

E&S risk management guidance for transactions under the EBRD Trade Facilitation Programme



European Bank
for Reconstruction and Development

Introduction

The EBRD's Trade Facilitation Programme (TFP) is designed to resolve a common trade dilemma, namely, that when goods and services are bought and sold, sellers often require payment before they ship goods, whereas buyers often require the receipt of goods before they make payments. This uncertainty around the payment and receipt of goods is an inherent risk associated with trade transactions. Trade finance resolves the uncertainty by bridging the gap between the working-capital cash flows of the buyers and sellers involved.

Under the EBRD's [Trade Facilitation Programme \(TFP\)](#), the Bank provides guarantees to international commercial banks known as confirming banks, thereby covering the political and commercial payment risk of transactions undertaken by partner banks (PBs). In the EBRD regions, these PBs are also known as issuing banks.¹ The TFP also provides short-term cash advances to selected partner banks and factoring companies in EBRD economies for on-lending to local companies for pre-export and post-import financing, local distribution and factoring and reverse factoring operations. This is necessary for the performance of foreign trade contracts and domestic and international factoring and reverse factoring operations.

The EBRD covers all types of trade finance instruments, such as, but not limited to, letters of credit, counter-guarantees, promissory notes, bills of exchange, stand-by letters of credit, irrevocable reimbursement undertakings, bid bonds and performance bonds.

The EBRD's TFP guarantees cover a wide range of **goods and services**, including consumer goods, commodities, textiles, equipment, machinery and power supply, as well as construction and shipbuilding contracts, cross-border engineering projects and other services.

This guidance note applies to partner banks under the TFP, whether they act as an issuing bank or borrower, and to their clients (applicants/sub-borrowers under TFP transactions) to ensure that their environmental and social management systems (ESMS) are enabled to manage environmental and social (E&S) risks associated with trade finance. **This guidance focuses on trade in goods (products and commodities).**² However, that does not exclude trade in other categories (mainly services), for which PBs are encouraged to seek advice from the EBRD on the specific E&S risks associated with such transactions.

ESMS: Guidance on four steps in E&S risk management for TFP transactions

The EBRD's Performance Requirement 9 (PR9)³ requires financial institutions (FIs) to develop an environmental and social management system, including E&S policies and procedures to manage and monitor E&S risks associated with sub-projects (and sub-investments in the case of equity financing). The ESMS should be commensurate with the nature of the PB and the level of E&S risk associated with the types of transaction that the PB undertakes.

TFP transactions are different to other types of sub-project. They are typically short term and rapid, and the associated E&S risks also differ. Therefore, the PB's E&S due diligence will need to reflect these characteristics. The EBRD recommends that PBs implement the following E&S risk management process as part of their own E&S management systems:

- The integration of E&S aspects into the know-your-customer (KYC) process, including a public data search on the PB's clients. Note that this step ensures that the KYC process includes key E&S aspects and is not intended to be applied to each TFP transaction.
- The screening of transactions against the EBRD exclusion lists (the EBRD's internal banking-wide exclusions,⁴ E&S exclusion list in Appendix 1 of the [EBRD Environmental and Social Policy](#) and specific exclusions in section 4.4 of the [Green Economy Transition \(GET\) technical guide](#)). This step should apply to each transaction presented to the TFP for guarantee or financing by the EBRD.
- The E&S appraisal of transactions involving products and commodities with high E&S risks. This step should be done for each transaction presented to the TFP for guarantee or financing by the EBRD and corrective actions may be set up.
- E&S monitoring of the applicants/sub-borrowers under TFP transactions guaranteed or financed by the EBRD, to ensure compliance with national E&S regulations and EBRD requirements.

1 Partner banks (PBs) are partner financial institutions (FIs) with which the EBRD has an established working relationship through an intermediated-finance business model.

