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Office of the Compliance Advisor Ombudsman (CAO)

COMPLIANCE INVESTIGATION REPORT

*IFC Investments in Rizal Commercial Banking Corporation (RCBC)
The Philippines*

**CAO Investigation of IFC Environmental and Social Performance in Relation to
Rizal Commercial Banking Corporation in the Philippines**

Office of the Compliance Advisor Ombudsman (CAO)
for the
International Finance Corporation (IFC) and
Multilateral Investment Guarantee Agency (MIGA)
Members of the World Bank Group

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About CAO

The Office of the Compliance Advisor Ombudsman (CAO) is the independent recourse and accountability mechanism of the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA), members of the World Bank Group. Reporting directly to the IFC and MIGA Boards of Executive Directors (the “Board”), CAO addresses complaints from people who may be affected by IFC/MIGA projects and is independent of IFC/MIGA management.

CAO’s mandate, which is exercised through its dispute resolution, compliance, and advisory functions, is to:

- Facilitate the resolution of complaints from people who may be affected by IFC/MIGA projects or sub-projects in a manner that is fair, objective, and constructive;
- Enhance the environmental and social outcomes of projects in which those institutions play a role; and
- Foster public accountability and learning to enhance the environmental and social performance of IFC and MIGA and reduce the risk of harm to people and the environment.

CAO carries out its work in accordance with the IFC/MIGA Independent Accountability Mechanism Policy (the “CAO Policy”).

For more information about CAO, please visit: www.cao-ombudsman.org.

Executive Summary

Overview

CAO conducted this compliance investigation in relation to IFC's investments in Rizal Commercial Banking Corporation (RCBC, 'the client'), a large commercial bank in the Philippines. The investigation reviews IFC's application of its environmental and social (E&S) requirements to its investments in RCBC, particularly in relation to RCBC's financing of 11 coal-fired power plants in the Philippines. The investigation responds to a complaint to CAO from communities living in the vicinity of the power plants. The complainants alleged that the plants are not meeting IFC's E&S Performance Standards and are having adverse impacts on local communities, as well as contributing to climate change through the plants' significant emissions of greenhouse gases (GHGs), particularly carbon dioxide (CO₂).

As a framework for good E&S risk management, IFC requires that a banking client like RCBC applies the IFC Performance Standards to the higher risk businesses that it finances. This investigation finds that IFC did not correctly apply its E&S requirements to its four investments in RCBC. This contributed to a situation whereby RCBC financed the coal-fired power plants without requiring them to operate in accordance with the IFC Performance Standards. Based on available evidence, CAO concludes that the plants financed by RCBC are likely to have significant adverse impacts on local communities and the environment, as raised in the complaint. CAO also concludes that the plants generate significant GHG emissions, and that the client did not verify that they comply with IFC requirements to adequately consider and adopt technology and other measures to reduce plant contributions to climate change.

Considering these findings and conclusions, as well as IFC's ongoing exposure to other projects with potential significant E&S risks via its client, CAO recommends that IFC verifies that RCBC is effectively applying the Performance Standards to the higher risk business activities it is financing as required by IFC's Policy on Environmental and Social Sustainability (Sustainability Policy). These include coal-fired power plants and other large projects in the Philippines with potential significant adverse E&S risks and impacts. CAO also makes recommendations for IFC to verify that the E&S impacts caused by the coal-fired power plants financed by RCBC are properly assessed and mitigated following IFC's E&S requirements. Finally, this report recommends actions to prevent future non-compliance in the application of IFC's E&S requirements by financial intermediary clients, based on the learnings from this compliance investigation.

The Complaint

CAO's investigation was initiated in response to an October 2017 complaint from project-affected communities and non-governmental organizations (NGOs) in the Philippines regarding 19 coal-fired power plants under development or in operation. CAO found the complaint eligible in relation to 11 of the power plants. Of these, RCBC has provided financing to 10 power plants since IFC's first investment in the bank in 2011. At the time the complaint was submitted, RCBC had agreed to finance an 11th plant, although it has not yet disbursed funding for it.

The complaint documents specific community-level concerns regarding the power plants including:

- a. absence of, or inadequate, public consultations and grievance mechanisms;
- b. water and air pollution by coal ash, impacting community health;
- c. loss of livelihoods for farmers and fisherfolk due to ash contamination;

- d. involuntary physical displacement and resettlement of communities to make way for the plants, with inadequate compensation or inadequate conditions at resettlement sites;
- e. loss of biodiversity due to pollution of mangroves and seaweeds, among others;
- f. acquisition of indigenous peoples' land and displacement of indigenous peoples from ancestral lands; and
- g. allegations of intimidation of community activists.

The complaint also notes that the combined GHG emissions of the power plants being financed by RCBC are significant. In this context, they note the vulnerability of the Philippines to climate change, now and in the future.

More generally, the complaint alleges that IFC did not ensure that RCBC was applying IFC's E&S standards to the businesses it was financing, as is required under the IFC Sustainability Policy. The complainants also raised concerns regarding the lack of public disclosure in relation to the lending activities of IFC banking clients, and RCBC in particular.

The IFC Investments

IFC has made four investments in RCBC, whose business includes retail, commercial, and investment banking. IFC made two equity investments in 2011 and 2013, both of which are active and provided IFC with sufficient shareholding to appoint a director to RCBC's board. IFC also made a loan in 2014 and a bond investment in 2015. The total value of the four investments was US\$228 million. Following IFC's Sustainability Policy, IFC required RCBC to implement an Environmental and Social Management System (ESMS) to ensure that the businesses it finances (sub-projects) operate in accordance with relevant IFC E&S requirements. When RCBC made loans to businesses with higher levels of E&S risk, such as coal-fired power plants, IFC's Sustainability Policy also required RCBC to apply the IFC Performance Standards to those sub-projects as a condition of financing. RCBC's commitment to implement IFC's E&S requirements was a first for a major commercial lender in the Philippines. As a result, IFC's investment in RCBC had the potential to influence emerging E&S risk management practices in the Philippine banking sector more generally.

Compliance Investigation: Scope and Methodology

CAO's investigation considers whether IFC's investments in RCBC were appraised, structured, and supervised in accordance with relevant IFC requirements. This includes IFC's response to the project-level E&S concerns raised in the complaint and IFC's application of its GHG mitigation requirements to RCBC.

Given the COVID-19 pandemic, CAO was unable to travel to the Philippines for this investigation. CAO prepared the investigation based on: (i) a review of documentation from IFC, the client, and the complainants, as well as publicly available sources; and (ii) interviews with IFC staff, the complainants, the client, and other relevant stakeholders.

CAO was not provided with access to comprehensive information related to the power plants, such as monitoring data on water quality, coal ash storage management, and energy efficiency measures as would usually be available in a review of project impacts and impacts. Despite these limitations in access to information, CAO was able to conduct a desk-based assessment of the likelihood of alleged power plant impacts with reference to relevant Performance Standard

requirements on the basis of available evidence, including national Environmental Impact Statements (EIS) and Environmental Compliance Certificates (ECC) for the power plants, IFC and RCBC summary reviews of the power plants, and publicly available information regarding their construction and operations.

CAO Findings

IFC has not verified that RCBC is applying the Performance Standards to the higher risk businesses it is financing as required by the IFC Sustainability Policy. As a result, through its investments in RCBC, IFC has an unmanaged exposure to projects with potential significant adverse E&S risks and impacts on people and the environment.

The IFC Performance Standards are designed as a framework for good international industry practice in E&S risk management for the private sector. Following IFC's Sustainability Policy, IFC requires a banking client like RCBC to apply the Performance Standards to the higher risk businesses that it finances. A key tool to achieve this is the Environmental and Social Management System (ESMS) which screens and monitors the bank's borrowers for E&S risk.

When IFC made its initial equity investment in RCBC in 2011, the client agreed to implement an ESMS reflecting IFC's E&S requirements within seven months as part of an E&S Action Plan (ESAP). However, IFC was aware that it was acquiring a client with a significant portfolio of investments with inherently high E&S risks. Prior to IFC's investment, RCBC had: (i) no experience assessing or managing E&S risks associated with its financing activities; (ii) no E&S staff; and (iii) no experience working with IFC Performance Standards. Further, RCBC operated in a market where there was limited experience in the financial sector with E&S risk management, especially the application of international E&S standards. In this context, developing an ESMS to apply the IFC Performance Standards required a major investment by RCBC to develop systems and staff capacity. It also required a commitment from the client not to finance new sub-projects outside the framework of the Performance Standards. IFC's review did not result in a plan that put RCBC on a path to implement IFC's E&S standards within a reasonable period of time. Rather, IFC disbursed on its investment without requiring proof of effective implementation of an ESMS.

Following its 2011 investment, IFC made further investments in 2013 and 2014. However, IFC did not engage substantively with the client's need for technical assistance to develop or implement an ESMS at the required level. Shortcomings in the client's ESMS at this time included a lack of appropriately qualified E&S staff and processes that were not aligned with the Performance Standards. Overall, IFC's engagement with the client over this period avoided the question of whether RCBC was adopting IFC's E&S requirements. It was only in 2015, four years after IFC's initial investment, that IFC's supervision documented fundamental gaps in client implementation of its E&S requirements. Subsequently, IFC made an additional investment in November 2015, which the client intended to use for infrastructure sub-projects. While this 2015 investment included a revised ESAP to address the gaps, as agreed with the client, IFC also completed disbursement on the 2015 investment without correcting the identified non-compliances associated with the client's inadequate implementation of IFC E&S requirements.

In 2016, IFC documented persistent delays in the client's implementation of IFC's E&S requirements. In 2017, IFC decided to fund an Enhanced Client Support program with the objective of improving the client's implementation of its ESMS. During and after this program, IFC

noted improvements in the client's ESMS implementation, including the hiring of a dedicated E&S staff member and E&S consultants. Although improvements were noted, at the time of this investigation, 10 years after making its first investment, IFC still has not verified that RCBC is effectively applying the Performance Standards to its higher risk lending activities. Without such verification, IFC has an unmanaged exposure to projects with potential significant adverse environmental and social risks and impacts on people and the environment. This includes, but is not limited to, the 11 coal-fired power plants that are the subject of this compliance investigation.

Shortcomings in IFC's E&S review and supervision of its investments in RCBC contributed to a situation whereby RCBC financed coal-fired power plants outside the framework of the Performance Standards.

During the period of IFC's investment in RCBC, RCBC provided financing to 10 of the coal-fired power plants cited in the complaint and agreed to finance an 11th. While RCBC was required to apply the Performance Standards to each of these power plants, IFC has not, to date, verified that its client was implementing an ESMS that would achieve this. As a result, these plants were financed without assurance that their E&S risks and impacts would be managed in accordance with IFC's E&S requirements.

After CAO received the complaint in October 2017, IFC advised the client to conduct enhanced E&S supervision of the 10 coal-fired power plants by commissioning a series of E&S monitoring reports (ESMRs). These monitoring reports were designed to assess each power plant's E&S performance against the IFC Performance Standards. The ESMRs provide: (i) an overview of the power plant design; (ii) a summary of power plant E&S performance with reference to the Performance Standards; and (iii) where identified, a list of power plant E&S non-conformances and recommendations for resolution.

Each ESMR reviewed by CAO for this investigation had significant gaps compared to what would be expected to provide basic assurance of compliance with IFC's E&S requirements. Notably, the ESMRs did not: (a) systematically assess whether each power plant was designed to meet IFC E&S requirements; (b) engage directly with the issues raised by the complaint; (c) assess whether the client had included Performance Standards covenants in its lending agreements; or (d) benchmark each plant's performance against relevant IFC Performance Standards requirements. The ESMRs relied predominately on power plant reporting to RCBC with limited evidence of actions by RCBC to verify such information, such as site visits, review of plant operational data and other publicly available information, or meetings with communities. In addition, IFC did not identify critical weaknesses in how the ESMRs were prepared. As a result, IFC is not able to verify that the coal-fired power plants were designed, or are operating, in accordance with the Performance Standards.

The RCBC-financed coal-fired power plants likely have significant adverse impacts on people and the environment beyond what would be permissible following IFC requirements.

CAO's review of available evidence supports a conclusion that the coal-fired power plants financed by RCBC likely have significant adverse impacts on project-affected communities and the environment that are not consistent with the requirements of the relevant IFC Performance Standards to these sub-projects (see box below). Specifically, in relation to the power plants

identified in the complaint, CAO concludes that the following adverse impacts and outcomes raised in the complaint are very likely or rather likely: (a) adverse health impacts due to air pollution or water contamination from coal ash at six power plants; (b) impacts on livelihoods due to coal ash contamination at five power plants and due to involuntary displacement at two power plants; (c) displacement and resettlement related impacts at two power plants; (d) threats against, and intimidation of, community activists in relation to four power plants; and (e) inadequate stakeholder engagement and consultation, including lack of grievance mechanisms, at all the power plants.

Relevant IFC Performance Standards (2012) to the Sub-Projects

- **PS 1: Assessment and Management of Environmental and Social Risks and Impacts.** Requires the identification and management of E&S risks and impacts, and a process for stakeholder disclosure and consultation, throughout the life of the project.
- **PS 3: Resource Efficiency and Pollution Prevention.** Requires air emissions, water discharges, and storage of hazardous materials to meet standards in the IFC Environmental Health and Safety (EHS) Guidelines. It also requires practices and technologies to promote energy efficiency and reduce GHG emissions.
- **PS 4: Community Health, Safety, and Security.** Requires anticipation and avoidance of health and safety impacts to project-affected communities following good international industry practice.
- **PS 5: Land Acquisition and Involuntary Resettlement.** Requires measures to compensate fairly and restore livelihoods when land acquisition causes physical or economic displacement.
- **PS 6: Biodiversity Conservation and Sustainable Management of Living Natural Resources.** Requires measures to avoid and minimize impacts on biodiversity and the benefits that communities derive from use of the ecosystem.
- **PS 7: Indigenous Peoples.** Establishes requirements for identification and management of project risks and impacts on Indigenous People, including specific consultation requirements.

The RCBC-financed coal-fired plants produce significant amounts of carbon dioxide (CO₂), without verification that they comply with IFC standards to mitigate project impacts on climate change.

The complaint raises concerns over the impacts of the RCBC-financed coal-fired power plants on climate change. Neither IFC nor World Bank Group policies expressly exclude the financing of coal-fired power plants through financial intermediaries (FIs). However, IFC Performance Standard 3 (PS3) on Resource Efficiency and Pollution Prevention does include efficiency standards to reduce GHG emissions during the design and operation of a project, and these standards do apply to sub-projects supported by FIs. Specifically, PS3 requires a business to consider alternatives and implement technically and financially feasible and cost-effective options to mitigate project contributions to climate change. IFC's Environmental Health and Safety (EHS) Guidelines also include recommendations to avoid, minimize, and offset emissions of carbon dioxide from new and existing thermal power plants with a view to mitigating climate change impacts. Finally, PS3 includes measurement requirements to ensure that projects producing more

than 25,000 tonnes of CO₂ annually are quantifying their GHG emissions following good international industry practice. The estimated annual CO₂ emissions of the power plants in the CAO complaint range from 630,000 tonnes to 9.4 million tonnes.

During the period of IFC's investments in RCBC, RCBC has financed both new coal-fired power plants and the expansion of existing plants. In 2018, coal-fired power plants represented 12.5 percent of RCBC's total loan portfolio, though RCBC has substantially reduced this percentage in recent years. Once the plants referenced in this investigation are operational, they will produce approximately 40 million metric tonnes of CO₂ annually, which is equivalent to 30 percent of total CO₂ emissions in the Philippines for 2019. In a number of cases, available data shows plants operating at low levels of efficiency, resulting in greater levels of CO₂ emissions than would be expected following IFC standards. As a result, CAO concludes that, through its investments in RCBC, IFC is exposed to the financing of coal-fired power plants without verification that they were developed, or are being operated, in a manner that reflects energy efficiency or GHG mitigation requirements under PS3, and thus are contributing to climate change impacts. IFC missed an opportunity to influence the adoption of efficiency measures to reduce the levels of CO₂ emissions of these plants.

CAO Recommendations to IFC

CAO makes recommendations for IFC to consider in the development of their Management Action Plan (MAP) in response to this investigation. These recommendations are designed to address shortcomings in IFC's application of its E&S standards to RCBC, as well as the mitigation of E&S non-compliances and related adverse impacts regarding the coal-fired power plants. CAO has also included recommendations regarding steps needed to prevent future IFC non-compliances based on the learnings from this investigation.

Addressing the investigation findings will require resources and commitment. At the level of RCBC, the application of the Performance Standards in a large commercial bank requires budget and staffing appropriate to the E&S risk exposure of its sub-projects. There are also challenges for an FI to apply the Performance Standards in a market like the Philippines where the financial sector is only recently adopting E&S risk management approaches, and often only to national law standards as opposed to international standards such as the IFC Performance Standards. In this context, both the client base of the bank and limitations in locally available expertise may hinder timely uptake of IFC's E&S requirements. These considerations need strong commitment by a bank's senior management to align investment decisions with evolving international sustainability standards, and with IFC's Performance Standards. They also speak to the need for structured support and supervision by IFC to ensure that its requirements are being implemented.

CAO Recommendations to IFC Regarding RCBC's ESMS Implementation

Considering RCBC's significant exposure to projects with substantial levels of E&S risk, and to ensure that the risks and impacts of such projects are managed in accordance with IFC's standards, CAO makes the following recommendations to IFC:

<p>CAO recommendations to IFC regarding RCBC's ESMS implementation</p>	<p>For RCBC's ESMS to operate as required, in particular for RCBC's higher risk lending activities, IFC should require RCBC to contractually commit to a revised E&S Action Plan (ESAP) including provisions to:</p> <ul style="list-style-type: none"> i. engage a sufficient number of qualified staff and expert consultants to support ESMS implementation across its portfolio and to apply the Performance Standards to the higher risk business activities it is financing; ii. develop template loan agreements, E&S Action Plans and E&S due diligence requirements for higher risk business activities which reflect the Performance Standards and commit borrowers to both national E&S law and Performance Standards compliance; iii. not provide any new financing for coal-fired power generation or agree to any renegotiation, refinancing, or waiver in relation to any existing financing of a coal-fired power plant without a commitment to, and evidence of, full compliance with the Performance Standards for that plant; iv. commission E&S audits of all Category A projects in its portfolio to assess compliance with national law and identify gaps against IFC E&S requirements, a sample of which should be reviewed by IFC E&S staff.
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CAO Recommendations to IFC Regarding Coal-Fired Power Plants in the Complaint (the Complaint Sub-Projects)

In relation to the coal-fired power plants in the complaint (complaint sub-projects), client prepared E&S assessments presented to IFC to date are inadequate to demonstrate compliance with the Performance Standards. Available evidence indicates that: (a) the coal-fired power plants were prepared without requiring that their construction and operation meet the Performance Standards; and (b) several of the adverse impacts raised in the complaint are likely to have occurred. Considering the likely impacts of the coal-fired power plants financed by RCBC on project-affected communities, and in order to assess and remediate such impacts in accordance with the Performance Standards, CAO makes the following recommendations to IFC:

<p>CAO recommendations to IFC regarding complaint sub-projects</p>	<p>IFC should support RCBC to conduct an independent E&S gap analysis by appropriately experienced and qualified consultants for each power plant with a focus on issues raised in the complaint and in CAO's investigation to verify compliance with IFC's E&S requirements. These gap analyses should:</p> <ul style="list-style-type: none"> i. include consultation with project-affected communities (including the complainants); ii. review the client's sub-project investment agreements to verify inclusion of Performance Standards covenants; and iii. be disclosed publicly together with any sub-project level remedial action plans. <p>The gap analyses should include a review of available information and, as necessary, request from the power plant operator, or commission,</p>
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	<p>additional assessments to evaluate project performance in relation to the allegations of harm raised by the complainants. Given the issues raised in the complaint, it is important that these gap analyses assess project performance in relation to air emissions, coal ash storage, and ambient air and water quality, as well as potential resettlement impacts.</p> <p>If a power plant operator does not agree to participate in the gap analysis process with IFC and RCBC, IFC should at a minimum: (i) undertake an assessment of the gaps based on available E&S information related to the power plant’s development and operations (including information retained by RCBC) against Performance Standards requirements, with a focus on the issues raised in the complaints; and (ii) commission third-party ambient air quality and water quality measurements at suitably selected locations outside the plant.</p> <p>Where gaps are identified, IFC should work with RCBC and its sub-clients to ensure that instances of harm raised by project-affected communities are assessed and remediated consistent with Performance Standards requirements. In doing this, IFC should consider ways to maximize its positive influence on the corporate owners and financiers of each power plant, as well as contributing to remedial solutions as appropriate.</p>
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CAO Recommendations to IFC Regarding Greenhouse Gas (GHG) Emissions from the Complaint Sub-Projects

Available evidence indicates that RCBC financed the power plants without verifying compliance with IFC’s efficiency requirements to reduce GHG emissions. The power plants reviewed as part of this investigation, once operational, would emit an estimated 40 million metric tonnes of CO₂ annually, and the average life span of these power plants is 30-40 years. Opportunities to reduce emissions from the existing coal fired power plants need to be identified by IFC and RCBC. In this context, CAO makes the following recommendations to IFC:

CAO recommendations to IFC regarding complaint sub-projects GHG emissions	<p>IFC should finance an onsite energy efficiency evaluation of each coal-fired power plant financed by RCBC to recommend costed efficiency and other improvements to reduce CO₂ emissions consistent with IFC’s PS3 and EHS Guidelines. These assessments should be disclosed publicly together with any power plant improvement proposal. In some instances, these evaluations may lead to lifetime financial cost reductions for power plant operations which mean that capital costs could be borne by the operator. In other instances, IFC may consider alternative financing models to support efficiency improvements, GHG offsets or other measures to reduce GHG emissions from the plants. IFC may also consider its potential role in assisting private sector energy producers in the Philippines to transition to low carbon energy production.</p>
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CAO Recommendations Relevant to IFC’s Broader Financial Intermediary Investments

CAO makes the following recommendations to ensure that the learning from this compliance investigation is applied to IFC’s broader financial intermediary investments to avoid future non-compliance in similar cases:

<p>CAO Recommendations to IFC to address underlying factors that led to non-compliance findings</p>	<p>To address underlying factors that led to non-compliance findings in this case, IFC should:</p> <ul style="list-style-type: none"> i. prior to the initial financing of those FI clients required to implement the Performance Standards, conduct an E&S and financial assessment of the costs, benefits, and operational implications of implementing IFC’s E&S requirements. This includes staffing estimates for ESMS implementation based on the FI’s portfolio size and E&S risk for inclusion in the Environmental and Social Action Plan (ESAP); ii. ensure that systems are in place prior to disbursement to verify that an FI client is implementing an ESMS to apply the Performance Standards, as required for FIs that are financing higher risk business activities; iii. systematically provide direction and assistance to FI clients to support ESMS implementation at the sub-project level, including prior review of higher risk sub-projects for clients without a strong track record of ESMS implementation following IFC standards; and iv. require public disclosure on IFC’s website for all FI sub-projects that are required to apply the IFC Performance Standards following the model applied by IFC in relation to Private Equity investments.
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Measuring and Reporting on FI-Related GHG Emissions

While not required by IFC’s current standards, taking into account IFC’s exposure to project GHG emissions through its FI portfolio, and the emerging standards prompted by the Taskforce on Financial-Related Climate Disclosures of the Financial Stability Board, IFC should consider requiring FI clients to measure and report to IFC on GHG emissions from their portfolios in accordance with industry best practice. IFC would need to prepare guidance and tools to support this. Good practice would include the FI and sub-project publicly disclosing Scope 1, 2 and 3 GHG emissions following the Greenhouse Gas Protocol.¹

CAO Compliance Monitoring

Following the transitional arrangements during implementation of the new CAO Policy, IFC will prepare a Management Action Plan for Board approval in response to this compliance investigation. CAO will monitor the effective implementation of the Management Action Plan.

