

3.4 Is there any evidence of community consultation with key stakeholders including indigenous people?

- Companies need to understand or respond to local concerns (which are often the flash point of tensions) where business operation is likely to have an impact on the community. Different key stakeholders (indigenous people, local leaders, law enforcing agencies, local NGOs, civil society organizations etc.) need to be identified at the very onset. Business operations may displace indigenous or local community, impact their livelihoods, and pollute neighborhoods.
- In case of displacement of local community, indigenous people, it is important to engage with them to discuss the resettlement and compensation plan.
- Seek verbal or documented confirmation from clients that there is consultation. Indicators that there is effective consultation include evidence of regular meetings with stakeholders, the presence of a grievance mechanism and partnerships with civil society organizations and/ or local communities to address E&S issues.
- The project should have a grievance redressal system which gives the affected community and other stakeholders a platform to express their concerns. This will help the project in knowing the stakeholders'

concern and taking actions in a timely manner.

- The project activities may also have adverse impacts on the local cultural and natural heritage (if any). The client should look to mitigate or minimize the impacts and in fact should work towards its preservation.
- If the client is in consultancy or service business, then elaborate community consultation is not required. However, for many businesses especially in the manufacturing sector, stakeholder and community consultation is necessary for obtaining social license to operate. If community consultation is not required, RM will need to justify in comments section explaining why community consultation is not applicable.

Annex 5b: Project Finance E&S Screening Questionnaire

This list of questions is compiled to assist Banks and Financial Institutions and their consultants in conducting initial screening of a business activity/client and in identifying E&S potential impacts and risks related to business activity/company being financed. This list, based on the IFC Performance Standards, is applicable for Project Finance transactions.

Assessment and Management of Environmental and Social Risks and Impacts

Policy

- Does the company have an overarching Policy (statement) defining the environmental and social objectives and principles guiding the company's E&S performance?
- Is this Policy backed by the top management of the company?
- Does this Policy specify who within the company is responsible for Policy implementation?
- Was this Policy communicated to all employees of the company?

Identification of Risks and Impacts

- Does the company have a system/procedure to screen, identify, analyze, and assess the potential risks and impacts related to its business activities/projects?
- Is an emergency preparedness and response system an integrated part of the company's risk management system?
- Has the company conducted Environmental and Social Impact Assessment (green field projects) or any other type of E&S assessments (limited or focused E&S assessments, E&S audits) for the project financed?

Organizational Capacity and Competency

- Has the company designated specific in-house personnel, including management representative, with clear lines of responsibility and authority for E&S issues?
- Do the delegated personnel possess the knowledge, skills, and experience to implement the E&S policy and to follow established procedures?
- Has the company allocated resources to support its E&S functions?
- Has the company allocated resources to support capacity building of relevant staff on E&S issues?
- Does the company have relevant training programs in place for the E&S personnel?
- Does the company outsource E&S functions to a qualified third party(ies)?

Monitoring and Review

- Does the company have procedures in place to track and evaluate E&S performance of its operations?
- Is appropriate environmental and social performance information periodically reported internally to senior management, investors and stakeholders (as relevant)?
- Does the company have a procedure to evaluate and record results of its monitoring activities?

Stakeholder Engagement

- Does the company have a mechanism to identify its stakeholders (affected communities and other interested stakeholders in the company's activities)?
- Has the company developed and implemented a Stakeholder Engagement Plan that is scaled to the project risks and impacts and development stage?
- In case company's activities have negative impacts on local communities does the company established a community engagement process for affected communities?
- Does the process of informed consultation and participation took place (when applicable)?

External Communications and Grievance Mechanism

- Does the company have a procedure to receive and process communications from external stakeholders?
- Does the company have a grievance mechanism – a procedure for receiving, addressing, and recording/documenting complaints and communication from affected communities?

- Does the grievance mechanism ensure that the confidentiality of a person raising the complain is protected?
- Does the company ensure that the grievance mechanism is easily accessible, understandable and its availability was communicated to affected communities?

Labor and Working Conditions

Human Resources Policy and Management

- Does the company have an HR policy that is consistent with requirements of the national law and related international commitments?
- Is this Policy clearly understandable and easily accessible to all employees?
- Does the company have policies and procedures for managing and monitoring the performance of third party employers in terms of labor and working conditions?
- Has the company established a grievance mechanism for workers to review and address employee complaints?
- Has the company ensured that contracted workers by third parties, if any, also have access to the grievance mechanism?
- Is there a person responsible to review complaints and follow up on them in a timely and transparent manner?

Working Conditions and Terms of Engagement

- Has the company documented and communicated in understandable way working conditions and terms of employment to all workers directly contracted (including information on working hours, rest days, overtime procedures, wages, frequency of payments and sick and maternity leave, vacations)?
- Are the terms and working conditions in accordance with any collective agreement (if applicable)?
- Does the company identify migrant workers and ensure that the migrant workers are engaged on substantially equivalent terms and conditions to non-migrant workers?
- Does the company provide accommodation to its workers?
- If so, does the company put in place and implement policies on the quality and management of the accommodation and provision of basic services?

Worker's Organization

- Does the company allow workers to form and join workers' organizations and bargain collectively?

Non-Discrimination and Equal Opportunity

- Does the company have documented transparent procedures to ensure that employment decisions are not made on the basis of personal characteristics unrelated to job requirements?
- Does the company have any preferential employment policies in place?

Retrenchment

- Does the company anticipate retrenchment of a significant number of employees?
- If yes, has the company assessed any alternatives to retrenchment?
- If there are no viable alternatives, is there a retrenchment plan in place?
- If retrenchment has taken place, have workers received notice of dismissal and relevant severance payments mandated by law and collective agreements in a timely manner?

Protecting the Work Force

- Does the company ensure child or forced labor, including trafficked persons, is not used in its operations, including through contractors or in the primary supply chain?
- Does the company check the age of all employees?
- Does the company ensure that young workers (under the age of 18) are not employed in dangerous work and regularly monitor their health, working conditions, and hours of work?

Occupational Health and Safety

- Does the company provide its workers with a safe and healthy work environment?

- Where applicable does the company provide workers with and mandating that workers use personal protective equipment (PPE)?
- Has the company established and implemented occupational health and safety procedures in line with good international industry practices to prevent accidents, injury, and disease?
- Does the company track and report on rates of injury, occupational diseases, lost days, and absenteeism and number of work-related fatalities?
- Does the company have training programs in place for workers on occupational health and safety?
- Does the company have a fire, life and safety plan?

Supply Chain

- Where there is a high risk of significant safety issues related to supply chain workers, has the company requested its primary supply chain to introduce corrective measures to address life-threatening situations?
- Where remedy is not possible, does the company have a plan to shift the primary supply chain?

Resource Efficiency and Pollution Prevention

Resource Efficiency

- Has the company tracked use of resources and material inputs (including daily use for energy and water)?
- Does the company implement measures for improving efficiency in its consumption of energy, water, and other resources and material inputs that are in line with good international industry practice?
- Is the company a potentially significant consumer of water?

Green House Gas Emissions

- What is company's GHG emission (direct and indirect from purchased electricity)?
- Has the company considered options for reducing its GHG emissions?
- In case company's emissions of GHG gases exceed equivalent of 25,000 tons of CO₂ annually, does the company quantify those emissions on annual basis?

Pollution Prevention

- Does the company monitor air, land and water release of pollutants?
- Did the company introduce procedures/practices/techniques to avoid, or where avoidance is not feasible to minimize and/or control the intensity and mass flow of their release?
- Where historical pollution such as land or ground water contamination exists, has the company sought to determine whether it is responsible for mitigation measures?
- If it is determined that the company is legally responsible, then has the company resolved these liabilities in accordance with national law, or where national law silent, with good international industry practice?