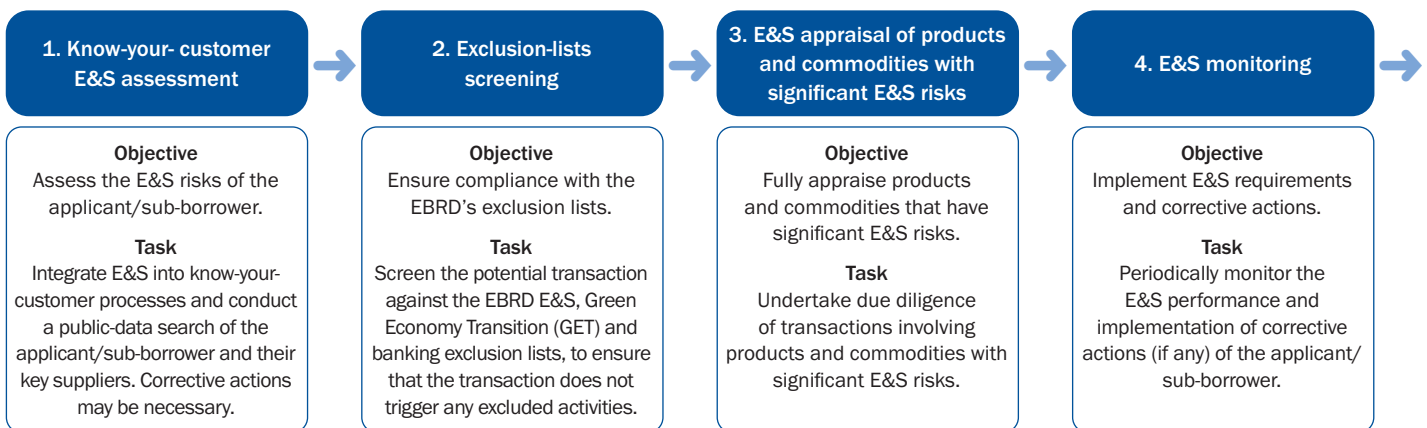
2 A commodity is a good that is supplied without qualitative differentiation across a market. A commodity has full or partial fungibility; that is, the market treats it as equivalent or nearly so, no matter who produces it. Soft commodities are goods that are grown, while hard commodities are those that are extracted through mining. Energy commodities include electricity, gas and others. A "product" is manufactured, processed and/or produced (in other words neither naturally grown nor extracted).

3 See EBRD (2019).

4 As outlined in section 2.5.2. of the EBRD's in-house Operation Manual.

Figure 1 illustrates the E&S process that the EBRD requires partner banks to implement. The steps that follow explain the process further.

Figure 1. Process flow for E&S risk management in trade finance



Factoring and reverse factoring

E&S risks associated with factoring and reverse factoring are generally considered lower than those of traditional trade finance transactions, as they are related to the purchasing of a company's accounts receivable. Thus, the requirements for factoring only include steps 1 and 2 (see Figure 1) namely, the integration of E&S aspects into the KYC process during client onboarding, a search of public data and the screening of the transaction against the EBRD's exclusion lists.

Step 1. Know-your-customer E&S assessment

1a) As a first step, the PB should conduct a **public information search** of their client during the onboarding stage and at regular periods thereafter (subject to availability of information) with regard to their key commodities and products (if known at this stage), to identify potential environmental and social risks including deforestation, human rights violations in core supply chains and impacts on labour health and safety. In this context, the term "core supply chain" means the conversion of raw or processed materials that are essential or core to the finished product. This step should focus on identifying any negative coverage of the company's approach to E&S risks, as well as key contextual risks associated with the sector and country. For further guidance, see **Annex 1. Guide to the public information search**.

If credible and relevant risk issues are identified, the PB should consider the following options:

- not proceeding with the client due to high risks identified, which pose a reputational risk to the PB (for example, an ongoing lawsuit on E&S issues such as human rights abuses)
- gathering further information on the nature of specific risks identified and the client's approach to managing such risks for example, developing further specific questions as part of the KYC process (for further information see section 1b below).

1b) PBs are advised to **integrate E&S questions into their KYC questionnaires** as part of their due diligence process. The purpose is to gain an understanding of the general level of E&S risk associated with the applicant's/sub-borrower's operations and their E&S risk management practices. An indicative (non-exhaustive) list of potential questions that PBs can use is available in **Annex 2** of this document. The PB can adapt the list of questions, provided it captures the key E&S risks, including those in core supply chains.