¹ Task Force on Climate-related Financial Disclosure, 2017, Recommendations and Implementation Guidance available at <https://bit.ly/3D0FvdR>. Greenhouse Gas Protocol, *Technical Guidance for Calculating Scope 3 Emissions* available at <https://bit.ly/3mSchby>.

Acronyms

AEPR	Annual Environment Performance Report (synonymous with Social and Environmental Performance Report, SEPR)
CAO	Office of the Compliance Advisor Ombudsman
DOE	Department of Energy (Philippines)
DENR	Department of Environment and Natural Resources (Philippines)
ECC	Environmental Compliance Certificate (Philippines)
E&S	environmental and social
ECS	Enhance Client Support program (IFC program)
EHS	Environmental, Health, and Safety
EIS	Environmental Impact Statement
EP	Equator Principles
ESAP	Environmental and Social Action Plan
ESDD	Environmental and Social Due Diligence
ESMS	Environmental and Social Management System (synonymous with Social and Environmental Management System, SEMS)
ESMR	Environmental and Social Monitoring Report (RCBC prepared)
ESRP	IFC's Environmental and Social Review Procedure
FI	financial intermediary
FPIC	Free, Prior, and Informed Consent
FY	fiscal year
GN	Guidance Note
IFC	International Finance Corporation
IP	Indigenous Peoples
MIGA	Multilateral Investment Guarantee Agency
MT	Metric tons
MW	megawatt
PS	IFC Performance Standards
PS1	IFC Performance Standard 1: Assessment and Management of Environmental and Social Risks and Impacts
PS3	IFC Performance Standard 3: Resource Efficiency and Pollution Prevention
PS4	IFC Performance Standard 4: Community Health, Safety, and Security
PS5	IFC Performance Standard 5: Land Acquisition and Involuntary Resettlement
PS7	IFC Performance Standard 7: Indigenous Peoples
RCBC	Rizal Commercial Banking Corporation (IFC's client)
SII	Summary of Investment Information (IFC investment 2012-present)
SPI	Summary of Proposed Investment (IFC investment 2006-2011)
SSV	IFC Site Supervision Visit Report
TOR	Terms of Reference

Overview of the CAO Compliance Process

This CAO investigation was conducted in accordance with CAO's [Operational Guidelines](#) (2013). During this investigation, the IFC and MIGA Boards of Executive Directors (the "Board") approved the [IFC/MIGA Independent Accountability Mechanism \(CAO\) Policy](#) (the "CAO Policy"), effective July 1, 2021, which replaces CAO's Operational Guidelines. To facilitate transition to the CAO Policy, CAO, IFC, and MIGA agreed to Transitional Arrangements which provide that this investigation would be finalized under the CAO Operational Guidelines while the new CAO Policy will apply to the preparation of IFC's response to the investigation and Management Action Plan.²

When CAO receives an eligible complaint, it first undergoes an assessment to determine whether the parties wish to initiate CAO's dispute resolution or compliance function to address the complaint. If CAO's compliance function is triggered, CAO conducts an appraisal of IFC's/MIGA's involvement in the project and determines whether an investigation is warranted.

In accordance with the Operational Guidelines, CAO compliance investigations focus on IFC/MIGA and how IFC/MIGA assured itself/themselves of a project's E&S performance. The purpose of a CAO compliance investigation is to ensure compliance with policies, standards, guidelines, procedures, and conditions for IFC/MIGA involvement, and thereby improve the institution's environmental and social (E&S) performance.

In the context of a CAO compliance investigation, at issue is whether:

- the actual E&S outcomes of a project are consistent with, or contrary to, the desired effect of the IFC/MIGA policy provisions.
- a failure by IFC/MIGA to address E&S issues as part of the appraisal or supervision resulted in outcomes contrary to the desired effect of the policy provisions.

In many cases, in assessing the performance of a project and implementation of measures to meet relevant requirements, it is necessary for CAO to review the actions of the IFC/MIGA client and to verify outcomes in the field.

CAO has no authority with respect to judicial processes. CAO is neither a court of appeal, nor a legal enforcement mechanism, nor is CAO a substitute for international court systems or court systems in host countries.

Upon finalizing a compliance investigation, and in accordance with the CAO Policy, IFC/MIGA is given 50 working days to prepare a management response. To address CAO non-compliance findings and related harm, if any, the management response will include a Management Action Plan (MAP) comprising time-bound remedial actions proposed by IFC/MIGA for approval by the Board. In preparing a MAP, IFC/MIGA is required to consult with the complainants and the client. Once the Board approves the MAP, CAO's investigation report, the management response, and the MAP will be published on CAO's website.

² See (2021) CAO Policy: Transitional Arrangements. Available at: <https://bit.ly/3qaGZ1o>

After the Board has approved a MAP, CAO will monitor to verify the effective implementation of the actions set out in the MAP. CAO compliance monitoring will not consider non-compliance findings for which there is no corresponding corrective action in the MAP.

For more information about CAO, please visit www.cao-ombudsman.org.

1. IFC Investments and CAO Complaint

1.1. IFC's Investments in Rizal Commercial Banking Corporation

Rizal Commercial Banking Corporation (RCBC, "the client") is a large universal bank in the Philippines, providing a wide range of financial services, including project finance, corporate finance, retail banking, credit cards, asset management, and treasury and investment banking products and services. IFC has made multiple investments to support RCBC.

In March 2011, IFC acquired 7.2 percent equity stake in RCBC for US\$48.3m.³ The purpose of the investment was to support the client's growth in the areas of microfinance, small medium enterprise (SME), and retail banking. However, as an equity investment, it generated for IFC a general exposure to all of RCBC's business activities.⁴

In February 2013, as part of IFC's Distressed Assets Recovery Program (DARP), IFC invested in a special purpose vehicle to acquire and service RCBC's non-performing assets.⁵ While this investment did not increase IFC's exposure to the client, it had the effect of improving RCBC's asset quality and allowed RCBC to free up funds for additional lending.⁶

In February 2013, IFC's Asset Management Company (AMC)⁷ committed to an equity stake in the client for \$100m. Combined, IFC and AMC held 12.3 percent equity in the client.⁸ The purpose of AMC's investment was to strengthen the client's capital base in anticipation of higher regulatory capital requirements (Basel III) and support RCBC's growth.

In November 2014, IFC provided the client with a \$30m loan to support the client's capacity to lend to SMEs.⁹ This loan was fully repaid by July 2018.

In April 2015, IFC sold part of its equity stake to another shareholder.¹⁰ Post-transaction, IFC and AMC collectively held 8 percent equity in the client.¹¹

In November 2015, IFC invested \$50 million in RCBC via a public bond issue.¹²

³ RCBC Annual Report 2011, page 105. Available at <https://bit.ly/2likpkd>.

⁴ IFC Disclosure, Summary of Proposed Investment (SPI): project number 30235. Available at <http://bit.ly/2J0EsQa>

⁵ IFC Disclosure, Summary of Proposed Investment (SPI): project number 31184. Available at <http://bit.ly/2WXq7cm>.

⁶ Business World Online, February 26, 2013, *RCBC bad asset, share sale 'credit positive'*, available at <https://bit.ly/3smFrAy> RCBC, February 15, 2013, Letter to Stock Exchange, available at <https://bit.ly/3sqTJA5>.

⁷ IFC Asset Management Company (AMC) is an IFC subsidiary formed in 2009. AMC outsources all E&S pre-investment reviews and supervision to IFC.

⁸ IFC Disclosure, Summary of Investment Information (SII): project number 32853. Available at <http://bit.ly/2WXbJkg>; Philstar, April 30, 2013, *IFC completes equity investment in RCBC*. Available at <http://bit.ly/2N1x1gU>.

⁹ IFC Disclosure, Summary of Investment Information (SII): project number 34115. Available at <http://bit.ly/2MWRx75>.

¹⁰ RCBC, April 20, 2015, *RCBC and Cathay Life close equity investment deal*. Available at <http://bit.ly/2lvPog3>.

¹¹ Reuters, August 8, 2016, *Philippine's bank used in Bangladesh heist wins shareholder support*. Available at <https://reut.rs/2x9yEyw>.

¹² IFC Disclosure, Summary of Investment Information (SII): project number 37489. Available at <http://bit.ly/2RrCOWQ>.

1.2. IFC's Approach to Financial Intermediary Environmental and Social Risk Management

IFC has a significant portfolio of investments in financial intermediaries (FI), including commercial banks, insurance companies, leasing companies, and private equity funds. These investments help strengthen domestic capital and financial markets. IFC FI clients finance a diverse range of sub-projects¹³ with business activities encompassing consumer lending, SMEs, as well as large corporations. IFC FI clients finance these businesses through a diverse range of financial modalities including project finance, corporate finance, consumer finance, housing finance and trade finance.¹⁴

The 2006 IFC Policy in Environmental and Social Sustainability (Sustainability Policy) applies to IFC's 2011 investment in RCBC. From 2012 onwards, the 2012 Sustainability Policy is applicable to IFC's additional investments in, and supervision of, RCBC. In its 2006 and 2012 Sustainability Policy, IFC notes that the "do no harm" principle is central to its development mission. IFC commits to "ensuring that the costs of economic development do not fall disproportionately on those who are poor or vulnerable, that the environment is not degraded in the process, and that natural resources are managed efficiently and sustainably."¹⁵

To meet these commitments, IFC requires its FI clients to apply the following IFC E&S requirements (also defined as Applicable Performance Requirements) to the business activities—also known as "sub-projects"—that the FI finances: (a) IFC's Exclusion List;¹⁶ (b) applicable E&S requirements under national law; and (c) IFC's Performance Standards¹⁷ when financing higher risk business activities.¹⁸ In order to apply IFC's E&S requirements, IFC requires its FI clients to establish an Environmental and Social Management System (ESMS) to assess and manage E&S risks and impacts of the sub-projects the FI finances.¹⁹

In order to apply IFC's E&S requirements to higher risk business activities, through an ESMS, the FI should: (i) conduct E&S due diligence on each sub-project to ensure that it meets relevant the IFC Performance Standards; (ii) develop appropriate E&S Action Plans (ESAP) to meet the Performance Standards; (iii) require sub-projects with higher E&S risks to comply with the Performance Standards through the loan agreement with the FI; (iv) supervise sub-project compliance with E&S provisions and investment conditions to demonstrate Performance

¹³ In this CAO report, the term "project" is IFC's investment in RCBC. The term 'sub-project' or 'borrower' refers to RCBC's investment in a specific business activity (e.g., a power plant, large corporation, SME business, etc.)

¹⁴ IFC (2012) Interpretation Note on Financial Intermediaries. An updated version (2018) of this Note is available at <https://bit.ly/3m2aC0f>.

¹⁵ IFC Sustainability Policy (2006), para. 8. Similar wording in IFC Sustainability Policy (2012), para. 9.

¹⁶ The IFC Exclusion List defines the type of project, business activities and E&S risks that IFC does not finance. Available at <https://bit.ly/3ihL8sW>.

¹⁷ The IFC Performance Standards (2012) are best-in-class E&S requirements which include PS 1: Assessment and Management of Environmental and Social Risks and Impacts; PS 2: Labor and Working Conditions; PS3: Resource Efficiency and Pollution Prevention; PS4: Community Health, Safety, and Security; PS5: Land Acquisition and Involuntary Resettlement; PS 6: Biodiversity Conservation and Sustainable Management of Living Natural Resources; PS7: Indigenous Peoples; and PS8: Cultural Heritage.

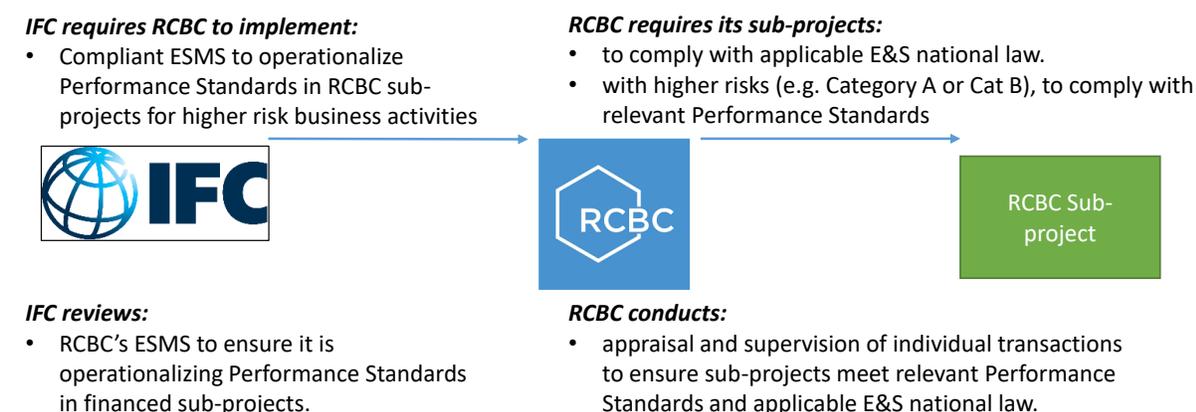
¹⁸ IFC Sustainability Policy (2012), para. 35. IFC Sustainability Policy (2006), para. 28. IFC required an FI to apply the PS to sub-projects with 'significant risks'.

¹⁹ For further details on ESMS aspects, see IFC Performance Standard 1, IFC Interpretation Note for Financial Intermediaries, and IFC's First for Sustainability, available at <https://goo.gl/2YywpP>.

Standards compliance; and (v) report regularly to the FI's senior management on E&S risks at portfolio level and individual sub-projects, as necessary.²⁰

In order to implement the Sustainability Policy, IFC has Environmental and Social Review Procedures (ESRPs), which include detailed procedures for IFC staff to follow when conducting IFC's E&S pre-investment review and supervision of FI clients. As per the ESRPs, as part of IFC's pre-investment review, IFC assesses whether the FI has an adequate ESMS with sufficient capacity to implement IFC's E&S requirements. During its supervision, IFC monitors the FI's implementation of the ESMS through annual reviews and site visits to determine the FI's effectiveness in applying IFC's Applicable Performance Requirements (see figure 1 below).²¹

Figure 1. Application of IFC E&S Requirements to FI Sub-Projects



1.3. The Complaint

In October 2017, CAO received a complaint in relation to IFC's investment in RCBC from the Philippine Movement for Climate Justice (PMCJ), on its own behalf as an alliance of organizations of concerned citizens of the Philippines fighting climate change.²² The complaint, which was supported by two international non-governmental organizations (NGOs), was also filed on behalf of several communities living in the proximity of 19 active or proposed coal-fired power plants in different parts of the Philippines. The complaint alleges that RCBC provided financial support to the 19 coal-fired power plants without assurance that they would operate in accordance with IFC's Performance Standards and alleges serious E&S impacts and risks related to the power plants, which are described below.

First, the complaint alleges a series of community level E&S risks and impacts arising from the RCBC-financed coal-fired power plants. Not all impacts were reported to be simultaneously present at all power plants, but there is significant overlap. Alleged local E&S risks and impacts, as presented in the complaint, include:

- a. *Absence of, or inadequate, public consultations and grievance mechanisms:* The complainants claimed they were not properly informed or consulted about the power

²⁰ IFC (2012) Interpretation Note on Financial Intermediaries. An updated version (2018) of this Note is available at <https://bit.ly/3m2aC0f>.

²¹ IFC Sustainability Policy (2006) para 27-29. IFC Sustainability Policy (2012) para 33-35.

²² Complaint to CAO is available at <http://bit.ly/2N23fsr>.

- plants in their localities and were also not aware of grievance mechanisms where affected communities could raise concerns and have them addressed;
- b. *Water and air pollution by coal ash, impacting community health*: The complainants claimed impacts on respiratory health and skin irritations they believed to be caused by coal ash contamination to air and water;
 - c. *Involuntary resettlement, with inadequate compensation or conditions*: The complaint alleged that communities were displaced to make way for the power plants, with inadequate compensation and poor conditions at resettlement sites;
 - d. *Impacts on livelihoods of farmers and fisherfolk*: The complainants alleged livelihood impacts said to be due to contamination of crops by coal ash, pollution of sea and fisheries, and in a few cases due to physical displacement;
 - e. *Impacts on biodiversity*: Biodiversity concerns included project impacts to mangroves, coral reefs, seaweed, and fish habitats, among others;
 - f. *Acquisition of indigenous land and displacement*: The complaint alleged displacement of Indigenous Peoples without Free, Prior and Informed Consent (FPIC), and limitations in Indigenous Peoples' access to indigenous land.

The most common and significant issues raised in the complaint related to impacts on community health and livelihoods. More generally, the complainants raised concerns about threats against, and intimidation of, community activists who oppose coal-fired power plants in the Philippines, and specifically in relation to some of the power plants mentioned in the complaint. The complainants argued that IFC, in its due diligence and supervision of its investments in RCBC, should have considered these contextual risks. The security situation for community members and environmental defenders opposed to the power plants was a major concern and the reason why community complainants requested confidentiality when filing the complaint to CAO.

Secondly, the complaint links the development of the coal-fired power plants to broader concerns about climate change impacts on the Philippines and its residents, including the complaint signatories. The complainants are concerned that carbon dioxide emissions from power plants will worsen global climate change impacts to which the Philippines is particularly vulnerable. In particular, the complaint notes that the Philippines is consistently ranked in the world's top 10 countries most vulnerable to climate change impacts.

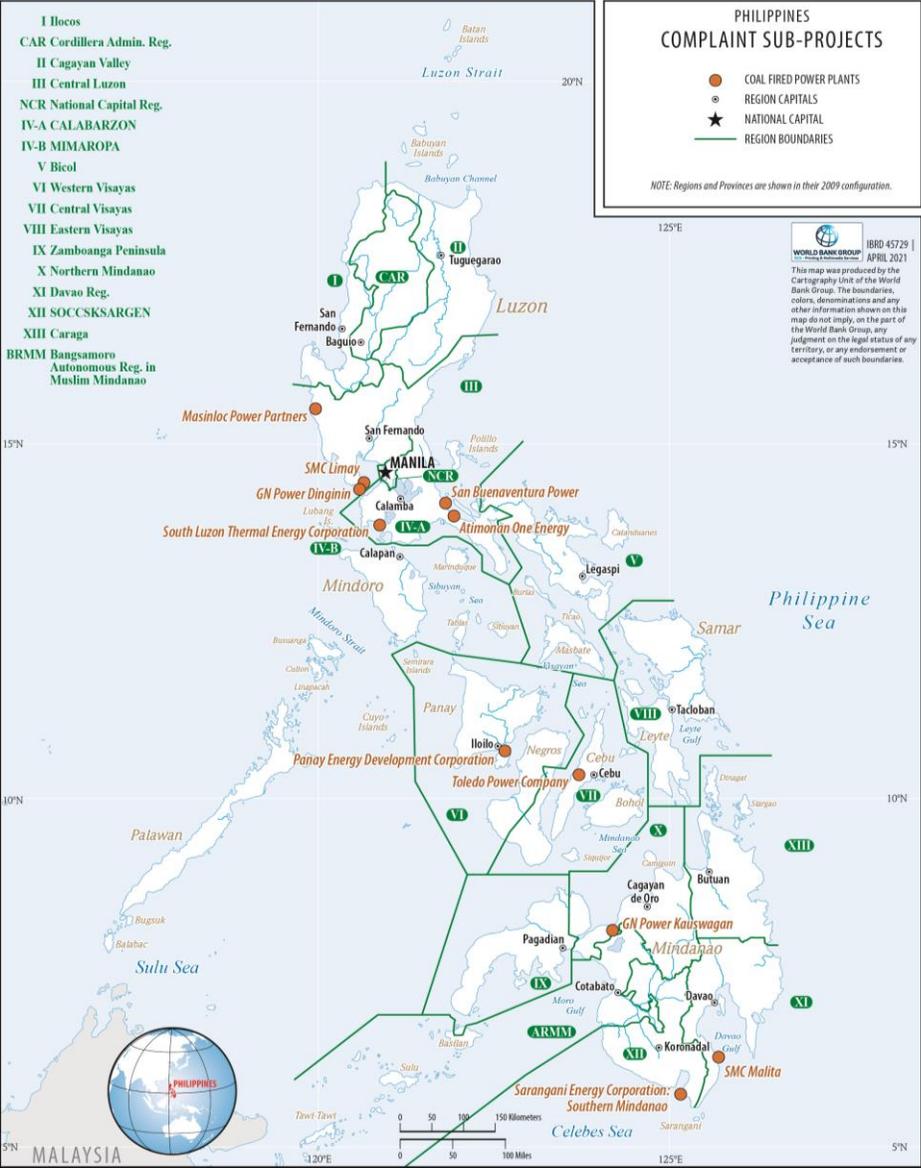
Thirdly, at the FI level, the complaint alleges that RCBC does not have an ESMS that is commensurate to the level of risk in its portfolio and that it does not apply IFC's Performance Standards to its higher risk sub-projects.