Waste management

- Does the company generate significant amount of wastes?
- Does the company have procedures for storage, handling, and disposal of solid wastes?
- In case for hazardous wastes are those procedures in line with good industry international practices?
- Is hazardous wastes disposal conducted by third parties?
- If so, has the company ensured that the contractors are reputable and legitimate enterprises licensed by the relevant government regulatory agencies and obtain chain of custody documentation to the final destination?

Hazardous Materials

- Does the company have procedures for storage, handling, transportation, use and disposal of hazardous materials?
- Has the client assessed alternatives to use of hazardous materials?

Pesticide Use and Management

- Does the company use pesticides?

- Does the company purchase, store, use, manufacture, or trade in products that falls in the World Health Organization Recommended Classification of Pesticides by Hazard Classes I a (extremely hazardous) and I b (highly hazardous)?
- If so, has the company established and implemented integrated pest management and/or integrated vector management approaches?
- Does the company select pesticides with the following considerations in mind: low in human toxicity, effective against the target species, known to have minimal effects on non-target species and the environment?
- Are the pesticides properly packaged and labeled (including directions for safe and appropriate use)?
- Have the pesticides been manufactured by an entity licensed by the relevant regulatory agencies?
- Are the pesticides handled, stored, applied, and disposed in accordance with the Food and Agriculture Organization's International Code of Conduct on the Distribution and Use of Pesticides or other good international industry practice?

Community Health, Safety and Security

Community Health and Safety

- Are there communities in close proximity to the company's facilities?
- Does the company have procedures to address community, health and safety issues in the context of its operations?
- Do those procedures/practices take into account safety of company's infrastructure (including buildings and structures) and equipment for local communities?
- Does the company have safety procedures in place to deal with hazardous material release, transport and disposal in order to avoid or to minimize exposure of local communities to those materials?

Ecosystem Services

- Do company operations have potential negative impacts on ecosystem services?
- If so (i.e. provisioning services, which are the products people obtain from ecosystems, and regulating services, which are the benefits people obtain from the regulation of ecosystem processes), and such impacts may result in adverse health and safety impacts, has the company identified mitigation measures to avoid those impacts?

Community Exposure to Disease

- Does the company have a procedure to deal with avoiding/minimizing exposure of the communities to water-borne, water based, water-related, vector-borne, and communicable (including related to the influx of project labor) diseases that could result from company's operations?

Emergency Preparedness and Response

- Does the company's emergency preparedness and response plan take into account risks and impacts from company's activities to local communities?
- Did the company inform affected communities of significant potential hazards and emergency procedures in an appropriate manner?

Security Personnel Requirements

- Does the company engage security personnel to provide security services at their facilities?
- If so, do the contract provisions include guidelines on how security personnel shall interact with communities in close proximity to the facility?
- Is security personnel armed?
- If so, has the company provided training on the appropriate conduct towards workers and the nearby communities?
- Have there been any allegations of unlawful and/or abusive acts by security personnel towards workers or nearby communities?

Land Acquisition and Involuntary Resettlement

Project design

- Is there any land acquisition planned/happened for/in the proposed investment?

Compensation and Benefits for Displaced Persons

- Has there been any physical and/or economic displacement as a result of land acquisition for this project?
- Has the company or other third party responsible for resettlement provided the compensation for loss of assets at full replacement cost?

Consultation and Grievance Mechanism

- Has the company disclosed all relevant information, consulted with affected persons and communities and facilitated their informed participation in the decision making process relating to resettlement?
- Has the company established an effective grievance mechanism?

Resettlement Planning and Implementation

- Has the company considered alternative designs to avoid or minimize economic and physical displacement?
- Has the company identified persons to be displaced by the project, regardless of the land ownership and rights, and those eligible for compensation and assistance?
- Has the company identified the status of displaced persons according to their legal rights or claim to land?
- Has the cut-off date for eligibility been established and disseminated?
- Has the company prepared a Resettlement Action Plan (RAP) or resettlement framework (if physical displacement is involved) that mitigates the negative impacts of displacement, identifies development opportunities and establishes entitlement for all affected persons?
- Has the company prepared a Livelihood Restoration Plan (if economic but not physical displacement is involved) to offer compensation or other assistance that will establish entitlement for affected persons or communities?
- Were forced evictions carried out as part of this investment?

Private Sector Responsibilities under Government-Managed Resettlement

- Was resettlement managed by the government?
- If so, has the company supplemented government actions and bridged the gaps (if applicable) between the government-assigned entitlements and the international commitments/requirements?

Biodiversity Conservation and Sustainable Natural Resource Management

Protection and Conservation of Biodiversity

- Has the company identified and assessed the impacts on biodiversity as part of its operations?
- Will modified, natural or critical habitat be impacted by the company's activities?
 - In the case of areas of modified habitat that include significant biodiversity value, has the company minimized impacts and implemented mitigation measures?
 - In the case of natural habitat, has the company considered alternatives, established consultation with stakeholders and adequately mitigated any potential degradation to achieve no net loss of biodiversity?
 - In the case of critical habitat, has the company demonstrated that no viable alternatives exist, that there will be no measurable adverse impact on species, habitat, and ecological processes, and that the mitigation strategy is designed to achieve net gains of the biodiversity values for which the critical habitat was designated?
- Does the company conduct any operations in legally protected areas?
- If so, has the company demonstrated that proposed operations are permitted, acted consistently with government recognized management plans, and consulted protected area sponsors and managers, affected communities, Indigenous Peoples and other stakeholders (as applicable)?
- Has the company identified any alien species which may be intentionally or unintentionally introduced through its activities?
- If intentional introduction of alien species is planned, has this received appropriate government regulatory approval?

- If alien species are already established in the country or region of proposed operations, has the company exercise diligence in not spreading alien species?

Management of Ecosystem Services

- Do company's operations have potential negative impacts on ecosystem services?
- If so, has the company conducted a systematic review to identify priority ecosystem services?
- Has Affected Communities participated in determination of priority ecosystem services (where applicable)?
- Does the company have direct management control or significant influence over primary ecosystem services?
- If so, has the company managed to avoid adverse impacts on Affected Communities?
- Has the company implemented mitigation measure to minimize the impacts and maintain priority services in cases where impacts are unavoidable?

Sustainable Management of Living Natural Resources

- Is the company engaged in the primary production of living natural resources, including natural and plantation forestry, agriculture, animal husbandry, aquaculture, and fisheries?
- If so, is this production (land-based) located on unforested land or land already converted?
- Where primary production practices are codified by globally, regionally, or nationally recognized standards, has the company implemented sustainable management practices in line with one or more of those standards?
- Have company's practices been independently verified or certified?
- In the absence of relevant standards for the particular living natural resource in the country of concern, has the company applied good international industry operating principles, management practices, and technologies?

Supply Chain

- Has the company been purchasing primary production that is known to be produced in regions where there is a risk of significant conversion of natural and/or critical habitats?
- If so, has the company established procedures and verification practices to evaluate its primary suppliers and avoid those who adversely impact such areas?

Indigenous Peoples (IPs)

Avoidance of Adverse Impacts

- Is it likely that Indigenous Peoples (IPs) will be adversely impacted as a result of the company's operations?
- Does the ESIA (where applicable) conducted by the company identify the adverse impacts to IPs?
- Has the company identified appropriate measures to avoid or minimize impacts on IPs as well as opportunities for culturally appropriate and sustainable development benefits for IPs?

Consultation and Informed Participation

- Has the company conducted a process of Informed Consultation and Participation with affected IP communities?
- Will company's operations impact lands and natural resources subject to traditional ownership or under customary use of IPs?
- Will company's operation lead to relocation of IPs from lands and natural resources subject to traditional ownership or under customary use?
- Will cultural heritage of IPs be impacted by the company's operations or used for commercial purposes by the company?
- Has the company obtained IPs' Free, Prior and Informed Consent on design, implementation and expected outcomes related to impacts (on lands and natural resources, leading to relocation of IPs, on cultural heritage) affecting communities of IPs?