If issues of concern are identified, the PB should consider the following options:

- not proceeding with the client, for example because they do not have adequate processes in place to manage E&S risks, or
- agreeing a legally binding corrective action plan within a defined timeframe to address issues of concern.

Step 2. Exclusion list screening

All TFP partner banks must ensure compliance with the EBRD's E&S exclusion list (see Appendix 1 of the 2019 Environmental and Social Policy), the GET exclusion list (see section 4.4 of the EBRD's Green Economy Transition Technical Guide) and EBRD banking-wide exclusions for any type of trade transaction that is guaranteed or financed with EBRD proceeds. If the transaction includes any activities, sectors, products or commodities listed on the EBRD exclusion lists, the transaction will not be eligible for TFP support.

In general, trade in any activity that violates national laws and regulations on the environment, health, safety and labour will not be eligible for the TFP. With regard to labour rights, the following will not be eligible for TFP: any trade involving harmful or exploitative forms of forced or child labour, discriminatory practices, the lack of a safe and healthy working environment, or practices that prevent employees from lawfully exercising their rights of association and collective bargaining in accordance with relevant conventions of the International Labour Organization and other recognised international standards.

For factoring and reverse factoring operations, the E&S risk management process stops here. If the exclusion lists are not triggered, the PB can proceed with the transaction.

Step 3. E&S appraisal of products and commodities with high levels of E&S risk

High levels of E&S risk associated with certain products and commodities can vary but mainly stem from adverse labour conditions and negative impacts on the environment in the core supply chain. There are internationally recognised protocols and regulations that support the identification of such risks.

3a) To identify whether a product or commodity is potentially associated with high levels of E&S risk, including in the core supply chain, PBs must check whether these risks are included in the following:

- [US Department of Labour list of goods produced by child or forced labour](#)
- [EU regulation on commodities and products associated with deforestation](#), namely cattle, cocoa, coffee, palm oil, rubber, soya and wood.

PBs may also carry out further searches (using the guide in Annex 1) to identify whether there are other high levels of reported E&S risk associated with the commodity, product or materials in the core supply chain of the traded transaction.

It is important to note that, due to the number of tiers in the value chain, it may not always be feasible to identify in finished goods the traceability of raw materials that are associated with high levels of E&S risk. Hence, PBs need to demonstrate that their assessment has been conducted on the core supply chain on a best-effort basis.

If no relevant issues are identified, PBs can proceed with the TFP transaction.

3b) If high levels of E&S risk are identified (including in the core supply chain), transactions would only be permitted in the following circumstances:

- the company has appropriate measures in place to identify and manage the E&S risks (based on responses to the KYC questionnaire), or
- the affected commodities or products are certified by a credible and relevant certification scheme.

In cases where the transaction does not meet one of these two mitigation criteria it would not be eligible for TFP financing.

As part of their ESMS process, PBs are expected to develop and maintain a list of products and commodities with high E&S risks and have appropriate mitigation measures in place. Figure 2 summarises the E&S due diligence and approval process. Table 1 includes examples of goods associated with high levels of E&S risk and shows indicative criteria for mitigation.