Finally, in relation to IFC, the complaint raises concerns: (a) that IFC does not disclose on its website sub-projects financed by IFC-supported commercial banks; (b) about IFC's supervision of RCBC's E&S performance in relation to its coal sector investments; and (c) IFC's compliance with its own policies and procedures in relation to its investments in RCBC.

Eligibility Decision

In November 2017, CAO determined the complaint was eligible in relation to 8 of the 19 existing or proposed power plants.²³ In March 2018, CAO determined that the complaint was eligible in relation to a further 3 power plants. Combined, the total number of communities with an eligible complaint is 11 relating to 11 coal-fired power plants (“complaint sub-projects”). Figure 2 shows the location of the complaint sub-projects. CAO made its eligibility determination on the basis that RCBC had financed, or agreed to finance with other financial institutions, the 11 complaint sub-projects. CAO determined that the remaining 8 plants did not meet the eligibility criteria.

Figure 2: Map of Complaint Sub-Projects



²³ See CAO’s Assessment Report, April 2019, for a full list of the coal-fired power plant projects and eligibility decisions. Available at <https://bit.ly/30BV5ZS>.

1.4. Scope of CAO Investigation

In accordance with CAO's 2013 Operational Guidelines, this report documents compliance findings with respect to IFC's E&S review and supervision of its investments in RCBC and makes findings as to the presence of adverse environmental and/or social outcomes, including the extent to which these are verifiably related to the project and sub-project. It also considers the underlying causes for identified non-compliances.

The scope of this investigation is defined in a Terms of Reference (TOR) which was issued by CAO in November 2019.²⁴ As set out in the Terms of Reference, the investigation considers whether IFC's investments in RCBC were appraised, structured, and supervised in accordance with applicable IFC policies, procedures, and standards.

The TOR sets out the following questions to be answered by the investigation.

1. whether IFC's pre-investment E&S reviews of the client was commensurate to risk and established a realistic expectation that the client would meet IFC's E&S requirements within agreed timeframes;
2. whether IFC's supervision of the client, including IFC's processing of additional investments, included adequate consideration of the client's implementation of IFC's E&S requirements and the developing E&S risk profile of the client's lending;
3. whether IFC responded adequately to sub-project level E&S concerns raised in the complaint to CAO; and,
4. whether IFC's approach to its investments was consistent with climate change and greenhouse gas (GHG) mitigation requirements under relevant policies, including the Sustainability Policy, Performance Standards, and EHS Guidelines.

1.5. Methodology for CAO Investigation

The investigation team comprised CAO staff and one external panelist. CAO's external panelist is an engineer with expertise in large power plant assessments and a specialist in Environmental and Social Management Systems (ESMS) for FIs.

CAO planned a site visit to the Philippines in March 2020 to meet the client at their offices in Manila and to visit a complaint sub-project. However, due to travel restrictions initiated by the World Bank Group in response to the global COVID-19 pandemic, CAO had to cancel this visit. CAO proceeded to prepare this report based on: (a) a review of IFC and client-provided documentation in relation to IFC's investments in RCBC and the 11 complaint sub-projects; (b) a review of publicly available information; (c) environmental impact statements and other assessment documentation from some complaint sub-projects; and (d) interviews with IFC staff, the complainants, the client, and other stakeholders. In most instances, CAO did not have access to power plant operational monitoring data relevant to this investigation, including data on air

²⁴ CAO Investigation Terms of Reference, available at <http://bit.ly/38CXoAN>.

emissions and water quality, disposal and storage of coal ash, and energy efficiency measures as outlined in the IFC EHS Guidelines on Thermal Power (Tables 4 to 7).²⁵

The investment agreements between IFC and RCBC include provisions for CAO access to RCBC documentation, as relevant to CAO's role as IFC's Independent Accountability Mechanism. During this investigation, CAO made several information requests to RCBC, including access to RCBC's E&S documentation in relation to the complaint sub-projects (RCBC due diligence and supervision reports, E&S assessments of the complaint sub-projects, and E&S covenants included in RCBC agreements with the complaint sub-projects). However, RCBC declined to provide CAO with access to its documentation citing both confidentially commitments in its agreements with its sub-projects and the Philippines Data Privacy Act.

The investigation has considered IFC's performance in relation to the requirements of IFC's 2006 and 2012 Sustainability Framework as relevant to the different phases of the investment relationship. This framework comprises IFC's 2006 and 2012 Policy on Environmental and Social Sustainability ("the Sustainability Policy"), IFC's 2006 and 2012 Performance Standards, and IFC's 2006 Policy on Disclosure of Information ("Disclosure Policy") and 2012 Access to Information Policy (AIP).

In considering IFC's E&S performance in relation to its investments in RCBC, CAO has been conscious not to expect performance at a level that requires the benefit of hindsight. Rather, the question is whether there is evidence that IFC applied relevant requirements considering sources of information available at the time. This investigation report makes findings and conclusions based on available information to CAO.

²⁵ IFC EHS Guidelines for Thermal Power Plants, 2008. Available at <http://bit.ly/3349yiy>.

2. Analysis and Findings

In line with the questions in the Terms of Reference for this investigation, Section 2 is split into three parts. Section 2.1 summarizes IFC's pre-investment review (2010-2011); Section 2.2 summarizes IFC's pre-investment review of additional investments (2012-2015), IFC's general supervision (2011-present), and IFC's response to the CAO complaint; and Section 2.3 summarizes IFC's approach to its RCBC investments with reference to its climate change commitments.

2.1. IFC's Pre-Investment Review and Risk Mitigation Measures

Before investing in an FI, IFC reviews the E&S risks and impacts of the proposed investment and agrees with the FI on measures to mitigate them. This section considers IFC's pre-investment E&S review for its first RCBC investment.

2.1.1. Pre-Investment Requirements

IFC made its first investment in RCBC in 2011 under IFC's 2006 Sustainability Framework.

Central to its pre-investment review of FI investments, IFC's 2006 Sustainability Policy requires IFC to review "the business of its FI clients to identify activities where the FI could be exposed to social and environmental risk as a result of its investments."²⁶ Based on the client's business activities and the magnitude of E&S risk identified, IFC categorizes the E&S risk of the investment.²⁷

IFC's Sustainability Policy provides that it is the responsibility of IFC to assure itself that an FI client has an ESMS with sufficient capacity to apply IFC's E&S requirements to its sub-projects. IFC's pre-investment review is an important factor in its decision to finance, and it determines the scope of IFC's E&S requirements. IFC is required to undertake an E&S review that is "appropriate to the nature and scale of the project, and commensurate with the level of social and environmental risks and impacts."²⁸ IFC is committed not to finance new business activity that cannot be expected to meet the IFC Performance Standards within a reasonable period of time.²⁹

An IFC FI client is required to review and monitor E&S risks associated with the businesses that it finances through its ESMS.³⁰ Where an FI has an existing ESMS, IFC reviews its capacity and implementation track record to identify gaps against IFC's E&S requirements. For FIs financing sub-projects that present limited E&S risks, IFC requires the FI to have an ESMS to ensure these sub-projects do not support IFC Exclusion List activities and meet applicable E&S national laws. For FIs supporting activities with significant E&S risks, the FI's ESMS must ensure that these sub-

²⁶ IFC Sustainability Policy (2006), para. 28.

²⁷ IFC categorizes the E&S risk of its investments in business activities with potential impacts as Category A (high risk), Category B (medium risk) and Category C (low risk). Per IFC's 2006 Sustainability Policy, IFC investments in a financial intermediary were categorized as FI. See IFC Sustainability Policy (2006), para. 18 for further details and definitions of each category. Since 2012, per IFC's 2012 Sustainability Policy, IFC investments in a financial intermediary are categorized as FI-1 (high risk), FI-2 (medium risk) and FI-3 (low risk). See IFC Sustainability Policy (2012), para 40 for further details.

²⁸ IFC Sustainability Policy (2006), para. 13.

²⁹ IFC Sustainability Policy (2006), para. 5, 17, 27-29.

³⁰ The term Social and Environmental Management System (SEMS) was used prior to 2012. This term is synonymous with ESMS, which is used in this report.

projects apply IFC's Performance Standards.³¹ Applying the IFC Performance Standards includes compliance with the sector-specific IFC EHS Guidelines. For coal-fired power plants, these are IFC's EHS Guidelines for Thermal Power Plants and IFC's General EHS Guidelines.³²

Where an FI finances sub-projects with potentially significant E&S risks (e.g., large infrastructure or extractive sector projects), IFC's Environmental and Social Review Procedures (ESRPs) provide that IFC will reserve the right to review the FI's first few financing activities to ensure the FI's ESMS is robust.³³ Where IFC's E&S pre-investment review identifies gaps in an FI's ESMS and where the FI finances sub-projects with potentially significant E&S risks, the ESRPs require that these gaps be closed before IFC's legal commitment or as a condition of IFC's disbursement.³⁴

Annex A presents additional details on IFC's policy and procedural requirements for an FI pre-investment review.

2.1.2. IFC Pre-Investment Review (2010-2011) and CAO Compliance Analysis

Risk Categorization and Identification of E&S Requirements

IFC's pre-investment review for its first equity investment in RCBC commenced in 2010. As part of its due diligence, IFC E&S staff conducted a two-week client visit in October 2010. However, IFC E&S staff did not visit the client on-site. Rather, IFC E&S staff joined some of the site meetings via conference calls with the client, with one hour scheduled to discuss the client's E&S policies and procedures. IFC reviewed the client's approach to E&S risk management and its portfolio to understand where the client was exposed to E&S risks.

IFC noted the client was a universal bank in the Philippines with investments in project and corporate, consumer, and SME finance.³⁵ IFC's loan portfolio review documented the following allocation of loans: Corporate (60 percent), Consumer (35 percent) and SME (5 percent). In terms of economic sectors, the client's largest exposures were in manufacturing (20 percent), real estate (12 percent) and electricity, gas, and water (8 percent).³⁶ IFC affirmed its investment would support the bank's growth in microfinance, SME, and retail banking. However, as an equity investment, it generated an IFC exposure to RCBC's full portfolio.³⁷

Based on its portfolio review, IFC determined the Applicable Performance Requirements for RCBC to implement included: IFC's Exclusion List, applicable national laws and regulations, and IFC's Performance Standards.

CAO finds IFC correctly classified the investment as FI and applied the appropriate E&S requirements (Sustainability Policy, para. 18).

³¹ IFC Sustainability Policy (2006), para. 28. As relevant to post 2012 IFC investments in RCBC, under the updated IFC Sustainability Policy (2012), IFC required it FI clients to apply the Performance Standards (2012) to the "higher risk business activities" they financed (para. 35). IFC's Interpretation Note for FIs (2012) clarifies this as sub-projects involving Category A or B risks and impacts.

³² IFC EHS Guidelines Thermal Power Plant (2008), available at <http://bit.ly/3349vjy>.

³³ IFC ESRP 2009/2010 version, para 7.2.10)

³⁴ IFC ESRP 2009/2010 version, para 7.2.19)

³⁵ IFC Disclosure, Summary of Proposed Investment (SPI): project number 30235. Available at <http://bit.ly/2J0EsQa>.

³⁶ RCBC 2010, Annual Report, page 83. Available at <https://bit.ly/30pxloC>.

³⁷ IFC Disclosure, Summary of Proposed Investment (SPI): project number 30235. Available at <http://bit.ly/2J0EsQa>.

E&S Risk Identification and Mitigation

This section summarizes IFC assessment of E&S risk in RCBC's portfolio, and its approach to the management of such risk.

There were a range of factors that made IFC's investment in RCBC challenging from an E&S perspective. IFC's pre-investment review documentation noted that the client did not have an ESMS or dedicated staff capacity to manage the E&S risks of its investments. In presenting this investment to management and the Board, IFC staff affirmed that an expected development impact of its investment would be for RCBC to establish and implement an ESMS which would contribute to strengthening its E&S management and other banking practices in the Philippines.

IFC's investment was made at a time of significant growth in the coal energy sector in the Philippines and the client had a number of investments in coal-fired power plants, including the construction of new coal-fired power plants (for sector and country context see Annex C). While IFC's investment approval documentation describes the client's portfolio in terms of a financial analysis, a similar analysis was not presented in terms of E&S risk. Notably, the client's largest portfolio exposures (manufacturing, real estate, and electricity, gas, and water) have inherent E&S risks.

In order to meet IFC's E&S requirements, IFC and the client agreed on an E&S Action Plan in 2011 (see Annex B). Specifically, before IFC's legal commitment to the investment, the client was required to: (a) nominate an ESMS officer; (b) establish an E&S Policy; and (c) formalize an ESMS implementation plan.

The ESAP also included the following requirements that were due between 120- and 210-days post-commitment: (a) develop ESMS procedures and implementation guidelines; (b) train staff; (c) incorporate E&S criteria into its management information system; (d) apply IFC's Applicable Performance Requirements to new loans and investments; and (e) apply IFC's Applicable Performance Requirements to existing loans and investments. When the client proposed to make a potentially high E&S risk loan or investment (a Category A activity), IFC required the client to promptly notify IFC in writing and provide information as requested by IFC.

The investment was approved by the IFC Board in December 2010 and IFC legally committed to it in March 2011, completing disbursement 8 days later. Prior to IFC's commitment, the client nominated an ESMS officer, finalized an E&S Policy based on an IFC template document, and prepared an ESMS implementation plan, thus meeting its pre-commitment ESAP requirements.

The ESAP agreed with the client was substantially more detailed and included more specific performance requirements than many other IFC FI investments committed at this time. Nevertheless, it was not consistent with IFC's review procedures in key respects.

First, IFC ESRP (2009, 7.2.19) required IFC to "identify any ESMS actions that the client would need to undertake to address gaps in these areas to ensure compliance with the Applicable Performance Requirements". Where IFC identifies gaps in an FI's ESMS and the FI finances "projects with either potentially significant E&S risks or risk exposure to IFC [, ESMS gaps] must be closed to ensure compliance with the Applicable Performance Requirements before IFC Commitment or as a condition of IFC disbursement." As outlined above, IFC identified a range of gaps in the client's ESMS that needed to be addressed, but these were scheduled for completion post-disbursement.

Accordingly, CAO finds that IFC deviated from the ESRP requirement to ensure that identified ESMS implementation gaps (in this case, the establishment and implementation of an ESMS from the start) were addressed prior to disbursement. As a result, IFC's leverage to meet the requirements of the Sustainability Policy in relation to its investment in RCBC was reduced.

Second, the ESRPs at the time required IFC to obtain the right to review the FI's "first few financing activities" of high-risk projects to ensure robust implementation of the FI's ESMS (ESRP 2009, 7.2.10). IFC's investment agreement provided for the client to notify IFC of Category A sub-projects and a provision for IFC to request information, but it did not include a review process.³⁸ **Accordingly, CAO finds that IFC's 2011 investment agreement did not reflect the ESRP requirement to retain the right to review its client's first few financing activities to ensure robust ESMS implementation (contrary to ESRP 2009, 7.2.10).** As a result, IFC lacked a key tool envisaged under the ESRP to ensure that sub-projects with potentially significant E&S risks were being developed in accordance with IFC's E&S requirements.

According to IFC's Operational Procedures: New Business, IFC is required to present to the Board "all the material facts which the Board needs to reach an informed decision" in seeking investment approval.

IFC's presentation of E&S risks to the Board does not detail an assessment of the client's exposure to E&S risk in its portfolio. More generally, IFC's approval documentation lacks consideration of the challenges that the client would face in applying IFC's E&S requirements to its investments as required by the Sustainability Policy. Considering the client's large portfolio included a range of investments in sectors with high levels of E&S risk, that it had no system in place to identify or manage E&S risks or staff with relevant experience, IFC's expectation that the client would be able to quickly mobilize to apply the Performance Standards to its high-risk investments was unrealistic. **Taken together, CAO finds that IFC's decision documentation does not present to the Board all material facts related to the E&S risks associated with this investment that the Board required in order for it to reach an informed decision (contrary to IFC Operational Procedures: New Business (para VIII.2.A.2, 2009).**

Overall, CAO finds that IFC's pre-investment review did not provide a basis to expect that the client would meet IFC's E&S requirements over a reasonable period of time (contrary to Sustainability Policy 2006, para. 17). CAO makes this finding considering that: (a) the client had no prior experience of E&S risk management; (b) the client had a large portfolio of loans to businesses in sectors with significant E&S risks; (c) IFC required the client to implement the Performance Standards, which are more stringent than national law and financial sector practice in the country at the time; (d) during its pre-investment review, IFC did not demonstrate engagement with the client on the challenges associated with applying IFC's E&S requirements to its investments, including the implications of these requirements for RCBC's pre-investment due diligence and supervision processes; (e) IFC's ESAP was not combined with structured support or a condition that the client hire implementation support (staff and/or consultants) such that would be necessary to implement IFC's E&S standards; and (f) requirements to close ESMS gaps prior to commitment and disbursement were not adhered to, contrary to IFC's E&S review procedures.

³⁸ For example, IFC's 2008 investment in India Infrastructure Fund (IIF) provided IFC with a framework to review IIF's E&S due diligence for its first few investments and for IFC to provide recommendations to IIF prior to its financial commitment. For further details see CAO's Compliance Audit report available at <https://bit.ly/2PKbBgm/>.

As a result, CAO finds that IFC's investment in RCBC was at risk of supporting projects with significant adverse E&S impacts that would not meet the requirements of IFC's Performance Standards.

2.2. IFC Supervision

IFC's supervision of its investments in RCBC commenced with first disbursement in March 2011. This section considers IFC additional equity and debt investments as well as its general supervision of the client from 2011 to 2020.

2.2.1. IFC Supervision Requirements

The supervision phase of the IFC investment cycle commences at first disbursement and continues until the investment is closed. IFC's supervision was conducted under the 2006 Sustainability Policy until December 31, 2011. Thereafter, IFC's supervision has been conducted under the 2012 Sustainability Policy.

The key IFC supervision requirements are to ascertain whether (a) RCBC is operating an ESMS as envisaged at the time of IFC's pre-investment review and (b) RCBC has applied relevant Applicable Performance Requirements, including the IFC Performance Standards, to its sub-projects (ESRP 2009 and 2014, para. 9.2.5/6).

For sub-projects involving higher risk business activities, the client's role is to: (a) conduct E&S Due Diligence (ESDD) of sub-projects to ensure that they meet relevant IFC Performance Standards; (b) inform IFC of any proposed investment in a Category A sub-project; (c) require the sub-project to comply with the Performance Standards through its loan agreement with them; and (d) supervise implementation of Performance Standards at the sub-project level. Where the client identifies gaps in sub-project performance in relation to the Performance Standards, the client's role is to require the sub-project to undertake corrective measures or terminate financing of the sub-project.³⁹

In order to determine the effectiveness of an FI's ESMS, IFC will periodically review the process and results of ESDDs conducted by its FI clients. IFC's supervision may include visits to the FI client and FI-financed sub-projects, particularly high-risk sub-projects (Sustainability Policy 2012, para. 45).

Where IFC makes a new investment in an existing client, IFC's Sustainability Framework, E&S requirements, and ESRPs at the time of the new investment are applicable. While IFC's initial investment in RCBC was made under the 2006 Sustainability Framework, IFC's subsequent investments with the client were processed under the 2012 Sustainability Framework. IFC's ESRPs were substantially updated in June and July 2014.⁴⁰ The updated ESRPs are applicable to IFC's supervision of the client post-July 2014 and to the pre-investment review of its 2015 bond investment.

³⁹ IFC Sustainability Policy (2006, para 28-29 & 2012, para 33-35) and IFC's Interpretation Note for FIs (2012) and IFC ESRP (2014, para. 7.3.2.2).

⁴⁰ As compared to the 2009 version of the ESRPs for FIs, the 2014 ESRPs provided additional detail on the evaluation of a FIs ESMS, application of Performance Standards and criteria for IFC site visits. See Annex A for further details.

IFC's legal agreements require RCBC to provide IFC with an Annual Environmental Performance Report (AEPR) within 90 days of the end of each fiscal year. Through the AEPR, RCBC reports to IFC on its compliance with the ESAP as well as IFC's E&S requirements. Where RCBC reports any non-compliances with IFC's E&S requirements, IFC requires it to detail actions being taken to remedy deficiencies. IFC's internal objective is to complete an AEPR Review within 30 days of receipt of an AEPR. However, this can frequently be extended where IFC requests additional information from a client or combines its AEPR Review with an IFC site visit.

Upon completion of a supervision activity (e.g. AEPR Review or IFC site visit), IFC makes an assessment on the client's performance of Excellent, Satisfactory, Partially Unsatisfactory or Unsatisfactory.⁴¹ An IFC assessment of client E&S performance as Excellent or Satisfactory indicates that the client is in material compliance with IFC's E&S requirements, including being on schedule for implementation of the E&S Action Plan (ESAP). An IFC assessment of Partially Unsatisfactory or Unsatisfactory indicates that the client is not in compliance with IFC's E&S requirements.

When a complaint is submitted to CAO, the ESRP requires IFC staff to (a) inform management of the complaint; (b) prepare background information and support IFC's response to CAO; and (c) add the investment to the IFC E&S High-Risk List (ESRP 5.2.1). Investments on IFC's E&S High-Risk List require closer scrutiny and supervision due to either highly significant E&S risks or because they have attracted the attention of third parties (ESRP 10.2.2-3).

Annex A presents additional details on IFC's policy requirements and procedures for supervising an FI investment and IFC's pre-investment review requirements relevant to IFC's subsequent investments in RCBC.