Private Sector Responsibility where Government is Responsible for Managing Indigenous Peoples Issues

- Does the government have a defined role in the management of Indigenous Peoples issues in relation to the company's operation?
- If so, has the company collaborated with the responsible government agency, to the extent feasible and permitted by the agency, to achieve outcomes?

Cultural Heritage

Protection of Cultural heritage in Project Design and Execution

- Is the project located in an area where cultural heritage is expected to be found?
- If so, has a Chance Find Procedure been established by the company?
- Will the company's project site contain cultural heritage or prevent access to previously accessible cultural heritage sites being used by, or that have been used by, Affected Communities?
- If so, has the company allowed continued access to the cultural site or provided an alternative access route?
- Is it possible that the project may affect cultural heritage?
- Will the project cause significant damage to critical cultural heritage?
- Is the project located in a legally protected area or a legally defined buffer zone?

Project use of Cultural Heritage

- Will the company use cultural resources, knowledge, innovations, or practices of local communities embodying traditional lifestyles for commercial purposes?
- If so, has the company informed these communities of:
 - their rights under national law
 - the scope and nature of the proposed commercial development
 - the potential consequences of such development
- If commercialization has proceeded, has the company:
 - entered into good faith negotiation with the affected community embodying traditional lifestyle
 - documented their informed participation and successful outcome of the negotiation
 - provided fair and equitable sharing of benefits from commercialization

Annex 6: Overview of Environmental, Health and Safety Regulation in Nepal

A1. Introduction

Initially, environmental component was incorporated in development plan of country. Natural resources utilization and agriculture production were included in 1st Five-Year Plan (1956–1961). After time, 10th Five-Year Plan (2002–2007) put the long-term goals of environmental management with better governance, pollution control, and sustainable use of natural resources. Only after 8th Plan period (1992–97), the concept of sustainable development was integrated in Nepal's development planning process, initiated and developed clear environmental policies and action plans. Also introduced mandatory provision of environmental assessment in infrastructure projects. The current 15th five-year plan has the vision of maintaining clean and healthy environment in Nepal focusing on pollution control, waste management and greenery promotion (Section 10.9 of the Plan). The plan also highlights that occupational health and safety standards will be implemented and monitored effectively (Section 10.3 of the Plan).

With the establishment of the Ministry of Forests and Environment (Previously named as Ministry of Population and Environment), a number of acts, regulations, legislations and standards have been drafted and endorsed to be implemented in the context of environmental conservation and safeguard, and pollution control. The Department of Environment, under Ministry of Forests and Environment was established in 2012 with the aim to improve the environmental quality, enforcement of environment related act, regulation, legislation and standards.

A2. Environmental Liability in Nepal

The environmental rights of Nepalese citizen are governed by the Constitution of Nepal, 2015. According to Constitution of Nepal, 2015, as of article 30 states all citizens shall have the right to live in clean and healthy environment. Similarly, every citizen shall have the right to free basic health service in accordance with the provision made by the government in the law.

Nepal Environmental Policy and Action Plan (NEPAP) was formulated in 1993 as continuous effort to incorporate environment concerns into the Nepal's development processes. NEPAP was prepared in response to the growing global awareness about the importance of maintaining a balance between economic development and environmental conservation. NEPAP aims to manage natural and physical resources efficiently and sustainably, balance development efforts and environmental conservation, to safeguard national heritage, mitigate the adverse environmental impacts of development projects and human actions and integrate concerns for the environment with development plans through appropriate institutions. The NEPAP includes sustainable management and natural resources to ensure the proper management of Nepal's land, forest and water resources. NEPAP emphasized the need for mitigating adverse environmental impacts to address urban and industrial development, air and water pollution and infrastructures development.

Environmental liability of polluters for any environmental damage is regulated by the *Environment Protection Act 2019* and by the *Environment Protection Rules 2020*. *Section 3 of the Environment Protection Act* regulates liabilities for carrying out Brief Environmental Study (BES), Initial Environmental Examination (IEE) and Environmental Impact Assessment (EIA) before execution of any project. This Act has been complemented by *Rule 3 of the Environmental Protection Rules 2020* to carry out the Brief Environmental Study of the projects mentioned in Schedule 1, Initial Environmental Examination of the projects mentioned in Schedule 2 and Environmental Impact Assessment of the projects mentioned in Schedule 3.

Section 15 of the Environment Protection Act 2019 regulates liabilities for prevention and control of pollution. To complement this, *Rule 14, 15 and 16 of the Environment Protection Rules 2020* have mentioned provisions of pollution control. Similarly, *Section 20 of the Act and Rule 22 of the Environment*

Protection Rules 2020 has the provision of obtaining pollution control certificate from Ministry of Forests and Environment or Provincial Ministry responsible for Environment. Section 36 of the Act has mentioned about compensation from pollution. To complement the provisions mentioned in the Act, Rules 41, 42 and 43 of the *Environment Protection Rules 2020* have the provision on compensation and punishment in case of pollution or not following environmental compliance as below,

1. Expert committee formed by the concerned authority will investigate the application lodged by individual or agency as per Section 36 of the Act.
2. As per the report from the expert committee, Ministry of Forests and Environment or concerned authority shall determine the amount of compensation.
3. The concerned individual, institution or proponent shall pay the amount of compensation to the concerned individual or institution.
4. In case of failure to pay compensation, the amount of compensation be realized, identifying the property belonging to such individual, institution or proponent.
5. The concerned authority or ministry has the right to take any action on projects without having Brief Environmental Study, Initial Environmental Examination and Environmental Impact Assessment or upon any pollution made by project.

A3. Environmental Permitting - Project Approval Process in Nepal

Land Layout Permit, granted by Town Development Committee/Authority or Municipality is required before any development and construction can take place. Land Layout planning must be obtained prior to submitting an application for the **building construction permit** according to the Building Code Standard, 2014, granted either by Town Development Committee/Authority or Municipality. Approval is needed for construction of new building, re-construction of old buildings, construction of additional portion on the building or any changes in already approved design.

For projects/business activities with potential **significant environmental impact** the *Environment Protection Rules 2020* require to carry out **the Brief Environmental Study – BES** (for projects listed in Schedule 1 of the EPR 2020), **initial environmental examination – IEE** (for projects listed in Schedule 2 of EPR 2020) or **environmental impact assessment – EIA** (for projects listed in Schedule 3 of EPR 2020). This assessment study is required as part of the technical document on socio and economic, cultural and physical, chemical and biological impacts to **obtain approval for construction and/or operation issues** by concerned ministry or Ministry of Forests and Environment. *Environment Protection Rules (2020)* regulates conditions, methods and procedure for the assessment of impact on the environment and the approval process.

A4. Approval of Initial Environmental Examination (IEE) or Environmental Impact Assessment (EIA)

The BES, IEE or EIA assessment reports need to be prepared by the proponent through experts mentioned in Schedule 13 of the EPR 2020 and approval right rests with different authorities as per Section 3 of the Environment Protection Act 2019:

- Concerned authority of the Federal government has the right to approve Brief Environmental Study report or Initial Environmental Examination report of a proposal of national priority development project, project approved by Investment Board, national pride project, project under the jurisdiction of the Federal government in accordance with the prevailing law, project to be constructed in more than one Province or any project prescribed by the Government of Nepal. Approval of Environmental Impact Assessment report of such projects needs to be approved by the Ministry of Forests and Environment.
- In the case of a proposal relating to development work or project concerning the subjects under the jurisdiction of the Provincial Government, the authority prescribed by the provincial law has the right to approve the BES, IEE and EIA reports.
- The Local government has the right to approve BES and IEE reports of a proposal relating to

development work or project concerning the subjects under the jurisdiction of the Local Level. In case of Environmental Impact Assessment report, the authority prescribed by the provincial law has the right to approve .