Figure 2. E&S approval process for TFP transactions

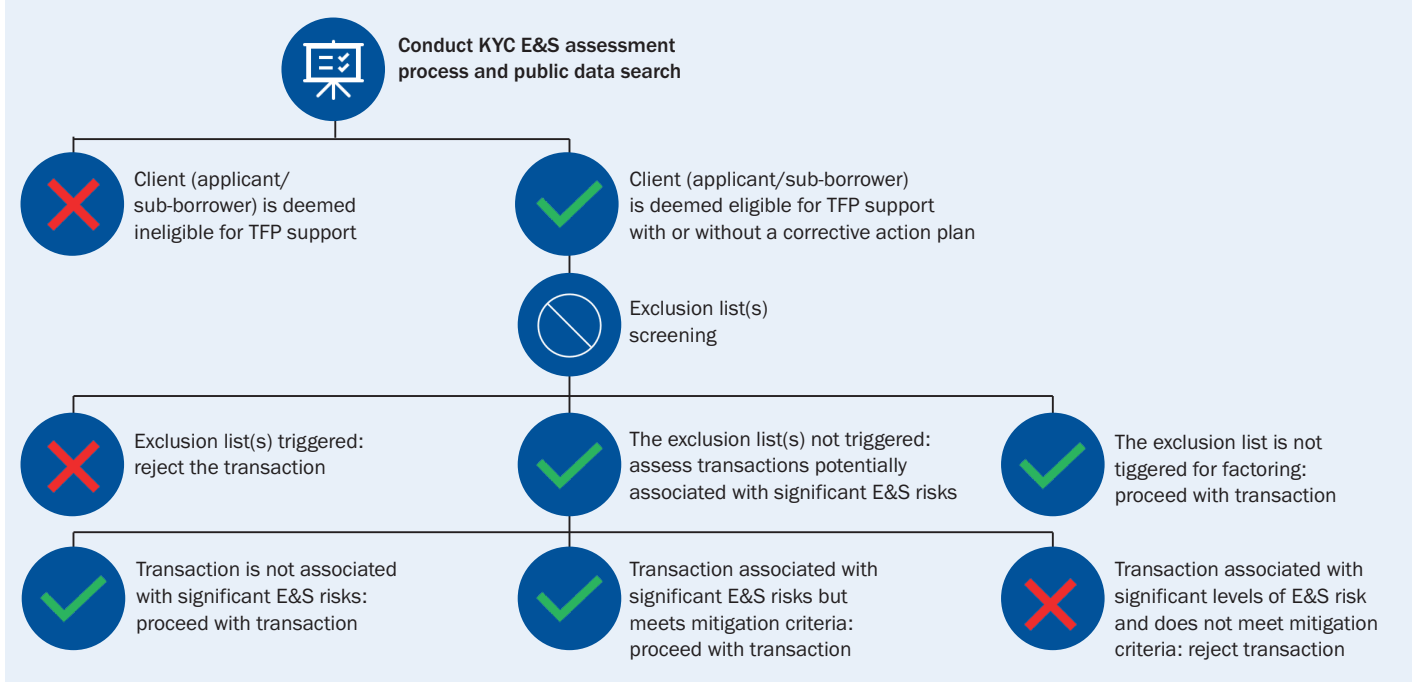


Table 1. Examples of goods with high levels of E&S risk⁵

Commodity or product	High level of E&S risk	Country of origin (EBRD economies shown in italics)	Mitigation criteria
<p>1. Cotton, including raw cotton, cotton lint and cotton yarn</p> <p>2. Cotton-based fabrics, garments and household goods (cotton in the core supply chain)</p> <p>3. Cotton industry-related machinery and equipment, for example for harvesting and processing</p>	<p>Child labour Cotton from 15 countries, including 7 EBRD countries of operation, is included in the US Department of Labor's (USDOL) list of goods produced by child labour.</p>	<p>Argentina</p> <p><i>Azerbaijan</i></p> <p>Benin</p> <p>Brazil</p> <p>Burkina Faso</p> <p>China</p> <p><i>Egypt</i></p> <p>India</p> <p><i>Kazakhstan</i></p> <p><i>Kyrgyz Republic</i></p> <p>Mali</p> <p><i>Tajikistan</i></p> <p><i>Türkiye</i></p> <p><i>Turkmenistan</i></p> <p>Zambia</p>	<p>Based on information gathered in the KYC questionnaire, the client needs to demonstrate that:</p> <ul style="list-style-type: none"> the cotton has in place appropriate certification or standards which cover child or forced labour issues, for example ABRAPA, BASF e3, Better Cotton Initiative (BCI), Cotton made in Africa (CmiA,) Fairtrade, Fairtrade Organic, Field to Market, ISCC, myBMP, Organic Cotton, Recycled Cotton, REEL Cotton, Regenerative Cotton, In-Conversion Cotton, and the U.S. Cotton Trust Protocol <p>OR</p> <ul style="list-style-type: none"> (if applicable) there are clear procedures and adequate capacity in place to prevent child and forced labour in the client's own cotton operations (see response to KYC questions 1a – 1d) there are clear and reasonable procedures to adequately identify child and forced labour risks in cotton supply chains, for example procedures to screen potential suppliers and check working conditions at suppliers' premises (see response to KYC questions 3a – 3e) there are relevant policies and procedures which are appropriate to the level of risk, for example, an effective company policy or supplier code of conduct that sets out measures to address child and forced labour risks and contractual commitments in purchasing contracts (see response to KYC questions 3h and 4a – 4e), and there is adequate internal management capacity to manage risks of child and forced labour in the supply chain (see response to KYC questions 3h and 4a – 4e)
	<p>Forced labour Cotton from 7 countries, including 3 EBRD countries of operation, is included in the US Department of Labor's (USDOL) list of goods produced by forced labour.</p>	<p>Benin</p> <p>Burkina Faso</p> <p>China</p> <p><i>Kazakhstan</i></p> <p>Pakistan</p> <p><i>Tajikistan</i></p> <p><i>Turkmenistan</i></p>	
<p>1. Cocoa</p> <p>2. Chocolate (cocoa in the core supply chain)</p>	<p>Deforestation Included in the EU regulation on commodities and products associated with deforestation</p>	All	<p>Based on publicly available information, or information gathered in the KYC questionnaire, the client needs to demonstrate that:</p> <ul style="list-style-type: none"> the commodity is certified by the Rainforest Alliance. <p>OR</p> <ul style="list-style-type: none"> cocoa is sourced from a location that is low-risk for deforestation. <p>OR</p> <ul style="list-style-type: none"> there is a public commitment to halting the conversion of any forest land for cocoa production and to eliminating the production and sourcing of cocoa from protected areas (see response to KYC questions 3i)
<p>1. Cobalt</p> <p>2. Lithium-ion batteries containing cobalt</p>	<p>Child labour</p>	<p>Democratic Republic of the Congo</p>	<p>Based on information gathered in the KYC questionnaire, the client needs to demonstrate that:</p> <ul style="list-style-type: none"> appropriate steps are taken to manage the risk, for example through due diligence on the cobalt production sites that meet OECD standards (for example, the Responsible Minerals Assurance Process).