2.2.2. IFC Supervision and CAO Compliance Analysis of Additional Investments

This section presents a summary of IFC's supervision, along with CAO compliance findings and observations. A summary assessment of IFC's general supervision and IFC's response to the CAO complaint is presented at the end of this section.

2011-2013: IFC Supervision and Additional Investments

On March 17, 2011, IFC completed its disbursement to the client and acquired equity in RCBC.⁴² As IFC reviewed pre-commitment conditions prior to signing the legal agreement, and as the ESAP did not include any conditions of disbursement, there was no requirement for IFC to review the client's E&S performance in advance of this disbursement.

IFC E&S staff conducted their first visit to the client in November 2011. The objective of the visit was to obtain information on the status of ESMS implementation by the client and to provide support as needed. IFC's site visit was conducted soon after the 2011 ESAP was expected to be fully implemented. IFC site supervision report notes that IFC E&S staff reviewed a draft version of the client's ESMS and provided implementation guidance. IFC noted that the client expected to finalize the ESMS procedures in December 2011 and commence implementation and staff

⁴¹ IFC ESRP version 2011.

⁴² IFC Disclosure, Summary of Proposed Investment (SPI): project number 30235. Available at <http://bit.ly/2J0EsQa>. RCBC Annual Report 2011, page 105. Available at <https://bit.ly/2likpkd>.

training in early 2012. IFC advised the client that its ESMS officer and relevant loan officers should take a three-hour IFC online training course on E&S risk management and hire an external ESMS consultant. IFC's assessment at the time was that the client's E&S performance was Satisfactory. This signifies IFC's view that the client was in material compliance with its E&S requirements or on schedule to implement the agreed ESAP.

In relation to this supervision activity, CAO observes that the client had not completed implementation of the 2011 ESAP at the time of IFC's visit and there were material actions outstanding. In particular, the client had not finalized its ESMS procedures and was not conducting E&S due diligence and supervision of its sub-project investments. Accordingly, CAO concludes that IFC did not have a basis in November 2011 to rate the client's E&S performance as Satisfactory as the client was not on schedule for implementing the 2011 ESAP.

In May 2012, IFC received the client's first AEPR for 2011 and in June 2012, IFC completed its AEPR Review. IFC reviewed the client's portfolio and noted that approximately one third was exposed to high E&S risk sectors. The client's loan portfolio at the time was \$2.95 billion.⁴³ With the exception of loan E&S risk categorization, IFC recorded that the client was not implementing an ESMS. While IFC considered the client's ESMS to be adequate on paper, it was still pending approval by the client's board, and thus it was not being implemented across the client's portfolio as required by IFC's investment. IFC considered the client's staff capacity to be insufficient to implement the ESMS, but noted the client's intention to hire a full time ESMS coordinator once the ESMS was approved by its board. Based on this supervision, IFC determined that the client's E&S performance was Partially Unsatisfactory.

Between 2012 and 2013, IFC appraised and completed two further investments in the client. The first was part of IFC's Distressed Assets Recovery Program (DARP). This investment involved the creation of a special purpose vehicle (SPV) to purchase and service RCBC non-performing loans. Accordingly, the investment was not with RCBC, but a SPV which was established to purchase non-performing loans from RCBC. This investment was designed to improve RCBC's asset quality and allow it to free up funds for additional lending.⁴⁴ This investment was approved by the IFC Board in December 2012 and IFC committed to the investment in February 2013.⁴⁵ While the investment in the SPV did not create additional IFC exposure to RCBC, it was designed for the direct benefit of RCBC,⁴⁶ and as a result, CAO observes that it did provide IFC with leverage. There is no evidence that IFC exercised this leverage to ensure that RCBC was meeting its E&S commitments as agreed in IFC's initial equity investment in RCBC.

IFC Pre-Investment Review for 2013 AMC Equity Investment

Between October and November 2012, IFC conducted a pre-investment review for an additional \$100m equity investment in RCBC, this time by the IFC Asset Management Company (AMC), an IFC subsidiary. The objective of this investment was to strengthen RCBC's capital base in

⁴³ RCBC Annual Report 2011, page 93. Available at <https://bit.ly/2likpkd>

⁴⁴ Business World Online, February 26, 2013, *RCBC bad asset, share sale 'credit positive'*, available at <https://bit.ly/3smFrAy>. RCBC, February 15, 2013, Letter to Stock Exchange, available at <https://bit.ly/3sqTJA5>.

⁴⁵ IFC Disclosure, Summary of Proposed Investment (SPI): project number 31184. Available at <http://bit.ly/2WXq7cm>.

⁴⁶ As described by IFC the purpose of this investment included providing RCBC with "an attractive mechanism" for the resolution of non-performing loans. See IFC SPI.

anticipation of higher regulatory capital requirements (Basel III) and support RCBC's growth.⁴⁷ IFC E&S staff visited the client in October 2012 to supervise the client's E&S performance and conduct a pre-investment E&S review. As this investment was processed under IFC's 2012 Sustainability Framework, RCBC was required to apply IFC's 2012 Performance Standards to its future investments, rather than the 2006 Performance Standards, which were applicable following IFC's 2011 investment.

IFC's site visit report and investment disclosure notes that the client had developed an adequate ESMS document, but was not yet implementing the ESMS. IFC identified that the client's outstanding exposure to long-term corporate loans in high E&S risk sectors, such as real estate development, manufacturing and electricity, gas, and water, was greater than 20 percent of its total loan portfolio.⁴⁸ IFC noted that two client staff had taken IFC's three-hour online course on E&S risk management and recently completed an E&S training course with an external consultant. IFC retained its assessment of the client's E&S performance as Partially Unsatisfactory on the basis that the ESMS was not being implemented.

IFC classified the AMC equity investment as FI-1 (high risk)⁴⁹ and disclosed it in December 2012. In presenting the investment to management and Board, IFC staff summarized the client's E&S performance and presented the expected implementation of an ESMS as a strength and positive development impact of IFC's investment. IFC pre-investment approval documentation does not present the specifics of the client's non-compliance with IFC's E&S requirements to date, nor does it identify this as a risk for its new investment. During the pre-investment review, the IFC team discussed with IFC management a condition of disbursement that the client would provide IFC with three E&S due diligence (ESDD) reports for high-risk sub-projects. Upon review, IFC would then assess the client's ESMS implementation. This proposed condition of the investment was dropped as the IFC team noted the client would not have ESDD reports for high-risk projects ready by the time of IFC's legal commitment, which was to take effect within 7 weeks.^{50, 51}

IFC's 2013 ESAP for the AMC equity investment (see Annex B) required RCBC to prepare a detailed, new ESMS implementation plan and revise its credit policy to incorporate E&S considerations prior to IFC's legal commitment. Within six months of IFC's legal commitment to the investment, RCBC was required to fully implement its ESMS for new and existing investments. Further, RCBC was required to: (a) provide IFC with an ESMS implementation report on a semi-annual basis; (b) provide on-going E&S training to staff; and (c) conduct an ESMS implementation review on an annual basis and report the results to IFC.⁵²

⁴⁷ IFC Disclosure, Summary of Investment Information (SII): project number 32853. Available at <http://bit.ly/2WXbJkq>.

⁴⁸ IFC Disclosure, Summary of Investment Information (SII): project number 32853. Available at <http://bit.ly/2WXbJkq>.

⁴⁹ IFC E&S risk category FI-1 are for FI's with an existing or proposed portfolio, or a portfolio which is expected to include, substantial financial exposure to business activities with potential significant adverse environmental or social risks or impacts that are diverse, irreversible, or unprecedented (2012 Sustainability Policy, para. 40).

⁵⁰ IFC Disclosure, Summary of Investment Information (SII): project number 32853. Available at <http://bit.ly/2WXbJkq>.

⁵¹ As explained by IFC, this timeframe was established in the context of AMC's equity investment being linked to a public market capital raising exercise by RCBC.

⁵² IFC Disclosure, Summary of Investment Information (SII): project number 32853. Available at <http://bit.ly/2WXbJkq>.

Prior to IFC's legal commitment, IFC received confirmation that the client had revised its credit policy to incorporate E&S considerations. IFC committed to the investment in February 2013 and disbursed in April 2013.⁵³

CAO finds that IFC's 2013 pre-investment review did not provide IFC with a basis to conclude that the client would meet IFC's E&S requirements within a reasonable period of time (contrary to Sustainability Policy para. 22).

CAO makes this finding on the basis that: (a) applying the PS to new sub-projects requires a robust ESMS, as well as material changes to other FI investment and legal processes, organization change, staff capacity, and senior management commitment;⁵⁴ (b) IFC's supervision to date demonstrated that the client had not yet begun to implement the ESMS that was required in IFC's initial investment nearly two years prior; (c) IFC's 2013 investment anticipated implementation of IFC's E&S requirements within 180 days post commitment, an overly ambitious expectation given it was not combined with implementation support; and (d) IFC's investment was not combined with any formal support from IFC or consultants to achieve compliance within the set time period.

As with the 2011 investment, CAO finds that IFC's 2013 investment did not meet the requirement to close identified gaps in the client's ESMS before IFC's commitment or as a condition of disbursement (contrary to ESRP (2009, 7.2.19)). As a result, IFC's leverage to meet the requirements of the Sustainability Policy from its additional investment in 2013 was reduced.

CAO also notes IFC Access to Information Policy (2012) requirements for IFC to disclose: (a) key measures to strengthen the client's ESMS as specified in the ESAP; and (b) updates on the status of ESAP implementation. While IFC disclosed the ESAP key measures agreed as part of its 2013 investment on its website, **CAO finds that IFC did not subsequently disclose the status of ESAP implementation (contrary to para. 41 (b) of IFC's Access to Information Policy).**

As with the 2011 investment, CAO finds that IFC's 2013 investment in RCBC was at risk of supporting projects with significant adverse E&S impacts that would not meet the requirements of the IFC Performance Standards.

2013: IFC Supervision

In August 2013, IFC received and completed a review of the client's 2012 AEPR. The client also provided IFC with three ESDDs it had prepared for high E&S risk sub-projects that it had financed. IFC noted that the client had only recently commenced implementation of its ESMS. Based on the ESDDs provided, IFC noted that RCBC's E&S risk categorization was adequate, and that its ESDD quality was appropriate to screen against the applicable performance requirements and identify main E&S risks. IFC's report does not provide detailed analysis of the ESDDs. The ESDDs do not: (a) consider investment risks and impacts against specific Performance Standard requirements; (b) include ESAPs in response to identified risks; or (c) provide evidence that the client included E&S requirements in sub-project investment agreements. IFC concluded that the

⁵³ IFC Disclosure, Summary of Investment Information (SII): project number 32853. Available at <http://bit.ly/2WXbJkq>.

⁵⁴ For further details, see IFC FI Interpretation Note for Financial Intermediaries (2018).

client's E&S performance had improved and accordingly assessed the client's E&S performance as Satisfactory.

In September 2013, IFC conducted a client site visit. The purpose of the visit was to supervise the client's E&S performance and ESMS implementation, review client prepared ESDDs for financed sub-projects, assess the client's E&S capacity, and visit one sub-project. IFC assessed the client's ESMS to be adequate, while noting that the client's loan agreement did not include any E&S requirements. IFC recorded that the client's investment procedures provided for the client to confirm proposed Category A sub-projects with IFC as required by IFC's investment agreement. However, during the visit, IFC and the client agreed to remove this step as the limited information provided by the client was not sufficient for IFC to confirm categorization. IFC also recorded a desk review of 10 client-prepared ESDDs for a mix of Category A and B sub-projects. IFC noted in some instances the client requested sub-project compliance with national law prior to loan disbursement. While the client identified specific IFC Performance Standards as applicable in some instances, IFC's review does not comment on whether the client assessed the projects to these standards. IFC considered the client's E&S risk categorization to be adequate and noted that they identified overall E&S risks, but that the client did not include ESAPs in the ESDDs reviewed. Finally, IFC and client staff visited a client sub-project, which the client had categorized as Category B. IFC concluded that the sub-project had retained all environmental permits required by national law and the client recorded applicable Performance Standards, but IFC did not comment on the client's supervision of Performance Standards implementation at the sub-project level. IFC noted that the client had adequately categorized the E&S risk and completed the relevant ESDD form. However, IFC noted that the quality of its E&S assessment could be improved. IFC retained its assessment of the client's E&S performance as Satisfactory.

In relation to IFC's August and September 2013 supervision activities, CAO concludes that IFC did not retain sufficient evidence which demonstrated client compliance with IFC's E&S requirements (as required by ESRP 2009, para. 9.2.6), and an assessment that the client's E&S performance was Satisfactory. In reaching this conclusion, CAO notes:

- (a) IFC's observation that the client was not including any E&S covenants in its sub-project loan agreements; and
- (b) that IFC's review of the client-prepared ESDD did not provide evidence that the client was assessing higher risk activities it financed to IFC's Performance Standards as required. Rather, the ESDD reports submitted to IFC demonstrate a basic E&S assessment to verify sub-project compliance with IFC's Exclusion List and national law.

This indicated that IFC's approach to supervision did not verify the fundamentals of ESMS implementation. As a result, IFC overlooked potential E&S risks and impacts from sub-projects that RCBC was financing and did not have assurance that they would operate in accordance with the IFC Performance Standards.

2014: SME loan

In October 2013, IFC conducted a pre-investment review for an SME loan to RCBC ("2014 SME Investment"). On the basis that IFC's loan would have a defined (and lower risk) use of proceeds, IFC categorized the E&S risk as FI-2. IFC required the client to apply IFC's Exclusion List and national law to its SME portfolio. In practice, there was no change in client E&S requirements as

IFC's earlier equity investments required such client performance. IFC's pre-investment E&S review assessed the client's SME portfolio. Based on IFC's supervision of its existing investments, IFC concluded that the client's ESMS was Satisfactory. The IFC Board approved the investment in February 2014 and IFC legally committed to the investment in November 2014.⁵⁵

In relation to the 2014 SME investment, CAO notes that the Sustainability Policy provides for IFC to limit its E&S risk assessment and application of E&S requirements where IFC's investment is targeted to a specific end use. CAO has identified deficiencies in IFC's legal conditions for this investment. While IFC's agreement states that the purpose of the loan was to finance the client's SME portfolio, IFC did not: (a) define SME; (b) include a covenant requiring the proceeds of IFC's loan be applied exclusively to SMEs; or (c) include reporting requirements that would allow IFC to trace its use of funds to SME lending (Sustainability Policy, para 44). Without such conditions in place, IFC was not in a position to ascertain that its loan would be used for SME finance as disclosed.

2014-2015: IFC Supervision

In February 2014, IFC received the client's 2013 AEPR. IFC completed its review in June 2014. IFC concluded that the client's ESMS was Satisfactory and there were no gaps with IFC's E&S requirements. IFC retained its assessment that the client's overall E&S performance was Satisfactory.

In February 2015, an IFC E&S team conducted a site supervision visit. The objective of the mission was to supervise the client's E&S performance and prepare an ESMS Diagnostic Report.⁵⁶ The ESMS diagnostic of RCBC was a pilot test of an IFC advisory product being developed at the time to assess an FI's ESMS maturity at different developmental stages in different thematic areas. IFC prepared a separate Site Supervision Report (SSV) and an ESMS Diagnostic Report. IFC's site visit included a desk review of 10 sub-project files and a site visit to 1 sub-project. IFC's SSV records that the client's ESMS procedures were Satisfactory. IFC affirmed the client's ESMS implementation was Satisfactory in regard to E&S risk categorization, screening against IFC's Exclusion List, and ensuring compliance with national law. IFC noted that the client included a standard legal covenant in its sub-project financing agreements requiring compliance with all national E&S laws. IFC's SSV does not comment on the client's application of IFC's Performance Standards to sub-projects it finances. IFC noted to the client that there was a need for: (a) further staff training on E&S issues; (b) presentation of E&S risks at key investment decision meetings; (c) greater commitment from senior management to ESMS implementation;

⁵⁵ IFC Disclosure, Summary of Investment Information (SII): project number 34115. Available at <http://bit.ly/2MWrx75>.

⁵⁶ In response to CAO's FI Audit (2012), IFC developed an ESMS Diagnostic Tool. The tool reviews an FI's approach to E&S risk management in terms of its policies, procedures and processes, and capacity for implementation IFC's requirements. The objective of the diagnostic is to identify risks and provide recommendations for improvement. IFC staff compile the diagnostic based on a review of the client's ESMS documentation, on-site interviews with FI management and staff, and in some instances, site visits to sub-projects. The performance gaps identified during the diagnostic are addressed by a set of recommendations that prioritizes areas for improvement with deliverables specified. CAO Monitoring Report of FI Audit (2017), available at <https://bit.ly/3lquSYH>.

and (d) establishment of an external communication mechanism.⁵⁷ IFC retained its assessment that the client's E&S performance was Satisfactory.

IFC's 2015 Diagnostic Report evaluated the client's ESMS based on comparable criteria detailed in its ESRPs (see Annex A, FI ESMS Assessment). The Diagnostic Report considered the client's E&S policy to be developed. However, IFC noted that the client was not applying the Performance Standards to the sub-projects it financed and noted shortcomings in client-prepared E&S assessment documentation, portfolio supervision, and internal reporting against IFC standards. IFC made a series of recommendations regarding the client's ESMS implementation, organizational structure, staff training, staff capacity, sub-project and portfolio E&S supervision, internal reporting to client management, and external communication mechanism. The majority of IFC's recommendations were presented as high priorities for client action.

CAO observes that the SSV and ESMS Diagnostic Report present divergent views of client performance. IFC's SSV presents a positive view of the client's E&S performance, with an assessment that its E&S performance was Satisfactory. IFC's ESMS Diagnostic Report, however, documents material gaps in the client's ESMS implementation and application of IFC's Performance Standards to the sub-projects it financed. The ESMS Diagnostic Report presents a more robust and comprehensive assessment of the client's ESMS implementation than prior IFC pre-investment reviews and supervision. However, it was not within the scope of the ESMS Diagnostic Report to review the FI's application of E&S standards to its sub-projects. Nevertheless, it is clear from the material presented in the Diagnostic Report that IFC's previous Satisfactory assessments of client E&S performance overestimated the status of implementation of the client's ESMS.

In April 2015, IFC received the client's 2014 AEPR. IFC completed its review in May 2015. IFC's review presented a similar summary of the client's performance as the February 2015 site supervision report and ESMS Diagnostic Report. However, on the basis that the client was not applying IFC's Performance Standards to its sub-projects and that its portfolio was considered to have potential medium to high E&S risks, IFC downgraded its assessment of the client's E&S performance to Partly Unsatisfactory.

2015: Bond investment

In the second half of 2015, IFC conducted a pre-investment review for a bond investment in RCBC. This investment was processed under IFC's revised 2014 ESRPs (see Annex A, IFC Pre-Investment Review Requirements).

At the first presentation of this investment to IFC management, IFC's pre-investment documentation notes that the investment was to deepen Philippine bond markets, and to finance client lending in infrastructure and public-private partnership sub-projects in the client's pipeline such as airports, roads, power, renewable energy, and railways. IFC noted that it would emphasize to the client that IFC's funds should not be used for coal-related activities. When presented to management for formal approval, in addition to the above objectives, IFC noted that

⁵⁷ As per PS1, an external communication mechanism is a procedure for external communications that relate to the FI's operations and financed business activities to be received, registered, tracked, screened, assessed, and responded to. (Sustainability Policy 2012, para 34).

the investment would support the client's strategy to increase financial inclusion and classified the investment as an SME investment.⁵⁸

IFC categorized the bond investment as E&S Category FI-1 (high-risk) on the basis that the client had an existing portfolio which included exposures to high-risk business activities such as infrastructure, energy, real estate development and large manufacturing.⁵⁹ IFC's pre-investment review documentation summarized the client's E&S performance, and in particular noted IFC's recent assessment of its E&S performance as Partly Unsatisfactory due to inadequate application of IFC's Performance Standards to high-risk sub-projects. IFC's approval documentation notes guidance from IFC management at the time that there should be no repeat business with clients that have a Partly Unsatisfactory assessment until IFC management has obtained assurance in relation to client commitment or is satisfied with progress on action. IFC prepared an E&S Action Plan (the 2015 ESAP) to improve the client's performance. However, IFC noted that there was limited time for the client to achieve tangible improvements in applying IFC's Performance Standards prior to the bond being listed and IFC's disbursement. In this context, IFC's pre-investment review acknowledged that the client's E&S performance would remain an unquantified risk for some time to come. In approving the investment, IFC management advised the IFC team to help the client improve its E&S performance to Satisfactory in the short term and assist the client in implementing the ESAP with a longer horizon.

In October 2015, IFC presented the investment to the Board on a no-objection basis. IFC's presentation to the Board of the investment E&S risk does not explicitly note conclusions from supervision that the client was non-compliant in implementing IFC's E&S requirements at the time. Rather, the IFC investment paper to the Board for approval states more generally that the client has not adequately applied the Performance Standards to its high-risk lending activities, and requires additional time given the complexity of such application in a large institution such as RCBC. Based on interactions with the client's senior management, IFC considered the client to be committed and willing to implement IFC's E&S requirements and would do so within 6 months. IFC noted that the bond investment provided IFC with additional leverage to work with the client to implement IFC's E&S requirements. E&S risk was not highlighted to the Board as a key investment risk. Given the timeline for the bond issue, the timeframe for the Board to review the investment was shortened to 5 working days instead of the normal 10 working days. IFC committed to the investment on October 26, 2015 and disbursed on November 2, 2015.⁶⁰

As part of IFC's subscription to the bond, the client made E&S undertakings to IFC. Specifically, the client agreed to implement an ESAP within 180 days (see Annex B). Further, the client agreed that if IFC determined that ESAP implementation was deficient in any material respects, the client would enter an E&S advisory program with IFC for a predetermined amount at the client's expense over a period of six months. CAO notes also that the terms of IFC's subscription to the bond did not include any use of proceeds provisions.

⁵⁸IFC Disclosure, Summary of Investment Information (SII): project number 37489. Available at <http://bit.ly/2RrC0WQ>.

⁵⁹Ibid.