The Approval of BES, IEE or EIA is mandatory to obtain prior to construction and/or operation approval is granted by the relevant authorities and hence the approval serves as the principal environmental permit in Nepal.

EPR 2020 regulates the contents of the BES, IEE or EIA study, the participation of local authorities, approval needed at the project site, public hearing and public notice, monitoring and evaluation of environmental mitigation action and other issues related to impact assessment. Proponents should submit attendance proof, photographs, audio-visual clips and recommendation of stakeholders receive during public hearing.

The EPR, 2020 elaborates provisions to prepare and submit the scoping document, terms of reference, and BES/IEE/EIA report for approval and includes public consultation processes. Public consultation has been a required in all the prescribed process. In case of BES and IEE, the project needs to prepare the draft report as prescribed in EPR, 2020. The project must affix the notice in the project implementation areas (Rural/Urban Municipalities), schools, hospitals, health posts and public places concerned requesting the concerned individuals or institutions to offer their opinions and suggestions; and also must publish a 7-days notice in the local newspaper. As per Section 3 (5) of the EPA 2019, public hearing is compulsory for BES and IEE also.

The project is required to publish a 7-days public notice in the national newspaper before the submission of the scoping document for approval for EIA in order to ensure that concerns and issues of the stakeholders and affected people are adequately addressed by the EIA. After the preparation of the draft EIA report, the project must conduct a public hearing at the project site. Furthermore, Ministry of Forests and Environment or Provincial authority prescribed by provincial law must publish a 7-days public notice and upload the draft report at the website before the approval of EIA report of any sector to provide stakeholders additional opportunities for comments and suggestions on the final EIA report. Upon approval of BES, IEE or EIA from concerned authority prescribed by EPA 2019, project gets the letter of approval. Once approved, Rule 12 of the EPR 2020 has also provided room for revising the BES and IEE reports. The summary of public participation in BES, IEE and EIA process is as below:

Particular	BES	IEE	EIA
Screening	Schedule 1 of EPR, 2020	Schedule 2 of EPR, 2020	Schedule 3 of EPR 2020
Scoping	Not required	Not required	Required
Terms of Reference	Required	Required	Required
Public Hearing	Required	Required	Required
Recommendation	Required from Local Government	Required from Local Government and concerned offices	Required from Local Government and concerned offices
Public review of the report	Local newspaper and website	Local newspaper and website	Required in national newspaper and website
Approval agency	Federal Concerned Authority Provincial Authority prescribed by Provincial Law Local Government	Federal Concerned Authority Provincial Authority prescribed by Provincial Law Local Government	Ministry of Forests and Environment Provincial Authority prescribed by Provincial Law

Environmental Management Plan	Required	Required	Required
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Table 1. The overview of the public participation in the IEE and EIA processes

"Brief Environmental Study" means a study to be conducted in regard to the measures to be adopted for avoidance or reduction of adverse impacts on the environment from a proposal while implementing thereof. Schedule 1 of the EPR 2020 has mentioned the projects to carry out BES.

"Initial Environmental Examination" means an analytical study or assessment to be conducted to ascertain as to whether, in implementing a proposal, the proposal does have significant adverse impacts on the environment or not, and the measures to be adopted to avoid or reduce such impacts by any means. Schedule 2 of the EPR 2020 has mentioned the projects to carry out IEE.

"Environmental Impact Assessment" means a detailed study and assessment to be conducted to ascertain as to whether, in implementing a proposal, the proposal does have significant adverse impacts on the environment or not, and the measures to be adopted to avoid or reduce by any means. Schedule 3 of the EPR 2020 has mentioned the projects to carry out EIA.

In addition to BES, IEE and EIA, the EPA 2019 has the provision of carrying out Supplementary EIA and Strategic Environment Impact Assessment.

For projects requiring BES, IEE and EIA refer to Schedule 1, 2 and 3 of the EPR 2020 respectively .

A5. List of Permitting and Statutory Requirements For Most Common Sectors in Nepal

Sector	License/Clearance	Legal Basis
Agricultural and Forest Related	Brief Environmental Study (BES)/Initial Environmental Examination (IEE) /Environmental Impact Assessment (EIA) (as applicable)	Environmental Protection Rules, 2020
	Pollution control certificate	
	Necessary approvals from the relevant ministries/departments/bodies for permit/license to conduct business	-
Fishery Related	Initial Environmental Examination (IEE) /Environmental Impact Assessment (EIA) (as applicable)	Environmental Protection Rules, 2020
	Pollution control certificate	
	Necessary approvals from the relevant ministries/departments/bodies for permit/license to conduct business.	-
Mining Related	Brief Environmental Study (BES)/Initial Environmental Examination (IEE) /Environmental Impact Assessment (EIA) (as applicable)	Environmental Protection Rules, 2020
	Pollution control certificate	
	Fire safety certificate	Building Code Standard, 2014
	Necessary approvals from the relevant ministries/departments/bodies for permit/license to conduct business	-
Agriculture, Forestry & Beverage Production Related	Brief Environmental Study (BES)/Initial Environmental Examination (IEE) /Environmental Impact Assessment (EIA) (as applicable)	Environmental Protection Rules, 2020
	Pollution control certificate	
	Fire safety certificate	Building Code Standard, 2014
	Necessary approvals from the relevant ministries/departments/bodies for permit/license to conduct business.	-
Non-food Production Related	Brief Environmental Study (BES)/Initial Environmental Examination (IEE) /Environmental Impact Assessment (EIA) (as applicable)	Environmental Protection Rules, 2020
	Pollution control certificate	
	Fire safety certificate	Building Code Standard, 2014
	Nepal Standards (NS) certification (Cement- OPC, PPC, PSC, LPG Cylinder, composite gas cylinder and tubes, LPG bottling operation)	Nepal Standards (Certification-mark) Rules, 1983
	Necessary approvals from the relevant ministries/departments/bodies for permit/license to conduct business	-
Construction	Brief Environmental Study (BES)/Initial Environmental Examination (IEE) /Environmental Impact Assessment (EIA) (as applicable)	Environmental Protection Rules, 2020
	Pollution control certificate	
	Design and approval of design/map of building	The Building Act, 1998
	Approval of design, building construction and construction of old buildings	Building Code Standard, 2014
	Fire safety certificate	
	Necessary approvals from the relevant	-