Step 4. E&S monitoring

PBs are required to follow their internal E&S monitoring process to comply with national regulatory requirements and any TFP-specific monitoring. In addition, monitoring is a key component of an effective ESMS, which is an EBRD requirement for PBs in their compliance with PR9.

⁵ It is important to note that, due to the number of tiers in the value chain, it may not always be feasible to identify in finished goods the traceability of raw materials that are associated with high levels of E&S risk. Hence, PBs must demonstrate that their assessment has been conducted on the core supply chain on a best-effort basis.

Reporting to the EBRD

PBs are required to report to the EBRD annually on the E&S aspects of their transactions. The specific reporting requirements are included in the Annual E&S Monitoring Report (AESR).

In addition, the EBRD reserves the right to request, from TFP partner banks, data on all E&S aspects of transactions under the EBRD TFP covering guarantees and financing. As such, PBs are required to document and keep on record the following:

- the transactions that were screened against the criteria set out in this guidance but were found to be ineligible for TFP financing due to non-compliance with EBRD exclusions
- the transactions that were identified as being associated with high levels of E&S risk but met the defined mitigation criteria
- the transactions that were identified as having high levels of E&S risk and as not having met the defined mitigation criteria, and therefore were rejected.

It is important to note that PBs will not be required to report to the EBRD on each transaction that falls under the above three categories. However, they need to keep records of these for monitoring purposes by the EBRD. The AESR may require PBs to report on sample transactions related to the above categories.

Annex 1. Guide to the public information search

Searches of public information should be used during the client onboarding stage and at regular periods thereafter (subject to the availability of information). The searches should seek to identify any E&S issues and practices relating to the company that have reached the public domain and require follow up, and any such issues and practices in relation to specific transactions to identify whether the products and commodities to be traded are associated with high levels of E&S risk.

If known, the search should apply to suppliers and end users of the product and commodity involved in the transaction, which may be of interest to third-party stakeholders. These may include investors, non-governmental organisations (NGOs), regulators, opinion formers or broader industry experts. The outcome of the review will inform the level of potential risk about the company and inform further questions raised by the PB.

The online search should include a thorough review of the company website (if available) and related publicly available reports, for example on E&S, sustainability and any other ESG related ones. Additionally, data sources that report on relevant environmental and social issues and performance by industry, geography or topic should be identified and reviewed.