⁶⁰IFC Disclosure, Summary of Investment Information (SII): project number 37489. Available at <http://bit.ly/2RrC0WQ>.

CAO finds that IFC's 2015 pre-investment review did not provide IFC with a basis to expect that the client would implement IFC's Performance Standards within a reasonable time period (2012 Sustainability Policy, para. 22).

CAO reaches this conclusion on the basis that (i) IFC's prior supervision noted significant gaps in client capacity and performance; (ii) IFC supervision documented that the client was not adequately applying IFC's E&S requirements at the sub-project level; (iii) persistent delays in implementing IFC's E&S requirements conflict with IFC's assessment of client commitment; and (iv) the 2015 ESAP included material post-disbursement actions. However, CAO recognizes that IFC's 2015 pre-investment review noted gaps in client performance and included additional mitigation measures as compared to prior ESAPs. Specifically, IFC required the client to hire an independent E&S consultant to support ESMS implementation and IFC agreed a financial cost to the client for deficient ESAP implementation (e.g. an E&S advisory program with IFC at the client's expense). While these mitigation measures supported implementation and provided IFC with additional leverage, they were insufficient to provide IFC with a basis to expect the client would implement IFC's Performance Standards within a reasonable time period, particularly given the client's track record of non-compliance with its agreed E&S commitments over a period of four years.

As with the 2011 and 2013 investments, CAO finds that IFC's 2015 investment did not meet the requirement to close identified gaps in the client's ESMS before IFC's commitment or as a condition of disbursement (contrary to ESRP (2014, 7.3.4.4)). As noted by IFC, the client's E&S performance would remain an unquantified risk for some time to come. As a result, IFC's leverage to ensure outcomes expected by the Sustainability Policy was reduced.

CAO also notes that IFC's Access to Information Policy (2012) requires IFC to disclose key measures to strengthen the client's ESMS as specified in the ESAP and update its disclosure on the status of ESAP implementation. While IFC agreed a detailed ESAP with the client, **CAO finds that IFC did not disclose the ESAP in full or provide an adequate summary of key measures, and IFC has not subsequently updated its disclosure regarding the status of ESAP implementation (contrary to para. 31 b (iii) and 41 (b) of the Access to Information Policy).**

Further, CAO observes that while IFC's investment objective was to support RCBC's lending to infrastructure projects and SMEs, and IFC classified the investment as SME, the terms of IFC's subscription to the bond did not include any provision which directed use of proceeds to SMEs or excluded financing of coal-fired power plants. Rather, the bond permitted general corporate use of proceeds and the client disclosed that it would use the proceeds of the bond "to finance its participation in loans that are primarily intended for infrastructure projects".⁶¹ This is significant because at the time the client actively highlighted its financing of coal power plants⁶² and

⁶¹ RCBC, October 27, 2015, Press Release. Available at <https://bit.ly/2HyOrz6>.

⁶² In its 2015 Annual Report, RCBC noted that it "RCBC Capital [subsidiary] focused primarily on raising financing for key projects in the infrastructure, and power and energy sectors. Across several transactions, RCBC Capital arranged project financing programs amounting to approximately Php128.8 billion for the development of infrastructure and power projects, consisting partly of coal-fired power plants with an aggregate capacity of 1,300MW. Most notable of these is the USD956.0 million, 414MW coal-fired power plant in Mindanao, wherein the investment

subsequently, between 2015 and 2019, the client reported to IFC that its electric, gas and water portfolio grew 53 percent, while lending to SMEs remained static.⁶³ In 2017, in its AEPR to IFC, the client started to classify all loans over 12 months and below \$2 million as SME loans. Following this approach, some of the loans to the complaint sub-projects were classified as SME loans, although they were supporting large scale power infrastructure.⁶⁴ In summary, IFC's financing contributed to a situation whereby the client (a) provided finance to 4 of the 11 complaint sub-projects between 2016-2018, (b) reported static levels of SME portfolio lending to IFC, and (c) in its reporting to IFC, classified some loans to complaint sub-projects as SME loans.

2016-2020: IFC Supervision

In June 2016, the World Bank Group's Independent Evaluations Group (IEG) completed a review of IFC's performance in relation to its RCBC investment.⁶⁵ IEG rated the E&S Development Outcome as "Partly Unsatisfactory", noting that the client had not applied the Performance Standards to its sub-projects and that commitment by the client's senior management to E&S issues had lagged. IEG rated IFC's work quality for the 2011 pre-investment review as "Satisfactory" and IFC's work quality at supervision as "Excellent". IEG noted that, IFC: required the client to apply the Performance Standards to its sub-projects; conducted multiple supervision activities including site visits; reviewed 20 client prepared ESDD reports; conducted two sub-project visits; and prepared the E&S Diagnostic Report as outlined above. IEG rated IFC's E&S role and contribution in its RCBC investments as "Satisfactory" on the basis that it had assisted the client in improving its E&S risk management processes.

Between August-November 2016, IFC received the client's 2015 AEPR, conducted a site visit, and discussed with the client an NGO report on its financing of coal-fired power plants. In November 2016, IFC prepared a supervision report documenting its review of the client's E&S performance. IFC noted that 45 percent of the client's portfolio was exposed to sectors with inherent E&S and health and safety risks.⁶⁶ IFC affirmed that the client had made some progress in implementing the 2015 ESAP, namely in relation to staff training and portfolio monitoring. However, IFC noted that while the client was not applying the IFC Performance Standards to its high-risk sub-projects; the client was screening investments to IFC's Exclusion List and checking whether proposed sub-projects had national Environmental Compliance Certificates (ECC) where required by national law. Further, in contravention of the 2015 ESAP, IFC stated that the client had not hired an ESMS coordinator nor hired an independent E&S consultant to support application of the Performance Standards to sub-projects. IFC assisted the client in developing terms of reference for an independent E&S consultant and provided comments on several local and international consultant applications. However, for various reasons, IFC noted that the client

house acted as the sole arranger for the onshore funding requirement. RCBC Capital was also responsible in arranging the project loan facilities for the largest solar power plant in the Philippines with a total capacity of 132.5MW.", page 26. Available at <https://bit.ly/2GuQbJL>.

⁶³ Electric, gas and water data from RCBC Annual Reports. The majority of this portfolio in this period was coal-fired power plants.

⁶⁴ The client reported multiple concurrent loans to some complaint sub-projects. Where these individual loans were below US\$2m, the client classified these individual loans as SME. At the same time, the client's aggregate exposure to complaint sub-project exceeded US\$2m.

⁶⁵ The World Bank Independent Evaluations Group conducts post-evaluations of IFC investments. Each year, IEG randomly selects a percentage of IFC investments which IFC committed to five years previously. IEG assesses the Development Outcome, IFC's Investment Outcome and IFC's Work Quality.

⁶⁶ RCBC Annual Report 2015, loan portfolio information page 184. Available <https://bit.ly/2GuQbJL>.

had yet to select a consultant. In October 2016, the client requested a six-month extension to implement the 2015 ESAP, with interim deadlines to hire an independent E&S consultant and an ESMS coordinator. In November 2016, IFC retained its assessment of the client's E&S performance as Partly Unsatisfactory. IFC noted that this would be reviewed again in February 2017, at which point the client should have hired an independent E&S consultant and commenced preparation of sub-project reports. IFC affirmed that failure to achieve progress could lead IFC to assess the client's E&S performance as Unsatisfactory and trigger the mandatory clause for an IFC Advisory Services program (per the penalty covenant in the 2015 Bond investment) or initiation of remedy under the investment agreement.

In May 2017, IFC received the client's 2016 AEPR. IFC's review reiterated the findings from its November 2016 supervision report of Partly Unsatisfactory.

Between May and June 2017, IFC funded an Enhanced Client Support program (ECS) to improve the client's ESMS and assist the bank in realizing its ESAP commitments. IFC staff explained to CAO that the decision to fund an ECS program, and not trigger the Advisory Services program penalty covenant, was made considering: (a) resource constraints faced by RCBC following the decision of the Philippines Central Bank to fine RCBC for non-compliance with national banking law in connection with the Bangladesh cyber heist;⁶⁷ and (b) IFC's assessment that the client was making progress in relation to its E&S commitments.

The ECS program consisted of IFC staff and two international consultants conducting multiple site visits with client staff, as well as a brief engagement with client senior management and a Board sub-committee. Through the program, IFC sought to support RCBC's 2015 ESAP implementation and assist the client to achieve an E&S performance of Satisfactory during IFC's next supervision. IFC reviewed the client's ESMS and confirmed gaps in its risk categorization process, guidance tools, and legal application of the Performance Standards to sub-projects. In implementation, IFC observed that the client applied IFC's Exclusion List and, where relevant, verified national ECCs. However, IFC noted gaps in the client's staff capacity, assessment of social risks, and application of the Performance Standards. Further, IFC noted concerns regarding the extent to which E&S issues were assessed and presented in client investment approval documents. During the client support program, the IFC team recommended clarifying the scope of work for an independent E&S consultant, who the client subsequently hired. IFC noted that the client revised its ESMS to only apply the Performance Standards to high-risk exposures. IFC concluded that further implementation of the ESAP was needed.

Positive outcomes from the Enhanced Client Support program included the client hiring the independent E&S consultant in June 2017 and an ESMS coordinator in August 2017. For the first time, therefore, the client had dedicated E&S support and in-house E&S specialist staff. IFC noted that the E&S consultant had experience of working on other multilateral projects and invited the consultant to a training session on the Performance Standards. However, upon review of the ESMS coordinator and E&S consultant's prior experience, CAO concludes that they had

⁶⁷ On August 4, 2016, the Bangko Sentral ng Pilipinas (BSP), the central bank of the Philippines, fined RCBC P1.0 billion (\$21 million) relating to its involvement in the Bangladesh Bank cyber heist. BSP (August 4, 2016) *MB Approves Record Supervisory Enforcement Action on RCBC*. Available at <https://bit.ly/34kDbiV>. Further details on the Bangladesh Bank cyber heist are available at <https://on.ft.com/3krJQNO> and <https://reut.rs/3oH11aZ>.

insufficient experience to adequately review and supervise implementation of the Performance Standards for the type of E&S risks contemplated in the complaint sub-projects.

In October 2017, the complainants filed their complaint to CAO.

In November 2017, IFC received an E&S Monitoring Report (ESMR)⁶⁸ for one complaint sub-project. The ESMR report was prepared by the client's E&S consultant. An IFC consultant provided comments to the client, which were considered in preparing a final version of the ESMR.

In January 2018, IFC provided further Enhanced Client Support. IFC hired an international consultant to support the client's ESMS implementation by: (a) reviewing approaches to stakeholder engagement and visiting one of the coal-fired power plants cited in the CAO complaint; (b) conducting a two-hour stakeholder engagement training for RCBC staff; (c) providing guidance on communication strategies associated with stakeholder outreach; and (d) recommending follow up actions to RCBC senior management. The consultant noted the client had made ESMS improvements since IFC's 2015 Diagnostic Report. However, they concluded that the ESMS had not been integrated in the client's systems as the client's ESMS coordinator did not have access to relevant sub-project E&S information. The ESMS coordinator relied on information provided by RCBC investment staff rather than carrying out key responsibilities envisaged by the ESMS. The consultant also questioned whether the ESMS had sufficient staff resources and recommended that IFC update its 2015 Diagnostic Report. The consultant visited one coal-fired power plant under construction to observe its stakeholder engagement process. They met with the power plant's community relations officer, attended two company-organized philanthropy events, visited a nearby village, and drove through the power plant construction site. The consultant concluded there was a commendable community engagement process. They were not tasked to review, nor did they verify, the E&S performance of the power plant. Similarly, while the consultant engaged with power plant staff on the issues raised in the complaint, the consultant did not attempt to verify any of the information received. Nonetheless the consultant asserted that some of the issues raised in the complaint appeared to be misinformed.

In February 2018, IFC received an update from the client on its 2015 ESAP implementation. The client reported that it had: (a) hired an independent E&S consultant; (b) prepared two ESMRs for IFC; and (c) reviewed the E&S categorization of its investments. The client reported that it expected to complete outstanding 2015 ESAP actions between April and September 2018. This included ESMRs for all high-risk projects and developing sub-project ESAPs within six months.

In April 2018, IFC received the client's 2017 AEPR and IFC conducted a site visit. In May 2018, IFC completed a combined AEPR review and site visit report. IFC concluded that the client had: (a) implemented an ESMS which applies IFC's Performance Standards and integrated it in its lending process and portfolio management; (b) strong senior management commitment to E&S management; (c) enhanced its ESMS team which was now fit-for-purpose; and (d) completed action items in the ESAP. IFC documented that the client had 32 higher E&S risk loans, including 13 coal-fired power plants. IFC recorded that based on a recent loan review, a review of client

⁶⁸ The client titled these as E&S Due Diligence (ESDD) reports. However, an ESDD is prepared prior to an FI financing a sub-project. As this report evaluates a sub-project's E&S performance and it was prepared after RCBC financed the sub-project, ESMR is a more accurate term.

ESMR samples, online media search, and discussions with RCBC, all higher E&S risk loans had proper environmental certificates and other government approvals and there were no material E&S issues known to the client.

IFC provided feedback on some of the ESMRs. Where the ESMRs identified gaps in sub-project performance, IFC stated that RCBC would use best efforts to develop mitigation measures for the sub-project. However, RCBC was not expected to be able to fully influence sub-project performance as its financial exposure, and thus leverage, differed with regard to term loans, working capital loans, and syndicated loans. IFC recorded that the client was experiencing delays in completing the ESMRs. With the exception of those sub-projects related to the CAO complaint, IFC supervision report concluded that there were no material E&S risks known to the client's portfolio. IFC retained its assessment of the client's E&S performance as Partly Unsatisfactory. IFC staff explained that this assessment was retained as IFC sought evidence that the Performance Standards were being adequately applied to the client's sub-projects.

In November 2018, IFC conducted a client site visit to obtain an update on its ESMS implementation and status of its ESMRs reviews. IFC recorded that the client: (a) had E&S staff regularly review new and existing sub-project credit applications and had conducted four sub-project site visits; (b) reported that there had been a significant uptake in E&S risk management; and (c) had exposure to 15 coal-fired power plants representing 12.5 percent of its loan portfolio. IFC noted that the client had 32 Category A sub-projects, of which they had completed ESMRs for nine sub-projects, including four complaint sub-projects. The client reported challenges in conducting sub-projects review because their exposure to the sub-project was often a syndicated loan led by other financial institutions and due to the reluctance of sub-projects to cooperate as they view RCBC visits as an audit. The client reported that the completed ESMRs identified a few significant non-conformances with IFC E&S standards or national law. IFC emphasized the importance of completing E&S reviews of the complaint sub-projects and offered assistance to speed up the review. At this time, IFC investment staff expressed the view that RCBC had made significant improvements in its E&S risk management. However, in concluding its supervision activity, IFC retained its assessment of the client's E&S performance as Partly Unsatisfactory.

In February 2019, IFC staff met with the complainant representatives in Manila to discuss the complaint and IFC approach to E&S risk management.

In March 2019, IFC received the client's 2018 AEPR. IFC completed its review in July 2019, recording that the client had 24 Category A sub-projects in its portfolio, and its exposure to coal was 8 percent. IFC reconfirmed that the client maintained a comprehensive ESMS and capacity to manage E&S risks of its lending activities, including applying the IFC Performance Standards. By March 2019, ESMRs for 10 of the 11 complaint sub-projects were complete. Of these 10 reports, 6 were prepared by the client's ESMS coordinator, 3 by the client's E&S consultant, and 1 by an IFC consultant. The client did not prepare a report for one power plant on the basis that it did not have an active exposure to this plant. IFC noted that the ESMRs identified 3 high-risk findings.⁶⁹ IFC documented a review of only 2 of the 10 reports. IFC noted that the client had issued a Sustainable Finance Framework⁷⁰ to support the issuing of Green Bonds and other

⁶⁹ The ESMRs defined E&S high risk is significant non-conformance with IFC guidelines or legal requirements which may result in operation/construction interruption.

⁷⁰ RCBC (2019) Sustainable Finance Framework available at <https://bit.ly/2HIR9lj>.

similar financing instruments. IFC also noted that the client had increased financing of renewable energy sector. Due to the client's significant exposure to high-risk sectors and reputational concerns associated with the CAO complaint, IFC retained its assessment of the client's E&S performance as Partly Unsatisfactory.

In March 2020, IFC received the client's 2019 AEPR. IFC's review presented similar conclusions to its July 2019 supervision documentation. IFC recorded the client's exposure to 15 coal-fired power plants representing 6.5 percent of its portfolio, which was less than its financing to sustainable projects (7.3 percent). In relation to the complaint sub-projects, IFC recorded that RCBC's funding participation ranged from 2 to 29 percent of project loans. Regarding the ESMRs for the complaint sub-projects, IFC noted that the 3 high-risk findings identified had been addressed. Supervision documentation included a client prepared site supervision report recording sub-project improvements. IFC retained its assessment of the client's E&S performance as Partly Unsatisfactory.

2.2.3. CAO Compliance Analysis: IFC General Supervision

Over the course of ten years since making its first investment, IFC has not verified that the client (a) is operating its ESMS as envisaged at the time of IFC's pre-investment review or (b) is applying the IFC Performance Standards to its high-risk sub-projects (ESRP 2009 and 2014, para. 9.2.5/6).

During the period from 2011 to early 2015, IFC's supervision reports often presented an overtly favorable view of the client's performance, concluding that the client's E&S performance was Satisfactory while not retaining and providing evidence to demonstrate compliance with IFC's E&S requirements and, at times, explicitly acknowledging the client was not applying the Performance Standards. As a result, gaps in client E&S performance persisted over extended periods of time while IFC approved additional investments in the client.

In advance of funding the Enhanced Client Support program, IFC's supervision documentation details persistent client delays in meeting IFC requirements over a period of six years. In particular, following the 2015 investment, IFC recorded that the client did not meet either its initial or extended deadlines to hire an E&S consultant and an ESMS coordinator to support ESMS implementation. IFC's Sustainability Policy envisages that such delays can lead to loss of IFC financial support (para. 22). In this context, IFC decided to fund the Enhanced Client Support program rather than trigger a clause in its 2015 Bond investment to require the client to pay for this program or consider other remedy options.

IFC's recent supervision has documented improvements in client E&S performance. For example, RCBC has hired a staff member with E&S experience to lead implementation of its ESMS and is more systematically categorizing E&S risk in its portfolio. RCBC has also improved its E&S monitoring processes. However, IFC's supervision to date does not provide assurance that RCBC has in place key aspects of a system to manage project E&S impacts in accordance with IFC requirements. This includes: (a) evidence of client commitment to implement IFC's E&S

requirements;⁷¹ (b) sufficient E&S staff members, relative to the size of the client's portfolio, with expertise in applying the Performance Standards to higher risk activities the client finances; (c) an effective system for reviewing higher risk projects against relevant Performance Standard requirements, in addition to national law; (d) requirements to include E&S provisions in legal agreements and ESAPs, as relevant, to ensure compliance with the Performance Standards; or (e) an effective approach for monitoring project performance against the requirements of the Performance Standards. Without these measures in place, the establishment of an ESMS does not provide assurance that IFC's E&S requirements are being applied to a bank's lending activities.

As a result, CAO finds that IFC has made multiple investments in a commercial bank in the Philippines that is financing projects with high levels of E&S risk without assurance of PS compliance. Further, as discussed below, available evidence suggests that through its investment in RCBC, IFC has exposure to high-risk projects without assurance that they are operating in accordance with IFC Performance Standards, with likely adverse impacts on communities and the environment.

Underlying this finding is a tension between IFC's E&S requirements and the client's business model. First, it is challenging to ensure application of IFC's Performance Standards to a loan when the client is participating in syndicated lending with other lenders who may not apply similar E&S requirements; and secondly, it is challenging to implement an ESMS to IFC's standards across the portfolio of a general commercial bank that is operating in a market where the business activities of major borrowers are not aligned with the Performance Standards.

2.2.4. CAO Assessment of E&S Impacts at the Sub-Project Level

The complaint to CAO alleges significant adverse environmental and social risks and impacts to communities associated with the coal-fired power projects financed by RCBC. The most common alleged impacts relate to air, water and soil pollution due to coal ash, with adverse impacts on community health, livelihoods of farmers and fisherfolk, and biodiversity. Other alleged impacts at several power plants relate to inadequate displacement and involuntary resettlement, Indigenous Peoples' restricted access to land and displacement, and threats against, and intimidation of, community activists. Inadequate stakeholder engagement and grievance mechanisms are noted across all the power plants.

Available information does not allow CAO to draw definitive conclusions in relation to the sub-project level allegations of adverse impact presented in the complaint. However, CAO has conducted a desk-based assessment of the likelihood of the alleged impacts on the basis of available evidence with reference to relevant Performance Standard requirements. CAO's conclusions in relation to the likelihood of these impacts are based on a review of available environmental impact assessment documentation of the power plants, IFC-retained information from the client, government-issued Environmental Compliance Certificates (ECCs), regulatory documentation and enforcement actions, media reports, independent studies, expert interviews and satellite imaging as referenced in Annex D. Access to on-going monitoring data and third-

⁷¹ Client commitment can be assessed in terms of the following factors: (i) legal agreement to implement IFC E&S requirements; (ii) reporting to board and semi-regular board discussion of E&S performance; (iii) board and senior management completing training on E&S risk management and IFC PS; (iv) internal and external disclosure of board approved E&S Policy (v) E&S staff reporting lines; and (vi) adequate E&S resources relative to FI portfolio risk.

party supervision reports, which CAO did not have for most cases, as well as site visits and direct engagement with the affected communities and sub-project operators, would be required to fully verify the extent and severity of the impacts raised by the complainants.