	ministries/departments/bodies for permit/license to conduct business	
Power, Gas and Water	Brief Environmental Study (BES)/Initial Environmental Examination (IEE) /Environmental Impact Assessment (EIA) (as applicable)	Environmental Protection Rules, 2020
	Pollution control certificate	
	Necessary approvals from the relevant ministries/departments/bodies for permit/license to conduct business	-
Metal Products, Machinery & Electronic Equipment & Assemblage	Brief Environmental Study (BES)/Initial Environmental Examination (IEE) /Environmental Impact Assessment (EIA) (as applicable)	Environmental Protection Rules, 2020
	Provisional or permanent pollution control certificate	
	Fire safety certificate	Building Code Standard, 2014
	Necessary approvals from the relevant ministries/departments/bodies for permit/license to conduct business	-
	Nepal Standards (NS) certification (Dry cell and battery, Iron bar, GI wire, PVC cable, LPG regulator and valves fitting for LPG cylinder)	Nepal Standards (Certification-mark) Rules, 1983
Transport, Communication and Public Utilities	Brief Environmental Study (BES)/Initial Environmental Examination (IEE) /Environmental Impact Assessment (EIA) (as applicable)	Environmental Protection Rules, 2020
	Provisional or permanent pollution control certificate	
	Green Stickers (Private and commercial vehicle)	Nepal Vehicle Mass Emission Standards 2012
	Necessary approvals from the relevant ministries/departments/bodies for permit/license to conduct business	-
Wholesaler & Retailer	Brief Environmental Study (BES)/Initial Environmental Examination (IEE) /Environmental Impact Assessment (EIA) (as applicable)	Environmental Protection Rules, 2020
	Provisional or permanent pollution control certificate	
	Certificate given by exporting country (e.g.:- quality certificate, health certificate, Phytosanitary certificate, fumigation certificate, etc.) for import of food products	-
	Certificate of analysis of the product (Quality, chemical, microbiology, heavy metals and other) for import of food products	
	Necessary approvals from the relevant ministries/departments/bodies for permit/license to conduct business	-
Finance, Insurance and Real Estate	Brief Environmental Study (BES)/Initial Environmental Examination (IEE) /Environmental Impact Assessment (EIA) (as applicable)	Environmental Protection Rules, 2020
	Pollution control certificate	
	Design and Approval of design/map of building	The Building Act, 1998
	Approval of design, building construction and construction of old buildings	Building Code Standard, 2014
	Fire safety certificate	
	Necessary approvals from the relevant ministries/departments/bodies for permit/license to conduct business	-
Hotel or Restaurant	Brief Environmental Study (BES)/Initial Environmental	Environmental Protection

	Examination (IEE) /Environmental Impact Assessment (EIA) (as applicable)	Rules, 2020
	Pollution control certificate	
	Design and Approval of design/map of building	The Building Act, 1998
	Approval of design, building construction and construction of old buildings	Building Code Standard, 2014
	Fire safety certificate	
	Necessary approvals from the relevant ministries/departments/bodies for permit/license to conduct business	-
Other Services	Brief Environmental Study (BES)/Initial Environmental Examination (IEE) /Environmental Impact Assessment (EIA) (as applicable)	Environmental Protection Rules, 2020
	Pollution control certificate	
	Certificate of completion of Sewage, Sanitary and drinking water supply system	Guideline for Health Institutions Established Upgrade standard, 2014
	Approval of design, building construction and construction of old buildings	Building Code Standard, 2014
	Fire safety certificate	
	Necessary approvals from the relevant ministries/departments/bodies for permit/license to conduct business	-
Consumption Loans	-	-
Local Government	-	-

A6. Noise Pollution Regulations in Nepal

Nepal does not have a specific law to address noise pollution. *Environment Protection Act 2019 and Environment Protection Rules 2020* are umbrella legislation. Sound Quality National Standard, 2012 are put in place for noise. According to *Environment Protection Rules 2020*, Ministry of Forests and Environment is the mandated agency for implementing proper measures for noise reduction.

According to Sound Quality National Standard, 2012 noise limits differs based on the type of location. There are two types of noise limit- day and night limits. The noise limit for night are stricter than day.

a. Noise Limit

Zone	Noise limit in Decibel	
	Day time	Night time
Industrial	75	70
Commercial	65	55
Rural Residential	45	40
Urban Residential	55	50
Mixed Residential	63	55
Silent	50	40

b. Noise limit for domestic equipment

SN	Equipment	Noise Limit in Decibel
1	Water Pump	65
2	Diesel Generator	90
3	Recreational Equipment	70

A7. Air Pollution Abatement Requirements in Nepal

Nepal does not have any specific law on air pollution control but Kathmandu Valley Air Quality Management Action Plan 2020 is in place. *Environment Protection Act 2019 and Environment Protection Rules 2020* are umbrella legislation for maintaining air quality in Nepal.

Emission standards for in-use and new diesel generators (DG) sets, industrial boilers, cement industries, crusher industries and diesel generators were introduced in 2012. The government has also introduced brick kiln stack emission standard in 2008 and emission standard for incineration operation in 2014.

According to Section 20 of the EPA, 2019, pollution control certificate can be granted to industries/businesses that contribute to pollution control. After receiving application from the industries, Ministry of Forests and Environment or Provincial Ministry responsible for Environment need to form an expert team for site inspection and investigate the level of pollution. This certificate is issued by Ministry of Forests and Environment or Provincial Ministry responsible for Environment for three years as per the format given in Schedule 19 of the EPA 2020. The certificate can be cancelled if the industry/businesses exceed the pollution limit set in the standards formulated by the government. The certificate can be renewed following all the provisions mentioned in Rule 22 of the EPA 2020.

A8. Waste Water Management in Nepal

According to Section 15 (1) of the EPA 2019, the Government of Nepal may, by a notification published in the Nepal Gazette, determine necessary standard to reduce or avoid the effects of discharge or emission of pollution or hazardous waste from a motor vehicle, machine, equipment, industrial enterprise, hotel, restaurant or other places or goods or any human activity. Similarly Section 15 (2) mentions that no one shall create pollution as to have significant adverse impacts on the public life, public health and environment, or carry out or cause to be carried out any act contrary to the standard set by the Government of Nepal. If anyone has carried out any activity that brings adverse impacts on the environment, the Department may give an order to the related person, group or organization to adopt pollution reduction or avoidance measures, specify necessary terms and conditions or halt the carrying out of any activity that causes adverse impacts on the environment.

Government of Nepal has generic and specific standards for specific industries. The specific standards are as tolerance level for industrial effluents to be discharged into inland surface waters for tanning industries, wool processing industries, fermentation industries, vegetable ghee and oil industries, paper and pulp industries, dairy industries, sugar industries, cotton textile industries, shop industries, galvanizing and electroplating industries, paint industries, non-alcoholic beverage industries and pharmaceutical industries. Similarly, generic standards are also in place for industrial effluents to be discharged into inland surface waters, into public sewers, and into inland surface waters from combined wastewater treatment plant. There are also sampling and analyzing methods for same.

According to Section 20 of the EPA, 2019, **pollution control certificate** can be granted to industries/businesses that contribute to pollution control. After receiving application from the industries, Ministry of Forests and Environment or Provincial Ministry responsible for Environment need to form an expert team for site inspection and investigate the level of pollution. This certificate is issued by Ministry of Forests and Environment or Provincial Ministry responsible for Environment for three years as per the format given in Schedule 19 of the EPA 2020. The certificate can be cancelled if the industry/businesses exceed the pollution limit set in the standards formulated by the government. The certificate can be renewed following all the provisions mentioned in Rule 22 of the EPA 2020.

A9. Waste Management in Nepal

Section 45 of the EPA 2019 has the provision of formulating necessary standards. Section 15 (1) of the Act

highlights that Government of Nepal can formulate necessary standards to reduce or avoid the effects of discharge or emission of pollution or hazardous waste from a motor vehicle, machine, equipment, industrial enterprise, hotel, restaurant or other places or goods or any human activity and Section 15 (2) that no one shall create pollution to have significant adverse impacts on the public life, public health and environment against the standards set by the Government.

According to Section 20 of the EPA, 2019, **pollution control certificate** can be granted to industries/businesses that contribute to pollution control. After receiving application from the industries, Ministry of Forests and Environment or Provincial Ministry responsible for Environment need to form an expert team for site inspection and investigate the level of pollution. This certificate is issued by Ministry of Forests and Environment or Provincial Ministry responsible for Environment for three years as per the format given in Schedule 19 of the EPA 2020. The certificate can be cancelled if the industry/businesses exceed the pollution limit set in the standards formulated by the government. The certificate can be renewed following all the provisions mentioned in Rule 22 of the EPA 2020.

Section 21 and 22 of the EPA 2019 also made provision of Environment Inspector in order to effectively carry out control measures to be made by businesses to mitigate, avoid or control the pollution they generate or activities required to be carried out in accordance with the BES, IEE or EIA. The Ministry can appoint any officer of federal or provincial government, provincial ministry responsible for environment can appoint any officer of provincial government, and local government can appoint any staff as an Environment Inspector as per the Rule 21 (2) (a) (b) (c). Similarly, Rule 23 and 24 of the EPA 2020 also mentions about the roles and responsibilities of Environment Inspector.