Information sources and approaches may include but are not limited to those shown in Table A1.1.

Table A1.1. Examples of information sources and approaches

<ul style="list-style-type: none"> • Environment Justice Atlas (https://ejatlas.org) • Land Matrix (www.landmatrix.org) • Greenpeace (www.greenpeace.org) • Human Rights Watch (www.hrw.org) • Amnesty International (www.amnesty.org) • Save the Children International (www.savethechildren.net) 	<ul style="list-style-type: none"> • Centre for Research on Multinationals (www.somo.nl) • Business & human Rights Resource Centre (www.business-humanrights.org/en/) • Local media • Local NGOs • Targeted queries in an internet search engine (for example, “company name” + “child labour/forced labour/OSH/freedom of association/discrimination/deforestation/environment”) • Reports or findings by national regulatory or judicial bodies. 	<ul style="list-style-type: none"> • X (www.twitter.com) • LinkedIn (www.linkedin.com) • US Department of Labor: List of Goods Produced by Child Labour or Forced Labour www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods • IFC Global Map of Supply Chain Risks in Agro-Commodity Production(GMAP gmaptool.org)
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Annex 2. Know-your-customer indicative questionnaire

The table below presents an indicative (non-exhaustive) list of environmental and social (E&S) questions that the EBRD recommends that PBs integrate into their existing know-your-customer (KYC) processes when onboarding a new client for a trade finance transaction and at regular periods thereafter.

The questions can be adapted based on the characteristics of the client (applicant or sub-borrower) and the relevant country context. It is important to note that the KYC process includes key E&S aspects (including supply chain risks) and is not intended to be applied to each TFP transaction. This KYC should be part of each PB's E&S management system (ESMS). It is recommended that PBs develop scoring criteria on material non-compliance and high levels of E&S risk identified through the KYC as part of the eligibility and risk-management processes.

	Key questions	What to look for
1. E&S commitments		
1a	Describe any policies or commitments that cover environmental and social (E&S) issues. What resources are available to implement these policies and commitments?	<ul style="list-style-type: none"> Publicly available ESG policies providing a commitment to manage environmental and social risks Policies are signed by senior leadership (in other words, CEO, ESG lead, and so on) Dedicated internal capacity, for example, an E&S officer or team responsible for E&S issues that reports to senior management Where relevant, E&S performance is discussed regularly at senior or board level (disclosed in E&S annual report or website)
1b	Describe your organisational approach to ensuring compliance with relevant environmental and social standards and regulations.	<ul style="list-style-type: none"> Where relevant, the client can identify relevant national and international standards, and has a clear process in place for monitoring and responding to regulatory developments The client has a credible system for ensuring compliance with these standards across the business
1c	Does your company monitor performance against E&S commitments (in ESG policies, strategies, public statements, and so on)?	<ul style="list-style-type: none"> Monitoring data include relevant key performance indicators (for example, fatalities, injuries, environmental incidents) for the previous three years and related independent auditing arrangements Monitoring data are used for internal and/or external reporting in line with local and/or international sustainability reporting standards
1d	Does your company have any commitments or requirements for independent certifications?	<ul style="list-style-type: none"> Relevant details on assets and management systems that are independently certified by a recognised standard (for example, ISO, OHSAS), according to the nature of the organisation
2. E&S track record		
2a	Does your company publish any E&S reporting information (for example, annual E&S report, ESG section in your annual financial report)?	<ul style="list-style-type: none"> A dedicated E&S section on the company's ESG performance, including metrics in line with international best ESG reporting standards
2b	Has your company received any fines, notices, violations (for example, from regulators) in relation to E&S issues in the last three years?	<ul style="list-style-type: none"> No fines or violations If received, a declining rate over the past three years and a remediation plan and outline of corrective actions
2c	Has your company had any licenses or certifications related to E&S issues suspended or revoked in the last three years?	<ul style="list-style-type: none"> No instances of revoked licences or certificates. If yes, there are reasons and a corrective action plan