On the basis of this assessment (see Annexes D and E), CAO concludes that at the sub-project level the following adverse impacts and outcomes raised in the complaint are very likely or rather likely: (a) adverse health impacts due to air pollution or water contamination from coal ash at six power plants; (b) impacts on livelihoods due to coal ash contamination at five power plants and due to physical or economic displacement at two power plants; (c) displacement and resettlement related impacts at two power plants; (d) threats against, and intimidation of, community activists in relation to four power plants; and (e) inadequate stakeholder engagement and consultation, including lack of grievance mechanisms, at all power plants. CAO has also identified similar likely impacts at the sub-project level, which were not raised as issues in the complaint, namely: (a) adverse health impacts on communities due to coal pollution at two additional power plants; and (b) water resources depletion due to the operations of one power plant impacting the community's access to water. **The adverse E&S impacts of the RCBC funded coal-fired power plants that CAO concludes to be likely or rather likely are of a significant nature and require urgent assessment and mitigation following IFC's Performance Standards.**

In relation to other issues raised by the complainants regarding each power plant, there was insufficient information available to CAO to draw conclusions as to whether the sub-project related impacts were likely or not. In a couple of instances, it appears unlikely that the impacts raised are related to the operations of the specific power plant mentioned in the complaint.

See Annex E for a breakdown of CAO's assessment of the likelihood of sub-project level impacts and Box A as an example.

Box A: SMC Limay: Example of Community Impact Allegation and Client Review

SMC Limay is a coal-fired power plant on Luzon Island that commenced operation in 2017 and received a project finance loan from RCBC. The power plant uses sub-critical technology which produces more air emissions per unit of electricity, including CO₂, than more efficient technology. The plant was constructed next to an existing 140 megawatt (MW) coal-fired power plant and an oil refinery. The plant's boundary is 30 meters from Lamao town (population 19,329) with three schools located directly in the district (or "barangay"). The complainants allege that the power plant has caused serious health impacts to local communities. They claim that the operations of the power plant have caused lung and skin diseases among people living in the vicinity of the plant and raise concerns regarding lack of consultation and inadequate involuntary resettlement.

SMC Limay and related alleged E&S impacts have been subject to large media attention, with government statements and documents corroborating some of the allegations. In late 2016, the national regulator ordered the power plant to cease operations in response to what the regulator described as a "an ash spill that has reportedly caused several residents to fall ill." As a result, the power plant was required to halt dumping of coal ash at a shared facility. The power plant was permitted to resume operations after recording air and water emissions within national standards. While further reporting by the power plant records air emissions within World Bank standards, local community measurements conducted in 2020 indicate ambient air quality exceedances of these thresholds, in particular for PM_{2.5}. Following a preliminary health impact assessment in January 2017, a comprehensive government health impact assessment was

conducted in 2018. However, the report was not made public nor was it made available to CAO. As for involuntary displacement, a 2016 third party review and 2017 government statements noted land acquisition and displacement had occurred. It is unclear whether adequate compensation was provided.

At IFC's request, in 2019 the client completed an E&S Monitoring Report (ESMR) for the power plant based on a review of an engineer's report and a video conference meeting with the project operator. The ESMR concluded that the project was compliant with the Performance Standards with no identified risk factors. However, there were several evident shortcomings in the ESMR. First, the ESMR did not include a review of the power plant's ESIA or E&S monitoring data. Second, the ESMR summarizes the company's approach to fly ash management and disposal with no reference to a widely reported 2016 ash spill, implementation of remedial actions or the adequacy of the power plant's approach to ash management. The ESMR also stated there had been no displacement of households without detailed analysis.

Other key gaps in the ESMR as identified by CAO include: (a) a lack of engagement with the issues raised in the CAO complaint; (b) inadequate consideration of ambient air quality (PS3) and of related health impacts (PS4); and (c) insufficient analysis of risks and impacts related to land acquisition (PS5).

In summary, the ESMR lacks critical examination of E&S information across a range of issues relevant to the complaint. IFC did not document a review of this ESMR. In this context, CAO concludes that IFC lacks assurance that the client has applied IFC's E&S standards to this coal-fired power plant, which has been operating for over three years, generating significant concerns regarding E&S impacts on surrounding communities.

2.2.5. CAO Compliance Analysis: IFC Response to the Issues Raised in the Complaint

Since the date of IFC's equity investment in 2011, the client has provided financing to 10 of the 11 complaint sub-projects and agreed to finance the other complaint sub-project.⁷² According to IFC's investment agreements with the client, the client was required to apply IFC's Performance Standards and EHS Guidelines for Thermal Power Plants to these investments. As RCBC categorized the E&S risk of each complaint sub-project as Category A, prior to financing each coal-fired power plant the client was also required to inform IFC of the proposed investment. CAO has not seen any evidence indicating that: (a) the client informed IFC in advance of its financing any of the complaint sub-projects; (b) IFC reviewed E&S due diligence for any of the complaint sub-projects prior to financing; or (c) the client required any of the power plants to follow the Performance Standards or the EHS Guidelines for Thermal Power Plants as a condition of financing.

IFC is not required to carry out individual transaction appraisal and monitoring of the sub-projects an FI client finances. These are client responsibilities. However, as set out above, IFC is required to assure itself that an FI client is reviewing and supervising sub-projects in accordance with IFC's E&S requirements, including the requirement to apply the Performance Standards to the higher risk business activities it is financing. The financing of coal-fired power plants is a business activity with significant E&S risks and as a result application of the Performance Standards is required. From the analysis above, it is evident that IFC was aware that the client was not applying the Performance Standards to such loans, including during the period 2013–2017 when the client

⁷² The current status of this commitment is unclear to CAO.

financed the coal-fired power plants that are the subject of the complaint to CAO. Further, available documentation, in particular the review of available Environmental Impact Statements (EISs) and national Environmental Compliance Certificates, indicates to CAO that these power plants were assessed and prepared to operate in accordance with national law standards, and not the IFC Performance Standards. This is significant because there are material differences between IFC's Performance Standards and national law (see Box B).

Box B: Gaps between E&S National Standards and IFC E&S Standards

A 2016 World Bank assessment of the Philippines country system to World Bank E&S standards concluded that there are “substantive gaps” between Philippine Environmental Impact Statement (EIS) requirements and World Bank standards.⁷³ As a result, projects prepared in accordance with national standards require additional assessment of impact, multiple stakeholder consultations and the application of more stringent requirements for land acquisition and livelihood restoration in order to meet World Bank requirements.⁷⁴ World Bank/IFC air emissions standards for coal-fired power plants are also more stringent than requirements under national law (see Annex C, Philippine Environmental and Social Framework).

As detailed in Annex D,⁷⁵ the EISs for the complaint sub-projects do not reflect the type of environmental and social assessment that would be expected when considering funding for a coal-fired power plant under World Bank/IFC standards in one or more of the following respects: (a) limited assessment of social risks; (b) consultation processes that do not meet IFC standards; (c) inadequate or no cumulative impact assessment; (d) inadequate or no discussion of plant energy efficiency and greenhouse gas emissions; (e) limited consideration of project alternatives; (f) limited assessment and follow up on baseline conditions; (g) inadequate ambient air protection measures, in particular related to coal ash; and, (h) inadequate or no assessment of community health impacts.

Following submission of the complaint to CAO in October 2017, IFC contracted a consultant to visit one of the coal-fired power plants. Conducting a site visit to a sub-project is a positive action in response to a CAO complaint and consistent with IFC's supervision framework for FI investments as set out in IFC's E&S Review Procedures (ESRP).⁷⁶ However, the objective of the visit was limited to observing the power plant's approach to stakeholder engagement. It was not within the consultants' scope to review the power plant's E&S performance, to inquire whether the sub-project was required to operate in accordance with IFC's Performance Standards, or whether the allegations raised in the complaint to CAO were correct. Accordingly, the site visit did not provide assurance to IFC that the project was operating in accordance with IFC's Performance Standards.

In February 2019, IFC staff met with complainant representatives in Manila to discuss the complaint and IFC's approach to E&S risk management.

⁷³ World Bank, 2016, Philippines - Access to Sustainable Energy Project: environmental assessment: Environment and social safeguards framework, available at <https://bit.ly/2l6C9P2>.

⁷⁴ World Bank (December 2019), Access to Sustainable Energy Project, available at <https://bit.ly/2JwVj12>.

⁷⁵ Annex D provides further detail regarding the complainants' concerns as relate to individual power plants and summarizes available information in relation to the E&S risks and impacts of the various power plants.

⁷⁶ IFC ESRP version 2014, para. 9.2.4.

As noted above, IFC required the client to complete ESMRs for all Category A sub-projects by March 2016. However, these actions faced delays and had not been completed by 2017. In response to the CAO complaint, IFC emphasized to the client the importance of completing ESMRs for the complaint sub-projects. By March 2019, the client had completed ESMRs for 10 of the 11 complaint sub-projects. Of these, an IFC consultant prepared one ESMR (from March 2019) and provided comment on one other ESMR prepared by a client E&S consultant (from November 2017). The remaining 8 ESMRs were completed by RCBC staff or consultants. No IFC review of the 8 other ESMRs is documented.

The ESMRs provide: (i) an overview of the project design; (ii) summary of project E&S performance with reference to the Performance Standards; and (iii) where identified a list of project E&S non-conformances and recommendations for resolution. The ESMRs provide some important information on the E&S risks and potential impacts of the power plants. Together, the 10 ESMRs conducted for the complaint sub-projects recorded a number of E&S non-conformances categorized by risk: 3 high-risk; 20 medium-risk; and 31 low-risk.⁷⁷

The methodology for conducting these ESMRs, and their quality, varied - including their assessment of E&S risk (see Annex D). In all instances, the ESMRs were based on a desk review of limited project documentation, often comprising of the project engineers' reports and relevant permits and environmental certificates, which did not cover all potential E&S risk areas (see Box C below for an example of a desk review led by an IFC consultant). In six instances, a site visit was conducted in addition to a review of documentation. The ESMRs relied almost entirely on information provided by the power plant operators with limited evidence of efforts to verify information, including little effort to interview project affected people, even when negative accounts of project E&S impacts were available in the public domain. Finally, the ESMRs do not reference the issues raised in the complaints to CAO and do not engage directly with the specific allegations of adverse impacts raised by the complainants (see Boxes A and C). As a result, while the ESMRs present a largely positive account of project E&S performance, it is difficult to conclude that they provide reasonable assurance of compliance with the Performance Standards.

Box C: Toledo Power Expansion: Inadequate Information Provided on Key Environmental and Social Risks

The Toledo Power Company (TPC) in Cebu involves the expansion of an existing coal-fired power plant, which was supported through a project finance loan from RCBC in 2013 and commenced operations in 2014.

The ESMR, prepared in March 2019 by an IFC consultant, was based on a desk review of project E&S documentation without a site visit. It demonstrates a better analysis of the power plant's performance with reference to the Performance Standards compared to the other ESMRs prepared by RCBC and its consultant.

However, there are also gaps in the ESMR compared to what would be expected to provide basic assurance of project compliance with the Performance Standards. For example: (a) the ESMR did not include a review of the project ESIA which would be necessary to discuss alignment of plant design with the Performance Standards; (b) as noted by the IFC consultant,

⁷⁷ The ESMRs defined E&S risk on a 3-point scale where (i) high-risk is significant non-conformance with IFC guidelines or legal requirements which may result in operation/construction interruption; (ii) medium-risk is non-conformance with IFC guidelines or legal requirements which may result in non-material rectification cost; and (iii) low-risk is non-conformance with IFC guidelines or legal requirements which may result in minor cost rectification.

documentation provided to prepare the ESMR did not include key risk areas such as labor (PS2), or groundwater extraction, ash disposal and potential marine impacts (PS3 and 6); (c) discussion of cumulative impacts (PS1) is absent though relevant given other industrial facilities in the area and plans to expand the TPC plant; (d) analysis of community engagement and disclosure is not aligned with PS1; and (e) the ESMR does not discuss whether plant operator has any binding commitment to operate in accordance with the Performance Standards.

The ESMR concluded that the performance of the plant was overall in compliance with the Performance Standards. At the same time, it identified six non-conformances with IFC requirements which were classified as medium risk and one low risk non-conformance. One of the non-conformances identified related to a lack of information about how the plant was managing E&S risks associated with the disposal of coal ash, which was being contracted out to a third party. Another non-conformance related to not measuring GHG emissions.

This power station was expected to produce 100,000 kilograms (kg) of ash daily. The E&S risks associated with coal ash disposal, including potential impacts on human health, are well known. Considering that impacts of coal ash disposal were raised specifically in the complaint to CAO, a lack of information on the management of coal ash disposal presented a significant risk.

A subsequent client visit to the power plant in July 2019 identified continuing E&S risks consistent with those noted in the ESMR. Documentation confirming that the non-conformances identified in the ESMR were resolved in accordance with the Performance Standards is absent from IFC's supervision record. In this context, IFC lacks assurance that the client has applied IFC's E&S standards to this coal-fired power plant, which has been operating for over six years.

Each ESMR reviewed by CAO was characterized by significant gaps compared to what would be expected to provide basic assurance of compliance with IFC's E&S requirements. None of the ESMRs included analysis of: (a) whether the power plant ESIA were designed to meet IFC E&S standards, or (b) whether the client included reference to the Performance Standards in its sub-project lending agreements. In addition, the following gaps are present across a majority of the ESMRs: (a) lack of direct engagement with the specific issues the complainants raised regarding each power plant; (b) insufficient coverage of PS1 and in some instances misunderstanding of the standard;⁷⁸ (c) inaccurate scope of E&S risk assessment and/or non-consideration of associated facilities; (d) disproportionate focus on the power plants' Corporate Social Responsibility initiatives rather than consultation and disclosure in relation to risks and impacts on local communities as required by PS1; (e) insufficient review of air emissions, effluents and ambient air quality; and (f) insufficient review of land tenure, land acquisition processes and livelihood resettlement planning and implementation, including in relation to indigenous land.

Taken together and considering the E&S issues raised by the complainants, **CAO finds that IFC's response to the issues raised in complaint has not provided assurance that the client has applied IFC E&S requirements to the coal-fired power plants it financed as required by the ESRP (2014, para. 9.2.5).**

Overall, shortcomings in IFC's review and supervision of the investment have contributed to a situation whereby RCBC has supported the development and expansion of numerous coal-fired power plants without assurance what they will operate in accordance with Performance Standard

⁷⁸ For example, on some occasions the ESMRs either do not cover PS1 requirements such as project grievance mechanisms or consider issues under PS1 requirements rather than a more appropriate PS 2-8.

requirements. These are Category A projects and as such associated with potentially significant adverse environmental or social risks and/or impacts if not managed in accordance with the PS.

2.3. IFC's Investments and Climate Change Commitments.

The TOR for this investigation requires CAO to consider whether IFC's approach to its investments was consistent with climate change and greenhouse gas (GHG) mitigation requirements under relevant policies, including IFC's Sustainability Policy, Performance Standards and EHS Guidelines.

2.3.1. IFC's Requirements and Commitments towards Climate Change

IFC Requirements: Climate Change

In 2012, IFC affirmed "that climate change is a serious global challenge and that climate-related impacts may impede economic and social well-being and development efforts. Working with the private sector and other parties to address climate change is therefore a strategic priority for IFC."⁷⁹

Prior to this, IFC's 2006 Sustainability Framework made limited reference to climate change. Key references in the 2006 Framework are found in PS3 on Pollution Prevention and Abatement which includes the objective of promoting reduction of emissions that contribute to climate change. In order to meet this objective, PS3 required sub-projects producing significant quantities of GHGs (100,000 tons CO₂ equivalent per year) to quantify their emissions and to evaluate technical and financially feasible options to reduce or offset GHG emissions (PS3 2006, para 11). These options include the use of renewable energy sources and alternations of project design.⁸⁰ IFC's EHS Guidelines (2008) for Thermal Power Plants include recommendations for consideration in the design of coal-fired power plants to reduce GHG emissions. In particular, the guidelines recommend that power plant developers "consider efficiency-relevant trade-offs between capital and operating costs involved in the use of different technologies. For example, supercritical plants may have a higher capital cost than subcritical plants for the same capacity, but lower operating costs." Further, where feasible, arrangement of emissions offsets (including the Kyoto Protocol's flexible mechanisms and the voluntary carbon market), including reforestation, afforestation, or capture and storage of CO₂ or other currently experimental options should be considered.⁸¹

In 2012, in order to meet its strategic priority to address climate change, IFC affirmed that it would "produce instruments and develop practices that allow its clients to consider climate-related risks and opportunities in their investment decisions."⁸² IFC strengthened PS3 (2012) to require projects producing 25,000 tons of CO₂ equivalent per year to measure their emissions, consider alternatives, and implement technically and financially feasible and cost-effective options to reduce GHG emissions (PS3 2012, para 7-8). In its pre-investment and supervision role, IFC's duty is to assure itself that its client is applying relevant PS3 and EHS Guidelines requirements to the higher risk sub-projects it finances (Sustainability Policy 2006, para 11 and 2012, para 7, 21-24).

⁷⁹ IFC Sustainability Policy, 2012, para 10.

⁸⁰ IFC Performance Standard 3 (2006), para 1, 10-11.

⁸¹ IFC EHS Thermal Power Plants (2008), page 7.

⁸² IFC Sustainability Policy, 2012, para 11.

World Bank Group Approach to Climate Change

The World Bank Group's requirements for financing coal-fired power plants have evolved. In 2008, the World Bank Group set targets for financing renewable energy projects and outlined additional criteria that it would consider before financing coal-fired power plants through traditional financing instruments.⁸³ In 2010, the World Bank Group provided guidance criteria (2010 Coal Guidance Criteria) to staff noting that it could support coal-based power generation where:

- i) there was a demonstrated development impact;
- ii) assistance is provided to identify and prepare low carbon projects;
- iii) energy sources in the country are optimized (e.g. energy efficiency);
- iv) there is full consideration of viable alternatives to least cost options;
- v) coal-fired power plants are designed to use best appropriate technologies to lower GHG intensity; and,
- vi) environmental externalities are incorporated in analysis.⁸⁴

As this operational guidance is at the World Bank Group level, it is applicable to IFC. However, the application of this guidance to FI investments is unclear.

In July 2013, the World Bank Group released its Energy Sector Directions Paper. Through this paper, the World Bank Group announced that it would only provide “financial support for greenfield coal power generation project ... in rare circumstances.”⁸⁵ Considerations such as meeting basic energy needs in countries with no feasible alternatives to coal and a lack of financing for coal power would define such rare cases. The Paper affirmed that the 2010 Coal Guidance Criteria would apply to all greenfield coal-fired power projects undertaken in such exceptional circumstances. With regard to existing coal-fired power plants, the World Bank Group affirmed that it would support interventions that reduce GHG emissions (such as energy efficiency measures). The paper was approved by the Board and applies to IFC. The paper does not make specific reference to including or excluding IFC's exposure to coal-fired power plants through financial intermediary investments.

In August 2013, IFC management considered how to apply the 2013 Energy Sector Directions Paper to its operations. For IFC direct investments and financial intermediary investments, IFC considered additional criteria for financing coal-related projects.⁸⁶ In discussions with management, IFC staff stated that IFC did not have specific restrictions for FIs on what type of coal related sub-projects IFC's resources could support or not support.

IFC's Approach to Greening Equity Investments in Financial Institutions

In October 2018, the IFC CEO announced a new approach to FI clients exposed to coal. IFC noted that “[i]n the past, we have made equity investments in banks that may have exposures to such coal projects, and we have given general purpose loans to banks and those funds may have inadvertently been invested in coal projects.” IFC stated that since 2016 it had vastly reduced its direct and indirect exposure to coal related sub-projects in new FI investments. Specifically, IFC

⁸³ World Bank Group, 2008, *Development and Climate Change*, available at <https://bit.ly/2H9qpLv>.

⁸⁴ World Bank Group, 2010, *Operational Guidance for Staff: Criteria for Screening Coal Projects under the Strategic Framework for Development and Climate Change*, available at <https://bit.ly/3pJw7oX>.

⁸⁵ World Bank Group, 2013, *Toward a Sustainable Energy Future for All: Directions for the World Bank Group's Energy Sector*, available at <https://bit.ly/38UvdQe>.

⁸⁶ Coal related projects include electricity generation and distribution, energy efficiency, coal infrastructure, coal used as a thermal energy source or as a reducing agent, and coal used as a chemical feedstock.

affirmed that it ringfences 95 percent of its FI lending to target activities such as SMEs and energy efficiency loans. IFC affirmed that it would support financial intermediaries that formally commit upfront to reduce or, in some cases, exit all coal investments over a defined period. IFC noted that it would “require new equity financial intermediary clients exposed to coal projects to publicly disclose their total exposure in this sector.”⁸⁷ After a period of public consultation, in September 2020, IFC released its approach to reducing its exposure to coal-related projects to zero or near zero by 2030. IFC affirmed that its “formalized approach ... is consistent with the Paris Agreement and in line with the World Bank Group’s Energy Sector Directions Paper.” IFC committed to not provide an equity investment to an FI that did not commit to reduce its exposure to coal related sub-projects to near zero or zero by 2030. Further, IFC set a target of assisting the banking sector increase climate-related lending to 30 percent of their portfolio by 2030.⁸⁸

2.3.2. Discussion and Findings

Neither IFC’s policies nor World Bank Group directives and procedures which are applicable to IFC expressly exclude financing of coal-fired power plants through financial intermediaries. However, as noted above, PS3 and IFC’s EHS Guidelines as applicable to RCBC financed coal fired power plants include requirements to measure and reduce GHG emissions.

When IFC proposed its first equity investment in RCBC in 2010, IFC’s E&S review did not consider as a risk the significant exposure to sub-project GHG emissions that its equity investment would entail. While the client was in the business of financing coal fired power generation prior to IFC’s investment, IFC did not assess its client’s commitment or capacity to apply PS3 requirements to any new financing of coal fired power projects. This was only covered by the general commitment that the client made to implement the Performance Standards through its ESMS.

In January 2013, IFC approved a second equity investment. As was the case in December 2010, IFC’s pre-investment review and investment approval documentation did not consider the significant GHG emissions IFC was exposed to through its lending to coal-fired power plants. IFC’s pre-investment review documentation was similarly silent in relation to the client’s application of PS3 to these projects.