The first policy on waste management “National Policy on Solid Waste Management” was formulated in 1996 to tackle the growing problem of solid waste management problems due to urbanization and industrialization. The policy emphasized on waste management in municipal and urban areas. The key objectives of this policy are to make management work of the solid wastes simple and effective and minimize environmental pollution caused by the solid wastes and adverse effect thereof to the public health.

Section 11 (2) (i) and (j) of Local Government Operation Act 2017 has given responsibilities to the local government for sanitation and waste management, health-related waste management, control of hazardous waste, environment risk mitigation etc. Section 102 of the Act has also mentioned the rights of local government to formulate acts, regulations, guidelines and standards for environment protection pollution control, waste management among others.

Solid Waste Management Act 2011 came into existence with the objective of management of the solid waste in a systematic and effective way by reducing at its source, re-use, processing or discharge and for maintaining a clean and healthy environment through the reduction of adverse effects that may be caused to the public health and environment. This act made local body shall be responsible for the management of solid waste by construction and operation of infrastructure like transfer station, landfill site, processing plant, compost plant, biogas-plant and also collection of waste, final disposal and processing. As of this act, Chapter 5, littering everywhere, placing, discharging or causing to discharge harmful waste by industrial enterprise or health institutions, emanating from industry or health institution shall be considered to have committed an offense. Discharge of solid waste, discharge and management of harmful and chemical waste, discharge and management of health institution-related waste have been mentioned in Rules 4, 5 and 6 of Solid Waste Management Rules 2013 respectively.

A10. Occupational health and safety in Nepal

Labor Act 2017 and its regulation 2018 are the only legal documents that cover provisions for the rights, interests, facilities, safety and health provisions of workers and employees working in enterprises of various sectors. Chapter 12, section 68-78 of the Labor Act 2017 explains the health and safety of workers in the

establishment. The Act made the special arrangement for waste management; adequate supply of clean and fresh air and light, provision of separate modern toilets for male and female workers and employees; supply of adequate safe drinking water; provision of appropriate volume of ventilation, condition of light, temperature and sound; protection from dust; smoke, fumes and other impurities; avoidance of overcrowding in any room of the establishment, health checkup facilities and provision of extinguishing fire.

The Act also includes the provision of medical check-up for the workers at least once a year in the establishment where the nature of works is likely to affect the health adversely. The Act also suggest a preventive measure for protection of eyes, protection against chemical substance and fire guarding against dangerous machinery, prohibition on lifting heavy load and safety measures for pressure plants.

The act made the provision for compulsory notice of any kind of accident or disease to the concerned labor office. The Act also made a provision for appointment of occupational safety and health inspectors (OHS inspectors) and labour inspectors within Labour Offices in districts. The key responsibilities of inspectors are to examine health and safety conditions and labour rights issues in factories. Section 74 of the Labor Act 2017 has the provision of forming a safety and health committee by businesses with more than 20 workers.

Building Act, 1998 made the necessary provisions for the regulation of building construction works in order to protect building against earthquake, fire and other natural calamities. Similarly, Building Code Standard, 2014 stipulate requirements for fire safety for hotel, commercial building, industrial areas, educational institutions etc.

A11. Environmental Authorities in Nepal

As per the House of Representatives Regulation 2018, **Parliamentary Committee on Agriculture, Cooperatives and Natural Resources (PCACNR)** has been formed. It oversees government action in agriculture, irrigation, cooperatives, land management, power generation, natural resources conservation and environmental protection measures. The working area of the committee covers four ministries, namely Ministry of Energy, Water Resources and Irrigation, Ministry of Agriculture and Livestock Development, Ministry of Land Management, Cooperatives and Poverty Alleviation and Ministry of Forests and Environment. The Committee also gives advice to the executive branch of the government regarding appropriate measures for improving national overall environmental health. Being a legislative subunit, PCACNR can give directives to, and seek information and clarification from, the executive branch of the government.

The Environment Protection Council (EPC) is a high-level body that was created in 1992 to provide guidance on the formulation of policies, the preparation of working procedures and the implementation of policies. Section 32 of the EPA 2019 has the provision of Environment Protection and Climate Change Management Council to be chaired by the Rt. Hon. Prime Minister.

The Ministry of Forests and Environment is a supreme body in environment sector which focuses on environmental conservation, pollution prevention and control, and conservation of national heritage as well as the effective implementation of commitments expressed in regional and international levels.

Provincial Ministry responsible for environment: After the country entered into federalization, each provincial government has set up a separate Ministry responsible for environment. The provincial ministry is responsible for protecting the environment, pollution control, promotion greenery among others within their jurisdiction.

Department of Environment has been assigned responsibility of improving the environmental quality; enforce, monitor and auditing the environment related act, regulation, legislations and standards, create awareness among people and localize the climate change adaptation and mitigation practices at local level.

Local Governments: All 753 local governments in Nepal have been carrying out activities related to maintaining healthy environment within their jurisdiction. The Local Government Operation Act 2017 clarifies the rights of municipalities/rural municipalities to form local acts, regulations and standards for environment protection, pollution and hazard control, solid waste management etc.

A. 12 Social Issues

Employment related issues

Labour Act 2017 has set the regulations for employment and labour related issues. It applies to all companies, private firms, partnership firms, cooperatives, association or other organization. Civil Service, army, police and entities incorporated under other prevailing laws are exempted from the applicability of this Act. Salient features of the Act are presented as below:

Workers representation

- There are few arrangements in the Law related to headcount threshold. Where 10 or more employees are engaged, Employer shall form a Labour Relation Committee and shall arrange for establish a Collective Bargaining Committee. Where 20 or more employees are engaged, employer shall constitute a Safety and Health Committee comprising of representatives of the workers in the manner as prescribed in the Law.

Outsourced employees

- In case when outsourced employees are engaged, main employer shall arrange for adequate occupational health and safety measures. Main employer must obtain the employees from licensed labor supplier. If outsourced employees are not from the licensed labor supplier, they are deemed to be employees of the main employer. The Labour Offices is authorized to issue licenses for Labour Suppliers.
- Main employer should ensure the employees supplied by the labour supplier are provided minimum remuneration and facilities as required by the law. Labour Supplier pays remuneration and other facilities to outsourced employees ensuring that such is not below the minimum remuneration and other facilities prescribed,

Hiring and working conditions

- Minimum remuneration is prescribed by the Government of Nepal
- Maximum Working Hours: 8 hours a day and 48 hours a week.
- Maximum Overtime: 4 hours a day and 24 hours a week (Previously it was 20 hours a week)
- Overtime Pay: 1.5 times the regular remuneration
- a 30 minute break shall be arranged after working 5 hours where the work can be interrupted, or where work can not be interrupted, break is arranged in shifts.
- Probation period of new employees is 6 months
- Public Holidays are 13 days including May Day, working week has 6 days. Annual Leave can be arranged for 1 day for every 20 worked days.
- Sick Leave is fully paid for 12 days (previously half paid up to 15 days) and mourning leave 13 days
- Maternity leave is 98 days with fully paid 60 days.

- Going for leave without approval is considered as misconduct.
- Compulsory retirement is applicable at the age of 58 years.

Job termination

- In case of job termination severance compensation, those who were in service for at least 1 year are eligible for compensation that includes 1 month salary for every year of service. Employees are not entitled to severance compensation if he/she is entitled to unemployment allowance from the Social Security system.

