

## ACCOUNTABILITY COUNSEL

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July 15, 2012

***Via Electronic Mail***

Asian Development Bank  
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**Re: Comments on Asian Development Bank's Piloting Results-Based Financing Programs Consultation Paper**

To Whom It May Concern,

Accountability Counsel is writing in response to the invitation to submit comments on the Asian Development Bank's ("ADB") Piloting Results-Based Financing Programs consultation paper ("Proposal"). Accountability Counsel works with communities around the world using accountability mechanisms to uphold environmental and human rights. We also work at the policy level to ensure that accountability systems are robust, fair, and effective. Therefore, we are interested in commenting on the degree of accountability and transparency built into this proposed policy.

We commend the ADB for keeping RBF programs subject to the Accountability Mechanism ("AM") policy, as well as the other ADB oversight functions. Our primary concern is ensuring that the AM can be effective in its mandate, which requires that safeguard and transparency policy also govern Results-Based Financing ("RBF") programs as they do other ADB lending modalities. The Proposal contains a number of ambiguities on this matter that should be clarified:

- We are glad to see that "ADB's Safeguard Policy Statement ("SPS") will apply to RBF programs."<sup>1</sup> The following paragraphs of the Proposal, however, describe a complex process whereby the ADB assesses a program's safeguards and is only "guided by the SPS policy principles."<sup>2</sup> While the section includes positive language about transparency and grievance redress, it is unclear whether RBF programs would be expected to materially achieve the SPS policy objectives. The Proposal currently leaves room for important due diligence and mitigation requirements to be diluted according to the nature and scope of the program. Furthermore, the RBF Proposal may permit loose application of the SPS in the interest of providing developing member countries with "flexibility to

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<sup>1</sup> Piloting Results-Based Financing Programs, ¶123.

<sup>2</sup> *Id.* at ¶124.

choose the best means to achieve the results.”<sup>3</sup> Clarification is needed as to how the SPS will be applied in cases of ADB AM complaints related to RBF projects. We strongly urge the ADB to continue full application of the SPS to all ADB supported programs. Additionally, the ADB should make a commitment to not support any RBF program where there is any concern about noncompliance with the SPS.

- The Proposal does not adequately explain how ADB would monitor implementation of the SPS to RBF programs. Currently, the Proposal only allows for the borrower to monitor and report on safeguard performance during implementation.<sup>4</sup> Borrower self-reporting of compliance with the SPS presents a conflict of interest, and the ADB must directly monitor implementation and performance of the safeguards.
- The ADB views RBF as a means to address implementation, capacity, and monitoring for the whole program, and not only those parts receiving ADB financing, in order to deliver improved results.<sup>5</sup> Likewise, piecemeal application of the SPS and AM will not allow for positive, inclusive development outcomes that the RBF intends to achieve. Therefore, the RBF Proposal should state clearly that the SPS and AM policies apply to the entire RBF program, not merely the part that is financed by the ADB.
- The same transparency and disclosure rules that apply to other ADB lending modalities should apply to RBF programs. Even if the SPS and AM apply as robustly to RBF programs as to other ADB projects, they will not be useful if the public is unaware that ADB financing is involved in a particular program or sub-project. We urge the ADB to specify clearly in the RBF policy that the Public Communications Policy applies to all RBF programs and sub-projects.

We appreciate the opportunity to comment on the Proposal and look forward to continuing dialogue with the ADB on the RBF. We urge the ADB to continue consultation on the RBF Proposal, providing civil society additional opportunities to comment on the current Proposal and future versions, and to make the results of these consultations publicly available. We also request the ADB to release a timeline of subsequent steps in the consultation process.

Please do not hesitate to contact us with any questions about our comments.

Sincerely,



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<sup>3</sup> *Id.* at ¶91.

<sup>4</sup> *Id.* at ¶126.

<sup>5</sup> *Id.* at p.i.