	Key questions	What to look for
3. Supply chain		
3a	Describe your company's role in the supply chain (for example, producer, trader, manufacturer, transporter, retailer and so on).	
3b	Describe the goods and materials in your company's core supply chains. For each of these, from which countries and regions are these goods and materials sourced? How are these goods and materials purchased?	<ul style="list-style-type: none"> • Good understanding of the supply chain, including an understanding of the key products, commodities, goods and materials in the company's core supply chains and where these are sourced from
3c	What are the key environmental and social risks in your company's supply chains? Do you source from countries that you consider high risk from an E&S perspective?	<ul style="list-style-type: none"> • The client demonstrates knowledge and understanding of the types and severity of E&S risks in the core supply chain
3d	Do you have a responsible sourcing or supply-chain policy? If yes, please provide this.	<ul style="list-style-type: none"> • A clear sourcing or supply-chain policy that includes selecting and maintaining suppliers based on E&S criteria relevant to the industry or sector • Policy covers key supply chain risks (for example, forced labour, child labour) that the company seeks to mitigate
3e	Can you describe your overall process for identifying E&S risks across your supply chains? How do you prioritise these risks?	<ul style="list-style-type: none"> • Clear and reasonable procedures to adequately identify E&S risks in supply chains, for example procedures to screen potential suppliers or undertake a periodic audit of suppliers. This may also include operation of an "approved supplier" programme • A defined procedure for ongoing supply chain monitoring • Prioritisation based on risk or likelihood
3f	Does your company have visibility of your direct suppliers' approach to managing E&S issues (environmental, health, safety, labour, security, other social issues and so on) and their track record (for example, of fines)?	<ul style="list-style-type: none"> • The client maintains a complete, accurate and regularly updated list of direct suppliers • Internal supply chain risk assessment to identify any issues with suppliers • Examples of issues with suppliers and any engagement or exclusion
3g	Describe your approach to managing high E&S risks identified in the supply chain.	<ul style="list-style-type: none"> • The client engages with credible or proven activities to build the capacity of suppliers • Participation in credible certification schemes or multi-stakeholder initiatives • Reference to leverage, and credible means to increase leverage
3h	Do you have a supplier's code of conduct? If yes, please provide a copy and describe how it is implemented.	<ul style="list-style-type: none"> • Supply chain code of conduct that covers key E&S risks and is aligned with relevant national or international standards • Applicable and binding to all direct suppliers • Includes a requirement for direct suppliers to cascade the equivalent requirements to their own suppliers
3i	Does your company have specific policies and guidelines in place to identify and manage deforestation risks in your operations and supply chains?	<ul style="list-style-type: none"> • Responsible sourcing policy includes commitment to deforestation-free supply chains • Relevant commitments are incorporated into supplier risk screening

	Key questions	What to look for
4. Forced and child labour		
4a	Does your company have specific policies and guidelines to identify and manage forced and child labour risks in your operations and supply chains?	<ul style="list-style-type: none"> • A responsible sourcing policy and relevant capacity (for example, E&S officer or team) to oversee its implementation. • A system for auditing suppliers and establishing controls
4b	Do you screen your supply chain for child and forced labour risks? If yes, please briefly describe what systems and processes are used.	<ul style="list-style-type: none"> • Use of credible or relevant sources, such as the USDOL list of goods produced by child or forced labour. • Regular updates to these sources.
4c	When potential child and forced labour risks have been detected: a) How is this information reported? b) To whom is it reported? c) What mitigation actions does your company take?	
4d	Do you work with companies in your supply chain to help them better manage child and forced labour risks? If yes, how do you collaborate?	<ul style="list-style-type: none"> • The client participates in or supports specific trade initiatives designed to eliminate child and/or forced labour in the markets that the company operates in
4e(i)	Who is responsible in your company for assessing the risk of child and/or forced labour in your supply chain?	<ul style="list-style-type: none"> • There is dedicated internal capacity (for example, an E&S officer or team) responsible for supply chain risks including child and/or forced labour issues that reports to senior management
4e(ii)	What specific training (if any) on child and forced labour risks have these staff members received?	<ul style="list-style-type: none"> • A summary of specific training undertaken as well as evidence of attendance

References

EBRD (2019) *Environmental and Social Policy*, London. Available at <https://www.ebrd.com/news/publications/policies/environmental-and-social-policy-esp.html>.

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