Insurance obligations of employer

- Every employer must make a provision for annual medical insurance of at least Rs 100,000 for every worker.
- Every employer must make a provision for accidental insurance of at least Rs 700,000 covering all kinds of accidents for every worker.
- In case of Retrenchment employer must give at minimum 30 days prior notice specifying the reasons for retrenchment, possible date of retrenchment and number of employees to be retrenched should be provided to Authorized trade union or Labor Relation Committee. Retrenchment provisions don't apply to entities with <10 employees.

Sanctions

- Supplying labour without license can be penalized up to Rs 200,000. Engaging a worker without appointment letter or employment agreement can be fined up to Rs 500,000. For engaging a bonded labour can be sanctioned with imprisonment up to 2 years.

If the entity does not make health and safety arrangements knowingly and as a result the worker dies or suffers physical or mental injury: Imprisonment up to 2 years, except otherwise provided. Such person suffering the injury should be compensated.

Minimum Wage

The Ministry of Labour, Employment and Social Security, at the recommendation of Minimum Wage Fixation Committee, fixes the minimum wage for workers every two years.

The tea estate minimum monthly salary from July 16, 2016, through July 15, 2017, the minimum monthly tea-work-related salary is NPR7,075 (about US\$67) and the daily wage is NPR253 (about US\$2.40); the daily allowance of NPR 30 (about US\$0.28).

The new minimum monthly salary for employees working in other enterprises is NPR 6,205 (about US\$59), plus a "dearness allowance" (essentially a cost of living adjustment) of NPR 3,495 (about US\$33), for a total of NPR 9,700 (about US\$92). The new daily wage rate for these workers is NPR 395 (about US\$3.74).

Child Labour

The Child Labor (Prohibition and Regulation) Act of 2000 establishes the minimum age for work at 14 and the minimum age for hazardous work at 16. The Act also establishes a list of occupations prohibited for children including tourism-related occupations such as working in hotels, restaurants, and bars.

The Act does not cover nontraditional establishments in which many child laborers are found, including

home-based enterprises and unregistered establishments in the informal and agricultural sectors. Nepali law also prohibits forced or compulsory labor.

The Kamaiya Labor (Prohibition) Act of 2002 forbids keeping or employing any person as a bonded laborer and cancels any unpaid loans or bonds between creditors and Kamaiya laborers. The Child Labor Prohibition Act of 2000 and the Children's Act of 1991 also prohibit forced labor and practices similar to slavery. The voluntary military recruitment age in Nepal is 18.

Education is free for children between the ages of 6 and 12, but it is not compulsory.

MoLE's National Master Plan on Child Labor identified bonded child labor, rag-picking, portering, child domestic service, mining, carpet weaving, and child trafficking as the worst forms of child labor to be addressed.

Forced Labour

Debt bondage is a traditional form of labour exploitation in Nepal, whereby a person provides labour in repayment of a debt acquired by them or their family, or inherited from their ascendants. Debt bondage is commonly linked to agrarian relations in Nepal, and poverty, lack of assets and unequal power relations lie at the root of this practice.

Landless vulnerable individuals are forced by their circumstances to borrow from land holders, and enter a cycle of loan repayment through work in exploitative conditions. Excessive interests and wage deductions keep bonded labourers in a perpetual cycle of debt. Bonded labour in Nepal is widely regarded as the product of a feudal system wherein people are deprived of their freedom, safety, security and human dignity.

Bonded labour was only formally abolished in Nepal in 2002. The 2002 Bonded Labour Prohibition Act in Nepal outlawed the practice bonded labour, and promised financial support for the resettlement and rehabilitation of 'liberated' bonded labourers. However, despite the legal prohibition, the practice of the Kamaiya and other systems of bonded labour—including the Haliya, Haruwa and Charuwa systems—persists in a number of regions in the country. Moreover, the nominal 'liberation' of these bonded labourers is not sufficient to address the issue, and further efforts towards the rehabilitation of victims and provision of alternative livelihoods are needed in order to prevent further exploitation.

Annex 7: E&S Risk Summary Template

1. Nature of the Loan

[Nature of enterprise, project cost, physical size, existence of any property transfer or ongoing operations, any plans for new construction]

2. Environmental and Social Information Reviewed:

[e.g., IEE, EIA, pollution control certificates, state environmental review conclusion, inspection reports from labour, environmental, or sanitary authorities; warranty or representation from borrower]

3. Key Environmental and Social Issues

[What are the key environmental and social impacts, risks, liabilities and benefits associated with the transaction]

4. Environmental Regulatory Compliance

[Does/will the existing/proposed enterprise comply with applicable standards (e.g., national environmental regulations and standards?)]

5. Social Standards Compliance

[Does the borrower comply with national

- public safety/sanitary regulation and standards?
- labour regulations and standards, in particular those related to occupational health and safety, the employment of children, the prohibition of forced labour, the non-discriminatory treatment of employees in the workplace, and freedom of association and the right to collective bargaining?]

6. E&S Performance Risk Rating [Low, Medium, High]:

7. Suggested Environmental and Social Covenants, Supervision and Monitoring Requirements

[List any appropriate items which should be covenanted into the loan agreement, including provision of monitoring information]

8. Further Actions Required

[List actions for the Credit Officer, co-investors, investment enterprise, any third part expert]

1.3.8.1

1.3.8.2 CREDIT OFFICER

1.3.8.3 NAME: _____

1.3.8.3.1 SIGNATURE: _____ DATE: _____

Annex 8: Sample Corrective Action Plan

BFI's staff may request the client to develop a corrective action plan with a timeframe to implement appropriate mitigation measures to comply with the BFI's E&S requirements. The purpose of a corrective action plan is to mitigate potential E&S risks in the context of a transaction to an acceptable level for the BFIs. The client should tailor the scope of a corrective action plan according to the specific risks identified during the E&S due diligence process or during subsequent transaction monitoring. Corrective action plans range from simple mitigation measures to detailed management plans with actions that can be measured quantitatively or qualitatively. The corrective action plan should include a description of the specific mitigation actions to be taken by the client, a timeframe for implementation and a reporting requirement to inform the BFIs on the status of completion. BFIs staff will need to discuss the corrective action plan with the client and agree on its scope and timeframe for completion. If the corrective action plan is developed as part of the transaction appraisal process, it should be included in the legal agreement. The timeframe for implementation of specific mitigation measures will vary according to the E&S risk and may range from being a condition of transaction approval to a reasonable time frame from disbursement or when E&S issues were identified during transaction monitoring.

The following template can be used for documenting the corrective action plan agreed with the client. The template also contains few examples for guidance.

Guidelines on Environmental & Social Risk Management (ESRM)

Area of E&S concern as identified through ESDD	Corrective Actions required	Date for Completion	Action completion indicator	Responsibility (Client staff, management or board)	Cost involved
Evidence of land pollution due to discharge of untreated effluent	Action plan may include: <ul style="list-style-type: none"> • Removal and treatment of contaminated ground soil • Construction of sewage system for industrial wastewater • Construction of wastewater treatment facility and discharge system for treated water 	DD/MM/YY	<ul style="list-style-type: none"> • Installation of Effluent Treatment Plant (ETP). The ETP should be operational and the qualitative parameters of treated effluent should be within limits • The discharge of treated effluent should be through the constructed discharge system and no other modes of discharge and leakages • Qualitative parameters of treated contaminated ground soil should be within limits 	Board	
Absence of grievance redressal mechanism	Establish a grievance redressal mechanism	DD/MM/YY	Well established grievance redressal mechanism which is appropriately communicated to the external stakeholders	Board	
Displacement of community structure	Restoration of community structure for common benefits			Management	
Loss of trees, crops, perennials	Compensating for standing crops and trees		Plantation of trees	Management	

Annex 9: Examples of E&S Risk Covenants

E&S covenants – guidance and examples

Guidance

E&S clauses can be incorporated into legal agreements with clients. This helps reduce a Bank's exposure to potential E&S risks associated with a client's operations.