In July 2013, the World Bank Group Board approved criteria including the 2010 Coal Guidance Criteria which further restricted World Bank Group financing of coal-fired power plants. In relation to IFC’s financing of FI clients generally, at the time, IFC management considered that these criteria did not imply specific restrictions for the financing of coal-fired power plants by IFC FI clients. At the time, FI financing represented IFC’s largest business line, comprising 38 percent of new long-term commitments.⁸⁹

In October 2015, IFC provided a general-purpose bond to the RCBC. IFC’s pre-investment review and approval documentation is silent on climate change issues even though the client had exposure to activities involving significant GHG emissions. At the time, 23 percent of the client’s loan portfolio was in electricity power, with 7 percent directed to coal related activities. The client also actively highlighted its financing of coal-fired power plants. As an example, in 2015, RCBC

⁸⁷ IFC CEO, October 2018, Opinion: A new IFC vision for greening banks in emerging markets. Available at <http://bit.ly/2GiAmCy>.

⁸⁸ IFC, September 2020, *IFC’s Approach to Greening Equity Investments in Financial Institutions*, available at <https://bit.ly/2H9yorO>.

⁸⁹ IFC Annual Report 2013.

asserted that it arranged project financing programs to support “coal-fired power plants with an aggregate capacity of 1,300MW”.⁹⁰

CAO finds that while making multiple investments in RCBC, IFC did not assess either i) the client’s exposure to sub-projects with significant GHG emissions; or ii) the client’s commitment and capacity to manage this exposure in accordance with PS3 which includes requirements to measure GHG emissions and evaluate technical and financially feasible options to reduce or offset GHG emissions (contrary to Sustainability Policy 2006 para. 11, and 2012, para 7). Furthermore, while the World Bank Group implemented additional criteria, which raised the bar for it to finance coal-related projects, there is no evidence these criteria were applied to IFC’s investments in RCBC.

Underlying this finding is the absence of guidance to IFC staff on assessing and supervising FI clients’ exposure to significant GHG emissions in their sub-projects.

Since 2016, IFC has taken steps to supervise and limit its exposure to coal related sub-projects in its FI portfolio. In 2016, IFC requested the client to report its exposure to coal related projects as a percentage of its total loan portfolio. RCBC reported to IFC that its outstanding exposure to coal related projects as a percent of its portfolio increased from 7 percent in 2016 to 12.5 percent in 2018. This exposure had reduced to 6.5 percent as of 2019.

In 2018, IFC announced a commitment to reduce its exposure to coal related projects in its financial intermediary portfolio to near zero by 2030. IFC followed up on this commitment in 2020 by releasing a framework for meeting this target (IFC’s Approach to Greening Equity Investments in Financial Institutions). In relation to existing clients and in particular RCBC, IFC has not articulated how it will meet this objective. In December 2020, RCBC announced that it would no longer extend financing to new coal-fired power plants. The announcement was made following a government moratorium on granting permission for the development of new coal-fired power plants.⁹¹

In relation to the complaint sub-projects, since IFC’s 2011 equity investment, the client provided finance or agreed to finance the 11 complaint sub-projects.⁹² IFC Performance Standard 3 and EHS Guideline requirements to measure GHG emissions, evaluate technical and financially feasible options to reduce or offset GHG emissions, and arrangements for emissions offsets are applicable to the complaint sub-projects. IFC has not assured itself that the client is applying these requirements to the complaint sub-projects and available evidence indicates that these plants were not developed with reference to IFC requirements for limiting and reporting on GHG emissions. In this context, CAO notes that: (a) 7 of the 11 coal-fired power plants use subcritical technology which is less costly but generates significantly higher levels of GHG emissions compared to super critical technology which was available at the time; and (b) none of the sub-project Environmental Impact Statements (EIS) examined by CAO adequately assessed the choice of power plant technology to evaluate technical and financially feasible options to reduce or offset GHG emissions. The 11 complaint sub-projects, once operational, would emit an

⁹⁰ RCBC 2015 Annual Report, page 26 and 184.

⁹¹ Institute for Energy Economics and Financial Analysis, December 11, 2020, *Philippine bank RCBC to stop lending for new coal-fired power projects*. Available at <https://bit.ly/3u9FVKe>.

⁹² It is unclear whether this commitment remains active.

estimated 40 million metric tonnes of CO₂ annually.⁹³ This is equivalent to 30 percent of the Philippines total CO₂ emissions for 2019.⁹⁴

In this context, CAO concludes that shortcomings in IFC's review and supervision of its investments in RCBC have contributed to an outcome whereby RCBC has co-financed the construction of multiple coal-fired power plants which emit significant amount of CO₂, without sufficient evidence that they will operate in accordance with IFC's requirements to reduce greenhouse gas emissions. This represents a missed opportunity for IFC to ensure that power plants financed by its client implemented international industry practice measures to substantially reduce GHG emissions throughout the lifetime of their operations.

⁹³ This estimate is based on expected GHG emissions in the Environmental Impact Statements for 9 power plants, information in client prepared ESMRs, public estimates from Global Coal Plant Tracker and CAO expert panelist assessment based on power plant capacity, capacity factor, heat rate, and emission factor.

⁹⁴ IEA estimates the Philippines total CO₂ emissions for 2019 at 135.3 million metric tonnes, see <https://bit.ly/3kEZLYB>.

3. Conclusion and Recommendations

3.1. Conclusion

This compliance investigation has considered IFC's application of its E&S standards to its investments in RCBC over a period of 10 years. Responding to a complaint from project affected people, it has also considered concerns regarding the E&S impacts of 11 coal-fired power plants that RCBC financed (or in one case agreed to finance) during this period.

Between 2011 and 2015, IFC made four investments in RCBC to the value of US\$228m. IFC's investments in RCBC had the potential for significant positive E&S impacts. RCBC's commitment to develop an ESMS and apply the Performance Standards to its sub-projects was a first for a major commercial lender in the Philippines and had the potential to influence emerging E&S risk management practices in the Philippine banking sector more generally.

As a result of IFC investments and ongoing supervision, RCBC has developed an ESMS and recruited specialized staff to assess and supervise E&S risk in its investments. Building on its ESMS, RCBC has developed a Sustainable Finance Framework to support the issuing of green bonds with the objective of funding business activities with clear environmental and/or social benefits.

However, the establishment of an ESMS on its own does not provide assurance that IFC's E&S standards are being applied to a bank's lending activities. The key requirement for an IFC investment in a bank like RCBC is that the bank requires borrowers whose businesses involve higher levels of E&S risk to apply IFC's Performance Standards. This requirement is designed to ensure that IFC does not fund large-scale activities through FIs that are environmentally or socially harmful.

Starting in 2011, IFC required RCBC to develop and implement an ESMS consistent with IFC's standards. Through its 2011, 2013 and 2014 investments, however, IFC did not engage substantively with the client's need for technical assistance to develop or implement an ESMS at the required level. More fundamentally, IFC's engagement with the client avoided the question of whether RCBC's senior management was committed to adopting IFC's E&S standards given its business model and client base. Considering that the client was starting from the beginning in terms of developing an E&S management system and that it was financing major projects in a country where E&S standards are not fully aligned with IFC's, it was not realistic for IFC to expect the client to meet its E&S standards without significant technical assistance and high-level commitment by the client's management. While IFC's 2015 investment included a condition that the client hire an E&S consultant to support ESMS implementation, IFC's supervision documented persistent delays in hiring this support. IFC enhanced support to the client in 2017 and 2018 has documented improvements in the client's ESMS implementation. However, as documented in this investigation report, IFC still lacks assurance that RCBC is applying the Performance Standards to major projects that it is financing.

Since IFC's 2011 investment, RCBC has provided financing to 10 of the 11 complaint sub-projects. After CAO received the complaint in October 2017, IFC requested the client conduct enhanced E&S supervision (ESMR) of 10 complaint sub-projects. The ESMRs provide: (i) an overview of the project design; (ii) a summary of project E&S performance with reference to the Performance Standards; and (iii) where identified, a list of sub-project E&S non-conformances and recommendations for resolution. However, each ESMR reviewed by CAO was characterized by significant gaps compared to what would be expected to provide basic assurance of

compliance with IFC's E&S requirements. They did not (a) systematically assess whether each power plant was designed to meet IFC standards; (b) engage directly with the complaint issues; (c) assess whether the client included Performance Standard covenants in its sub-project lending agreements; or (d) benchmark each plant's performance against relevant IFC Performance Standards requirements.

Available evidence indicates that RCBC's investments in the coal-fired power plants were made without assurance that they will operate in accordance with the IFC Performance Standards, with likely adverse impacts on communities and the environment. Specifically, CAO concludes that the following adverse impacts and outcomes raised in the complaint in relation to the power plants are very likely or rather likely: (a) adverse health impacts due to air pollution or water contamination from coal ash at six power plants; (b) impacts on livelihoods due to coal ash contamination at five power plants and due to physical or economic displacement at two power plants; (c) displacement and resettlement related impacts at two power plants; (d) threats against and intimidation of community activists in relation to four power plants; and (e) inadequate stakeholder engagement and consultation, including lack of grievance mechanisms, at all the power plants. These likely impacts are of a significant nature.

The complaint also raises concerns regarding the impacts of the coal-fired power plants on climate change. Neither World Bank Group nor IFC policies expressly exclude financing of coal-fired power plants through financial intermediaries. However, IFC Performance Standard 3 (PS3) on Resource Efficiency and Pollution Prevention does include efficiency standards to reduce GHG emissions during the design and operation of a project, and these standards do apply to sub-projects supported by FIs. Specifically, PS3 requires a business to consider alternatives and implement technically and financially feasible and cost-effective options to mitigate project contributions to climate change. IFC's Environmental Health and Safety (EHS) Guidelines also include recommendations to avoid, minimize, and offset emissions of carbon dioxide from new and existing thermal power plants with a view to mitigating climate change impacts.

During the period of IFC's investments in RCBC, RCBC has financed both new coal-fired power plants and the expansion of existing plants. In 2018, coal-fired power plants represented 12.5 percent of RCBC's total loan portfolio, although RCBC has substantially reduced this percentage in recent years. There is no evidence that IFC has sought to assure itself that RCBC appropriately applied PS3 requirements to its financing of coal-fired power plants. As a result, IFC is exposed to the financing of significant carbon emissions through its RCBC investments without assurance that these are being measured and mitigated following the framework of the IFC Performance Standards.

3.2. Recommendations

CAO makes recommendations for IFC to consider in the development of their Management Action Plan (MAP) in response to this investigation. These recommendations are designed to address shortcomings in IFC's application of its E&S standards to RCBC, as well as the mitigation of E&S non-compliances and related adverse impacts regarding the coal-fired power plants. CAO has also included recommendations regarding steps needed to prevent future IFC non-compliances based on the learnings from this investigation.

Addressing the investigation findings will require resources and commitment. At the level of RCBC, the application of the Performance Standards in a large commercial bank requires budget and staffing appropriate to the E&S risk exposure of its sub-projects. There are also challenges for an FI to apply the Performance Standards in a market like the Philippines where the financial

sector is only recently adopting E&S risk management approaches, and often only to national law standards as opposed to international standards such as the IFC Performance Standards. In this context, both the client base of the bank and limitations in locally available expertise may hinder timely uptake of IFC's E&S requirements. These considerations need strong commitment by a bank's senior management to align investment decisions with evolving international sustainability standards, and with IFC's Performance Standards. They also speak to the need for structured support and supervision by IFC to ensure that its requirements are being implemented.

CAO Recommendations to IFC Regarding RCBC's ESMS Implementation

Considering RCBC's significant exposure to projects with substantial levels of E&S risk, and to ensure that the risks and impacts of such projects are managed in accordance with IFC's standards, CAO makes the following recommendations to IFC:

<p>CAO recommendations to IFC regarding RCBC's ESMS implementation</p>	<p>For RCBC's ESMS to operate as required, in particular for RCBC's higher risk lending activities, IFC should require RCBC to contractually commit to a revised E&S Action Plan (ESAP) including provisions to:</p> <ul style="list-style-type: none"> v. engage a sufficient number of qualified staff and expert consultants to support ESMS implementation across its portfolio and to apply the Performance Standards to the higher risk business activities it is financing; vi. develop template loan agreements, E&S Action Plans and E&S due diligence requirements for higher risk business activities which reflect the Performance Standards and commit borrowers to both national E&S law and Performance Standards compliance; vii. not provide any new financing for coal-fired power generation or agree to any renegotiation, refinancing, or waiver in relation to any existing financing of a coal-fired power plant without a commitment to, and evidence of, full compliance with the Performance Standards for that plant; viii. commission E&S audits of all Category A projects in its portfolio to assess compliance with national law and identify gaps against IFC E&S requirements, a sample of which should be reviewed by IFC E&S staff.
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CAO Recommendations to IFC Regarding Coal-Fired Power Plants in the Complaint (the Complaint Sub-Projects)

In relation to the coal-fired power plants in the complaint (complaint sub-projects), client prepared E&S assessments presented to IFC to date are inadequate to demonstrate compliance with the Performance Standards. Available evidence indicates that: (a) the coal-fired power plants were prepared without requiring that their construction and operation meet the Performance Standards; and (b) several of the adverse impacts raised in the complaint are likely to have occurred. Considering the likely impacts of the coal-fired power plants financed by RCBC on project-affected communities, and in order to assess and remediate such impacts in accordance with the Performance Standards, CAO makes the following recommendations to IFC:

<p>CAO recommendations</p>	<p>IFC should support RCBC to conduct an independent E&S gap analysis by appropriately experienced and qualified consultants for</p>
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<p>to IFC regarding complaint sub-projects</p>	<p>each power plant with a focus on issues raised in the complaint and in CAO's investigation to verify compliance with IFC's E&S requirements. These gap analyses should:</p> <ul style="list-style-type: none"> iv. include consultation with project-affected communities (including the complainants); v. review the client's sub-project investment agreements to verify inclusion of Performance Standards covenants; and vi. be disclosed publicly together with any sub-project level remedial action plans. <p>The gap analyses should include a review of available information and, as necessary, request from the power plant operator, or commission, additional assessments to evaluate project performance in relation to the allegations of harm raised by the complainants. Given the issues raised in the complaint, it is important that these gap analyses assess project performance in relation to air emissions, coal ash storage, and ambient air and water quality, as well as potential resettlement impacts.</p> <p>If a power plant operator does not agree to participate in the gap analysis process with IFC and RCBC, IFC should at a minimum: (i) undertake an assessment of the gaps based on available E&S information related to the power plant's development and operations (including information retained by RCBC) against Performance Standards requirements, with a focus on the issues raised in the complaints; and (ii) commission third-party ambient air quality and water quality measurements at suitably selected locations outside the plant.</p> <p>Where gaps are identified, IFC should work with RCBC and its sub-clients to ensure that instances of harm raised by project-affected communities are assessed and remediated consistent with Performance Standards requirements. In doing this, IFC should consider ways to maximize its positive influence on the corporate owners and financiers of each power plant, as well as contributing to remedial solutions as appropriate.</p>
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CAO Recommendations to IFC Regarding Greenhouse Gas Emissions from the Complaint Sub-Projects

Available evidence indicates that RCBC financed the power plants without verifying compliance with IFC's efficiency requirements to reduce GHG emissions. The power plants reviewed as part of this investigation, once operational, would emit an estimated 40 million metric tonnes of CO₂ annually, and the average life span of these power plants is 30-40 years. Opportunities to reduce emissions from the existing coal fired power plants need to be identified by IFC and RCBC. In this context, CAO makes the following recommendations to IFC:

<p>CAO recommendations to</p>	<p>IFC should finance an onsite energy efficiency evaluation of each coal-fired power plant financed by RCBC to recommend costed</p>
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<p>IFC regarding complaint sub-projects GHG emissions</p>	<p>efficiency and other improvements to reduce CO₂ emissions consistent with IFC’s PS3 and EHS Guidelines. These assessments should be disclosed publicly together with any power plant improvement proposal. In some instances, these evaluations may lead to lifetime financial cost reductions for power plant operations which mean that capital costs could be borne by the operator. In other instances, IFC may consider alternative financing models to support efficiency improvements, GHG offsets or other measures to reduce GHG emissions from the plants. IFC may also consider its potential role in assisting private sector energy producers in the Philippines to transition to low carbon energy production.</p>
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CAO Recommendations Relevant to IFC’s Broader Financial Intermediary Investments

CAO makes the following recommendations to ensure that the learning from this compliance investigation are applied to IFC’s broader financial intermediary investments to avoid future non-compliance in similar cases:

<p>CAO Recommendations to IFC to address underlying factors that led to non-compliance findings</p>	<p>To address underlying factors that led to non-compliance findings in this case, IFC should:</p> <ul style="list-style-type: none"> v. prior to the initial financing of those FI clients required to implement the Performance Standards, conduct an E&S and financial assessment of the costs, benefits, and operational implications of implementing IFC’s E&S requirements. This includes staffing estimates for ESMS implementation based on the FI’s portfolio size and E&S risk for inclusion in the Environmental and Social Action Plan (ESAP); vi. ensure that systems are in place prior to disbursement to verify that an FI client is implementing an ESMS to apply the Performance Standards, as required for FIs that are financing higher risk business activities; vii. systematically provide direction and assistance to FI clients to support ESMS implementation at the sub-project level, including prior review of higher risk sub-projects for clients without a strong track record of ESMS implementation following IFC standards; and viii. require public disclosure on IFC’s website for all FI sub-projects that are required to apply the IFC Performance Standards following the model applied by IFC in relation to Private Equity investments.
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Measuring and Reporting on FI-Related GHG Emissions

While not required by IFC’s current standards, taking into account IFC’s exposure to project GHG emissions through its FI portfolio, and the emerging standards prompted by the Taskforce on Financial-Related Climate Disclosures of the Financial Stability Board, IFC should consider requiring FI clients to measure and report to IFC on GHG emissions from their portfolios in accordance with industry best practice. IFC would need to prepare guidance and tools to support

this. Good practice would include the FI and sub-project publicly disclosing Scope 1, 2 and 3 GHG emissions following the Greenhouse Gas Protocol.⁹⁵

3.3. CAO Compliance Monitoring

Annex G includes a table with all CAO's Recommendations to IFC to address CAO's investigation findings.

Following the CAO Policy transitional arrangements, IFC will prepare, for Board approval, a Management Action Plan in response to this compliance investigation. CAO will monitor the effective implementation of the Management Action Plan.

⁹⁵ Task Force on Climate-related Financial Disclosure, 2017, Recommendations and Implementation Guidance available at <https://bit.ly/3D0FvdR>. Greenhouse Gas Protocol, *Technical Guidance for Calculating Scope 3 Emissions* available at <https://bit.ly/3mSchby>.

Annex A: IFC Pre-Investment Review Requirements and IFC Supervision Requirements

IFC Pre-Investment Review Requirements

IFC 2006 Sustainability Policy	IFC 2012 Sustainability Policy
<p>Purpose</p>	<p>Purpose</p>
<p>Ensure that IFC does not finance new business activity that cannot be expected to meet the PS over a reasonable period (para. 17).</p>	<p>IFC will only finance investment activities that are expected to meet the requirements of the PS within a reasonable period (para. 22).</p>
<p>Requirements</p> <p>IFC reviews the business activity of its FI clients to identify activities where the FI could be exposed to E&S risks as a result of its investments (para. 28).</p> <p>IFC's FI requirements are proportional to the level of potential risk:</p> <ul style="list-style-type: none"> * FIs with business activities that have minimal or no adverse E&S risks are considered Category C and need not apply any specific requirements; * All other FIs apply IFC's Exclusion List; * In addition to the Exclusion List, FIs providing long-term corporate finance or project finance must require the recipient of such finance to: (i) follow national laws where the activity financed presents limited E&S risks; and (ii) apply the Performance Standards where the activity financed presents significant E&S risks (para. 28). <p>The FI will be required to establish and maintain an ESMS to ensure that its investments meet IFC's requirements (para. 29).</p>	<p>Requirements</p> <p><i>As related to FIs, the updated version further delineates IFC's responsibility and requirements for FIs. Specifically,</i></p> <p>In its pre-investment review, IFC reviews the FIs (a) the implementation capacity and (b) ESMS (para. 34).</p> <p>FIs should operate an ESMS that incorporate relevant principles of PS1 and maintain in-house capacity to manage day-to-day portfolio risks, including E&S risks (para. 33).</p> <p>FIs are required to carry out individual E&S transaction appraisal and monitoring as well as overall portfolio management (para. 33).</p> <p>Upon review of the FI's business activities, IFC categorizes the E&S risk as FI1: High Risk; FI2: Medium Risk; FI3: Low Risk (para. 40).</p>

IFC Environmental and Social Review Procedure (ESRP)

Purpose

Specify the pre-investment E&S review procedures for IFC staff to implement IFC policy requirements. These procedures are updated by IFC management as needed.

Requirements (ESRP, August 2009)

IFC Risk Categorization and E&S requirements

For FI's engaged in equity, loans, leasing, guarantee products or other financing to corporate entities, IFC categorizes the E&S risk as FI, and requires the FI to develop an ESMS to ensure application of IFC's Applicable Performance Requirements (as relevant: IFC's Exclusion List, applicable national E&S regulations and IFC's Performance Standards) (para. 7.2.9)

For FIs where there are potential significant E&S risks associated with their financing activities (e.g., large infrastructure or extractive sector projects), IFC will apply the requirement that IFC will reserve the right to review the FI's first few financing activities to ensure the FI's ESMS is robust (para. 7.2.10).

PS Application

IFC reviews the FI's portfolio and sector information to determine the significance of business activities that have potential E&S impact. Where this review indicates the FI's investments could have potentially significant E&S impact, IFC requires the FI to ensure that its sub-projects meet the relevant elements of IFC's Performance Standards in addition to applicable national E&S laws and regulations (para. 7.2.15).

FI ESMS Assessment

IFC reviews the FI's ESMS, considering its adequacy to implement IFC's Applicable Performance Requirements (para. 7.2.18).

- * E&S policies and procedures;
- * The current organizational structure and staffing;
- * Skills and competencies in E&S areas;
- * Training and awareness of the client's investment, legal, and credit officers on the organization's E&S requirements and the SEMS;
- * Performance monitoring procedure;
- * Reporting of results to management; and
- * Track record to date in SEMS implementation.