Bank staff can incorporate E&S clauses into legal agreements with clients to require clients to comply with the Bank's E&S requirements. Doing so helps a Bank reduce its exposure to the E&S risks associated with a client's operations throughout the lifetime of a transaction and gives the Bank legal recourse in the case of non-compliance.

A Bank's E&S Management System should state the circumstances under which specific E&S conditions such as the need for a corrective action plan should be inserted into the legal agreement for a proposed transaction.

The Legal Department should be involved in developing and inserting the necessary clauses on E&S matters into legal agreements. The specific language will depend on the type of transaction and potential E&S risks identified during the due diligence process but generally addresses the following areas:

- **Positive Covenants:** Measures or actions to be taken by the client. These may include the requirement for compliance with national E&S regulations and international standards, and periodic reporting on E&S performance. In the event of significant accidents and incidents, with potentially adverse E&S effects such as spills or workplace accidents resulting in death, serious or multiple injuries or major pollution, the client is required to notify the Bank in a timely manner, such as within 3 days.
- **Negative Covenants:** Actions that the client should refrain from undertaking. These include the Bank's E&S requirements.
- **Conditions Precedent:** Conditions and requirements that the client has to fulfil prior to disbursement of funds by the Bank. These may include proof of valid permits and licenses, preparation of government-requested reports and delivery of completion of mitigation actions stipulated in the corrective action plan.
- **Event of Default:** An event that entitles the Bank to cancel a transaction and declare all amounts owed by the client to become immediately due and payable. For transactions that involve complex E&S issues, this may include specifying a time period such as 30 days during which the client can resolve the issue after notification by the Bank.
- **Corrective Action Plan:** The Plan is typically included as an annex to the legal agreement, outlining the specific mitigation actions to be taken by the client according to an agreed timeframe for implementation.

To assess compliance with the E&S clauses stipulated in the legal agreement, Bank staff should periodically monitor clients and, as necessary, require the preparation of a periodic E&S performance report for review by the Bank. The Bank should consider material non-compliances with the E&S clauses as a breach of contract, which constitutes an Event of Default under the terms of the legal agreement.

In case of such an event, Bank staff needs to work with clients to resolve non-compliance issues in order to ensure that any potential exposure of the Bank to the client's E&S risks is mitigated. Where resolving the non-compliance issue is not possible, the Bank may be required to take legal action against the client to reduce its exposure to the E&S risks associated with the transaction.

Annex-10: E&S Monitoring Checklist

Sl. No.	Question /Issues to check	Response
<i>Project Summary Information</i>		
1	Reporting period covered by this supervision report	
2	Specification of project stage (design, construction, operation or closure stage)	
3	Key developments and any major changes in project location and design, if any from the time of loan disbursement or from the last supervision period.	
<i>General Information</i>		
4	Status of implementation of covenants/corrective action plan. Is it in line with the agreed timeframe? (i.e., if all covenants are implemented or partially implemented or not implemented or delayed implementation). If partially implemented or not implemented or delayed implementation, RM to please mention the reason in the response column along with a timeline for completion of implementation as committed by the client during supervision.	
<i>EHS Management</i>		
5	If there was any incidence of accidents, spills, leakages, explosion etc. during the reporting period. If yes, what was the scale of damage (e.g. if there was any fatality, monetary loss etc.)? What was the action taken in response to the incident?	
6	If there were any recent fines or penalties issued by the regulatory body. If yes, RM to please mention the nature of violation, amount of fine/penalty paid, action taken by the client to address the issue to avoid any such fine/penalty in future.	
7	If there was any health & safety incident. If yes, what was the extent of injury—minor, major or fatal? What was the action taken in response to the incident?	
8	If there are any new E&S risks or adverse impacts observed due to client's operation. RM to please mention the types of new E&S risks, the reason for such new E&S risks, mitigation measures undertaken by the client to address the E&S risks.	
<i>Permits and Compliance Certificates</i>		
9	All the required permits, licenses and clearances in place. RM to please mention the issuance dates and duration of validity of	
Sl. No.	Question /Issues to check	Response

	all such permits, licenses and clearances.	
10	Other international management systems (for e.g. ISO 14000, OHSAS 18001, SA8000) followed by the client and if they have valid certifications for those management systems?	
<i>Grievance Redressal</i>		
11	<p>If there have been any recent complaints, grievance or protest received from local communities.</p> <p>If yes, RM to please specify the nature of grievances; actions taken by the client to resolve grievances and if there any outstanding issues and measures proposed by the client to resolve them.</p>	
12	<p>If there were concerns raised during the stakeholder consultations carried out by the client during the reporting period.</p> <p>If yes, what was the approach undertaken by the client to address those concerns?</p>	
<i>Other Information</i>		
13	<p>Any other information pertaining to environmental matters, management approach, community, media or NGO coverage that need to be mentioned.</p> <p>If there are any environment friendly initiatives, energy saving equipment etc. that might be relevant for the BFIs.</p>	

Annex 11: Templates for reporting of BFIs to NRB

Annual Statement on Environmental and Social Risk Management for [YEAR]

(an annual report of the BFIs to NRB)

Name of the bank / financial institution:	
--	--

Prepared by:		Position/Department:	
Contact (email, phone):			

1	Policy Formulation and Governance	<i>Yes/No</i>	<i>Date</i>	<i>Remarks</i>
1.1	Formulation and Board approval of an ESRM Policy (or similar policy document)			
1.2	Formulation and Board approval of an ESRM Procedure (Manual)			
1.3	Nomination of an E&S Officer			

2	Employee trainings and capacity building	<i>Quarter 1</i>	<i>Quarter 2</i>	<i>Quarter 3</i>	<i>Quarter 4</i>	<i>Total</i>	<i>Remarks</i>
2.1	Allocation of Fund in the budget for ESRM Training Programs/Seminars/Workshops (in NPR):	0	0	0	0	0	
2.2	No. of ESRM Training Programs/Seminars/Workshops conducted in the given quarter:	0	0	0	0	0	
2.3	No. of attendees of the ESRM Training Programs/Seminars/Workshops conducted in the given quarter:	0	0	0	0	0	

3	Incorporation of Environmental & Social Risk in Core Risks Management	<i>Quarter 1</i>	<i>Quarter 2</i>	<i>Quarter 3</i>	<i>Quarter 4</i>	<i>Total</i>	<i>Remarks</i>
3.1	No. of loan requests rejected due to the Exclusion List	0	0	0	0	0	
3.2	No. of transactions subject to Environmental & Social Due Diligence (ESDD)	0	0	0	0	0	

Guidelines on Environmental & Social Risk Management (ESRM)

3.3	Share (% total loan value) of the transactions subject to ESDD in the total disbursed commercial (business purpose) loan portfolio	0,0%	0,0%	0,0%	0,0%	-	
3.4	Total No. of disbursed transactions by E&S Risk Rating:						
	Low	0	0	0	0	0	
	Medium	0	0	0	0	0	
	High	0	0	0	0	0	
3.5	Total amount in disbursed transactions by E&S Risk Rating:						
	Low	0	0	0	0	0	
	Medium	0	0	0	0	0	
	High	0	0	0	0	0	
3.6	No. transactions with specific E&S Action Plan:	0	0	0	0	0	
3.7	No. of transactions rejected on the E&S risk management grounds:	0	0	0	0	0	
3.8	No. of transactions beneficial to E&S improvements:						
	renewable energy projects (e.g. hydro power plants, solar panels, biogas plants, wind power)	0	0	0	0	0	
	Energy efficiency projects (e.g. efficient lighting, heating/cooling, ventilation, boiler retrofitting, facility upgrades)	0	0	0	0	0	
	effluents (wastewater) treatment plants	0	0	0	0	0	
	waste recycling and reuse	0	0	0	0	0	
	water consumption reduction	0	0	0	0	0	