Requirements (ESRP, July 2014)

IFC Risk Categorization and E&S requirements

IFC ESRP 2014 further delineate E&S risk categorization as: FI1: High Risk; FI2: Medium Risk; FI3: Low Risk (para. 7.3.1).

PS Application

IFC ESRP 2014 further delineate that an FI should assess E&S risks against the PSs and require its borrowers to comply with (a) the PS for project finance and corporate loans with a tenor of at least 36 months and funding-defined assets as part of a project with a total capital cost of US\$10m (b) PS1 and PS2 for other corporate loans with an exposure of US\$5m on an aggregated basis over a period of 36 months. Where the FI's leverage is limited (syndicated loans where the FI's participation is below 25% of total loan value), the FI is required to screen such transactions against the PS requirements and make a go- or no-go decision (para. 7.3.2.2).

FI ESMS Assessment

IFC ESRP 2014 further delineate that IFC's review should also include

- * Senior management approval of E&S Policy
- * E&S procedures and tools to identify, avoid, and/or mitigate E&S risks
- * E&S provisions in legal documentation
- * Performance monitoring procedure and records
- * External communication and grievance mechanism
- * Adequacy and quality of ESMS implementation to-date, including ESDD documentation
- * Commitment of the client to undertake E&S risk management in line with IFC's E&S requirements (para. 7.3.4.3).

ESAP mitigation measures and timeline

Identify any ESMS enhancements the FI would need to undertake to ensure its compliance with IFC's applicable performance requirements.

* Where gaps are identified and the FI finances sub-projects with potentially significant E&S risks, ESMS gaps must be closed before IFC Commitment or as a condition of IFC disbursement.

* Where gaps are identified and the FI is relatively low E&S risk, IFC agrees with the FI a time-bound E&S Action Plan (ESAP) to resolve identified gaps (7.2.19).

ESAP mitigation measures and timeline

IFC ESRP 2014 further states that significant gaps in the E&S performance of existing clients must be closed through the process of commitment as conditions of commitment or as conditions of disbursement (para. 7.3.4.4).

IFC Supervision Requirements

IFC Supervision Purpose

IFC monitors an FI client's E&S performance to assure itself that there is sufficient evidence that: (a) the FI's ESMS is operating as envisaged at the time of appraisal; and (b) the FI has applied, as relevant, i) IFC's Performance Standards, ii) applicable national law and iii) IFC's Exclusion List to their investments (ESRP 2009/2014, para. 9.2.6/5).

2012 Sustainability Policy Requirements

Implement a regular program of supervision of FI investments with E&S risks and impacts (para. 45).

To determine the effectiveness of an FI's ESMS, IFC periodically reviews the process and results of the FI's E&S pre-investment review. IFC's supervision many include visits to the FI, as well as recipients of FI loans/investments, particularly E&S high-risk investments. IFC works with its FI clients to help them address any shortcomings in their ESMS (para. 45).

ESRP Requirements (ESRP, August 2009 and July 2014)

Review conditions of disbursements. Obtain and review information to evidence that CODs have been met (ESRP 2009, para. 9.2.2).

Review the FI's annual E&S reporting (AEPR), including:
* The client's performance against the Applicable Performance Requirements;
* The status of the client's implementation of the ESMS Action Plan and timeline if relevant;
* Performance against the performance indicators;
* Previous AEPR reviews and IFC assessments of client E&S performance;
* Key performance or information gaps relating to the client's performance and the ESMS;
* Key steps the client may need to take to improve performance; and
* Advising the Portfolio Officer on the pending issues to follow up with the client (ESRP 2009, para. 9.2.6).

If the client fails to comply with its environmental and social commitments, as expressed in the environmental and social conditions for investment, IFC will work with the client to bring it back into compliance to the extent feasible, and if the client fails to reestablish compliance, IFC will exercise remedies as appropriate (para. 45).

IFC Access to Information Policy (2012)

IFC discloses the main E&S risks and impacts associated with IFC's investment and the key measures to strengthen the ESMS, as specified in the ESAP (para 31, b).

Post IFC Disclosure, IFC updates its disclosure with the status of implementation of the ESAP (para. 41).

IFC ESRP 2014 further delineated that IFC's AEPR Review also include

- * The quality of the implementation of the client's ESMS, particularly the quality of ESDD at appraisal and during portfolio monitoring, and the compliance of sub-projects with the applicable requirements;
- * The client's E&S staff capacity and training needs;
- * The portfolio supported and any changes thereof;
- * Status of remedial actions identified in previous AEPR reviews and supervision visits (ESRP 2014, para. 9.2.5).

To further review the FI's performance and verify its compliance with Applicable Performance Requirements, IFC visits the FI's offices and/or sub-projects. (ESRP 2009, para. 9.2.7)

IFC ESRP 2014 provides detailed guidance for IFC Site Supervision Visit, including:

- * Review at least 10 FI prepared E&S due diligence reports for their sub-projects
- * Conduct a visit to high-risk sub-projects if required
- * Where gaps in FI's performance are identified, IFC staff should try to secure the FI's agreement to resolve these gaps during IFC's visit (ESRP 2014, para. 9.2.7-9).

Annex B: IFC E&S Action Plans agreed with RCBC⁹⁶

<i>ESAP Action Item</i>	<i>Timeframe for implementation of Action Item</i>		
	<i>2011 IFC Equity investment</i>	<i>2013 AMC Equity Investment</i>	<i>2015 IFC Bond Investment</i>
Nominate ESMS officer	Before IFC's Commitment		
Establish ESMS Policy Document	Before IFC's Commitment		
Formalize ESMS Implementation Plan	Before IFC's Commitment	Before IFC's Disbursement	
Develop ESMS procedures and implementation guidelines	120 days after IFC Commitment		180 days after IFC Commitment
Staff Training	120 days after IFC Commitment	Ongoing	180 days after IFC Commitment
E&S criteria incorporated into RCBC management information system	120 days after IFC Commitment		
Implementation of ESMS to new RCBC loans and investments	150 days after IFC Commitment	180 days after IFC Disbursement	180 days after IFC Commitment
Implementation of ESMS to existing RCBC loans and investments	210 days after IFC Commitment		1 year after IFC Commitment
Reputational Risk Screening	To be completed on quarterly basis		
Internal review of ESMS implementation	To be completed on annual basis	To be completed on annual basis	120 days after IFC Commitment
Revise Credit Policy to incorporate key aspects of ESMS		Before IFC's Disbursement	
Provide ESMS implementation reports to IFC		Semi-annually	Semi-annually
Retain independent E&S consultant(s) to provide on-call service to assist on Cat A reviews and training to RCBC staff			45 days after IFC Commitment
Provide IFC with 3 E&S review/audit reports for Cat A sub-projects			120 days after IFC Commitment
Conduct an E&S review of all existing Cat A and high Cat B sub-projects within 180 day and agree actions plans consistent to IFC PS, and acceptable to IFC.			180 days - 1 year after IFC commitment
Implement an External Communication and Grievance Mechanism			60 days after IFC Commitment
Hire additional ESMS coordinator			180 days after IFC Commitment

⁹⁶ Prepared on the basis of IFC Disclosure SPI (project number 30235) and SII (project number 32853 and 37489)

Annex C: Contextual Summary

This section presents a summary of contextual information relevant to CAO's investigation including information on: (a) common E&S impacts associated with coal plants, (b) contextual risks of intimidation of environmental and human rights defenders, (c) the energy sector in the Philippines, (d) the E&S framework in the Philippines and (e) financial sector E&S risk management in the Philippines.

Common environmental and social impacts of coal-fired power plants

The harmful impacts of coal on the environment, human health, and climate change are well documented.

When coal is burned it releases a number of airborne toxins and pollutants. They include mercury (Hg), lead (Pb), sulfur dioxide (SO₂), nitrogen dioxide (NO₂), particulate matter (PM₁₀, PM_{2.5}), and various other heavy metals.⁹⁷ Additionally, emissions of SO₂ and nitrogen oxide (NO_x) contribute to the formation of ozone, or smog, and fine particle pollution. These pollutants are known to contribute to adverse health outcomes, including the development of heart or lung diseases, such as asthma and bronchitis, increased susceptibility to respiratory and cardiac symptoms, and premature deaths.⁹⁸

Particulate matter equal or smaller than 10 and 2.5 microns (µm) in diameter (PM₁₀ and PM_{2.5}, respectively), which are made up of inorganic compounds such as silicates, aluminates, and heavy metals as well as organic material associated with carbon particles, are of particular public health concern: both can penetrate deep into the lungs and PM_{2.5} can even enter the bloodstream, primarily resulting in cardiovascular and respiratory impacts (such as lung cancer) and affecting other organs.⁹⁹ In 2021 the WHO updated its Global Air Quality Guidelines (from its 2005 version), lowering levels for most pollutants including PM_{2.5} and PM₁₀, based on evidence that adverse impacts to health occurred at lower levels than thought before.¹⁰⁰

Depending on a coal power plant's design and location, these pollutants can be present to varying degrees in the vicinity of a coal plant facility. Communities living in the vicinity of power plants are typically impacted as follows: (a) improper handling and storing of coal as well as coal ash may be associated with emissions of dust that may result in a detrimental ambient air quality; (b) improper storing of coal ash in ponds may result in leaching of chemicals including heavy metals (mercury, selenium, arsenic) into the soil, groundwater and surface water.

Besides impacts on human health, coal power plants may have other environmental impacts, such as: soil contamination from acid rain; destruction of marine life from mercury pollution and

⁹⁷ Union of Concerned Scientists, 'Coal and air pollution', July 28, 2008, Updated December 19, 2017, available at: <https://bit.ly/343K8Ez>; see also *Coal Power Impacts*, Nov 15, 2017, Updated Jul 9, 2019, available at: <https://bit.ly/3qLDI6l>

⁹⁸ United States Environmental Protection Agency, see <https://bit.ly/3mJ8AVF>

⁹⁹ WHO, 'New WHO Global Air Quality Guidelines aim to save millions of lives from air pollution', available at: <https://bit.ly/3BVPHmN>

¹⁰⁰ WHO Global Air Quality Guidelines (2021), available at: <https://bit.ly/2ZKLSTT>. See also Epstein, P.R. et al, (2011), "Full cost accounting for the life cycle of coal", in *Ecological Economics Reviews*, *Ann. N.Y. Acad. Sci.* 1219: 73–98, p.81-82; see also *Philippine Journal of Science* - 149 (S1): 117-127, Special Issue on Nuclear S&T ISSN 0031 – 7683: "Air Particulate Matter, Black Carbon, and Elemental Concentrations and Source Apportionment in Calaca, Batangas", University of the Philippines Manila, 2019, p.118; see also Union of Concerned Scientists, 'Coal and Air Pollution', available at: <https://bit.ly/343K8Ez>

acid rain; use of and depletion of freshwater sources; impacts on surrounding ecosystems from coal ash and other waste; water pollution from runoff and fly ash spills.¹⁰¹

Air pollution, coal ash spill or leaching from ash ponds can also threaten water sources, farmland and crops, leading to loss of value or production with economic and livelihood impacts for farmers and households.¹⁰² Finally, as for any major infrastructure development, the construction of coal-fired power plants may be associated with the physical and economic displacement of communities and indigenous peoples, with all the known risks and impacts associated with such processes.

Greenhouse gas emissions, climate change, and coal-fired power plant mitigation measures

Coal combustion is a major contributor to global greenhouse (GHG) emissions. Of all energy sources, coal releases the most carbon dioxide (CO₂) per unit of energy. Coal burning produces one and a half times the CO₂ emissions of oil combustion and twice that from burning natural gas (for an equal amount of energy produced). For instance, while coal accounted for 25% of global energy consumption in 2005, it generated 41% of the CO₂ emissions that year.¹⁰³

According to the IEA, carbon emissions from power generation in the Philippines produced 68m metric tonnes (MT) in 2000. By 2018, this nearly doubled to 133m MT, with the increase primarily due to coal-fired power plants. During this time, coal's contribution to carbon emissions from power generation in the Philippines increased from 20m MT to 70m MT.¹⁰⁴

As per the IFC EHS Guidelines for Thermal Power Plants, recommendations to avoid, minimize and offset emissions of CO₂ include (i) use of less carbon intensive fossil fuels; (ii) use of combined heat and power plants (CHP) where feasible; (iii) use of higher energy conversion efficiency technology of the same fuel type / power plant size than that of the country/region average; (iv) Consider efficiency-relevant trade-offs between capital and operating costs involved in the use of different technologies (e.g. supercritical plants may have a higher capital cost than subcritical plants for the same capacity, but lower operating costs) ; (v) Use of high performance monitoring and process control techniques, good design and maintenance of the combustion system so that initially designed efficiency performance can be maintained; (vi) Where feasible, arrangement of emissions offsets (including the Kyoto Protocol's flexible mechanisms and the voluntary carbon market), including reforestation, afforestation, or capture and storage of CO₂ or other currently experimental options; (vii) Where feasible, arrangement of emissions offsets (including the Kyoto Protocol's flexible mechanisms and the voluntary carbon market), including reforestation, afforestation, or capture and storage of CO₂ or other currently experimental options;

¹⁰¹ Epstein, P.R. et al, (2011), "Full cost accounting for the life cycle of coal", in *Ecological Economics Reviews*, *Ann. N.Y. Acad. Sci.* 1219: 73–98

¹⁰² Epstein, P.R. et al, (2011), "Full cost accounting for the life cycle of coal", in *Ecological Economics Reviews*, *Ann. N.Y. Acad. Sci.* 1219: 73–98; Business and Human Rights Resource Centre, selected articles on thermal plants, available at: <https://bit.ly/3qKpNhb>; and Greenpeace South-East Asia (2014), *The True Cost of Coal, in the Philippines*, Vol I.

¹⁰³ Epstein, P.R. et al, (2011), "Full cost accounting for the life cycle of coal", in *Ecological Economics Reviews*, *Ann. N.Y. Acad. Sci.* 1219: 73–98, p.74 and 76.

¹⁰⁴ International Energy Agency, Philippines, available at <https://bit.ly/2JYCqoe>.

and (viii) Consider fuel cycle emissions and off-site factors (e.g., fuel supply, proximity to load centers, potential for off-site use of waste heat, or use of nearby waste gases).¹⁰⁵

Contextual risks of intimidation of environmental and human rights defenders in the Philippines

The complaint raises concerns over threats against community activists fighting coal in the Philippines and argues that IFC should have taken such contextual risks into account in its supervision of its investments in RCBC.

Threats against community activists and environmental rights defenders, including killings and legal action, have been on the rise worldwide.¹⁰⁶ Since 2008, United Nations and other experts have documented the threats, attacks, and unlawful killings of human rights defenders, including environmental and indigenous rights defenders globally, including in the Philippines.¹⁰⁷

In 2017, UN experts stated that the Philippines was amongst the most dangerous countries for environmental human rights defenders.¹⁰⁸ In 2018, UN experts expressed concerns over the government's labeling of many environmental, indigenous and human rights defenders as terrorists.¹⁰⁹ In 2019, UN experts called for an independent investigation into the sustained attacks against and killings of human rights defenders in the Philippines.¹¹⁰ Between 2015 and 2019, the UN recorded 173 killings of human rights defenders in the Philippines.¹¹¹ Global Witness, an international NGO, recorded the killing of 30 land and environmental defenders in the Philippines in 2018 - making it the country with the highest number of such killings in the world that year, 43 killings in 2019 and 29 in 2020; these were associated with mining, agribusiness, logging, and coal plants operations.¹¹²

One such case documented by Global Witness and many other national and international organizations was the murder in June 2016 of Gloria Capitan, a resident and small shop owner in Bataan. Until her death, she led protests against the development and impacts of coal-fired power plants in Bataan and Mariveles, which include two power plants mentioned in this compliance investigation. National and International NGOs, including the CAO complainants, assert that her murder was due to her opposition to coal plants.¹¹³

This overall national context of threats and intimidation has bearing on the assessment of the adequacy of public consultations and stakeholder engagement in relation to coal-fired power plants and other major development projects in the Philippines. There are serious obstacles to

¹⁰⁵ IFC EHS Guidelines for Thermal Power Plants, 2008. Available at <http://bit.ly/3349yiy>.

¹⁰⁶ Human Rights Watch, Targeted: Counterterrorism Measures Take Aim at Environmental Activists. Available at <https://bit.ly/3dTBnbJ>.

¹⁰⁷ See e.g., UN Special Rapporteur on summary executions, report on country visit to the Philippines, April 16, 2008, A/HRC/8/3/Add.2, available at: <https://bit.ly/3tYvFor>; UN Special Rapporteur on Human Rights Defenders et al, December 28, 2012, available at: <https://bit.ly/32SvD5w>.

¹⁰⁸ UN Special Rapporteur on Human Rights Defenders, 'Environmental human rights defenders' report, A/71/281, available at: <https://bit.ly/3aIAXNe>

¹⁰⁹ UN Special Rapporteur on Human Rights Defenders, communication to the Philippines, June 8, 2018, AL PHL 5/2018, available at: <https://bit.ly/3eAxgdt>

¹¹⁰ UN human rights experts call for independent probe into Philippines violations', June 7, 2019, available at: <https://bit.ly/2PvU2Lc>

¹¹¹ UN Special Rapporteur on human rights defenders, *Final warning: death threats and killings of human rights defenders*, December 24, 2020, <https://undocs.org/A/HRC/46/35>

¹¹² Global Witness, *Annual reports on Land and Environmental Defenders*, available at: <https://bit.ly/3GMZD5B>.

¹¹³ Frontline Defenders, *Case History Gloria Capitan*, available at <https://bit.ly/3nF9obA>.

meaningful stakeholder engagement that need to be considered in any assessment of a company’s ESMS and specifically its stakeholder engagement process.

Philippines Energy Sector

Since the 1990s, there has been a substantial increase in the Philippines electricity generated from coal. While the total electricity generation in the Philippines has increased by 4 times since 1990, electricity produced by coal has increased 29 times during that same period. In 2009 Philippines’ electricity generation mix was diverse, with renewable energies accounting for 33% of total gross power generation; natural gas generation 32%, and coal 27%. However, by 2019 coal represented 55% of the total electricity produced.¹¹⁴

Philippines Electricity Generation		
Year	Coal, GWh	Total, GWh
1990	1934	26237
2000	16663	45290
2010	23301	67742
2019	57890	105501
Source: IEA		

As is the case for other South-East Asian countries, the Philippines’ economic growth, coupled with a rapidly growing population and increasing urbanization, have heightened demand for grid-based electricity.¹¹⁵ According to the government economic growth was impeded by an unreliable power supply. In addition, electricity rates in the Philippines have been for long among the highest in Asia.¹¹⁶ Coal has been presented by government and businesses as a low-cost option, and the most reliable and fast option to meet the country’s power demand surge. Investment in coal-fired power plants has been facilitated by and steadily increased following de-regularization and privatization reforms in the electricity sector, notably through the implementation of the 2001 Electric Power Industry Reform Act (EPIRA), while support for other sources of energy such as renewable energy¹¹⁷ was marred by setbacks.¹¹⁸

In the 1990s and early 2000s large energy projects in the Philippines were primarily financed by international banks and development finance institutions, including IFC. Following privatization reforms in 2001, from 2005 onwards, Philippine banks started to provide financing in a supporting role. From 2010, Philippine banks have taken leadership roles in arranging and financing large energy projects with long tenors.¹¹⁹

¹¹⁴ Economist Intelligence Unit, Philippines, Energy report, September 2010 and Philippine Development Plan 2011-2016, Chapter 5: Accelerating Infrastructure Development p.149, <https://bit.ly/3tWw22B>. IEA Electricity Information 2020.

¹¹⁵ Estimates put the population at just under 94 million in 2010, and over 108 million in 2019. <https://bit.ly/2LvBw3j>; see also Koplitz S.N. et al, “Burden of Disease from Rising Coal-Fired Power Plant Emissions in Southeast Asia”, Environ. Sci. Technol. 2017, 51, 1467–1476.

¹¹⁶ Philippine Development Plan 2011-2016, Chapter 5, p.153, <https://bit.ly/2W3dr5A>; Development Plan 2017-2022, Ch.19, <https://bit.ly/3gADXgp>

¹¹⁷ EIU Industry report: Energy, Philippines, August 2014, p.6; WWF in collaboration with WRI, 2013, *Meeting renewable energy targets: Lessons from the road to implementation*, <https://bit.ly/3sQqANy>

¹¹⁸ Estimates put the population at just under 94 million in 2010, and over 108 million in 2019. <https://bit.ly/2LvBw3j>; see also Koplitz S.N. et al, “Burden of Disease from Rising Coal-Fired Power Plant Emissions in Southeast Asia”, Environ. Sci. Technol. 2017, 51, 1467–1476.

¹¹⁹ First Metro Investment Corporation, July 31, 2014, *Philippine Project Finance*, available at <https://bit.ly/37ayp98>.

As of June 2020, there were 28 operational, grid-connected, coal-fired power plants in the country (59 boiler Units).¹²⁰ And while electricity connection had significantly increased by 2017¹²¹ electricity shortages and very high electricity prices have remained an issue.¹²²

Since 2020, the growth of coal-fired power appears to be slowing. The Philippines Energy Plan (PEP) for 2018-2040 states that the government will aim to implement “a technology-neutral policy [to allow] for the entry of other technologies in the country’s supply and power mix. Such policy intends to diversify the energy portfolio. (...) Renewables and natural gas contribute more to the country’s supply mix, consistent with achieving the goal of a low carbon future.”¹²³

A number of provincial governments, though still a minority, have announced the prohibition of the construction of new coal power plants.¹²⁴ Also in 2020, a major operator, AC¹²⁵ [OBJ] ¹²⁶[OBJ]. The moratorium does not affect proposals that have already been granted permits or are potential expansions on the sites of existing plants.

Philippine Environmental and Social Framework

CAO has noted earlier that the reviews and monitoring of coal-fired power plants related to this compliance investigation appear to have been done in relation to national standards rather than IFC or other global standards. CAO notes in this regard that publicly available studies have identified gaps between the Philippine Environmental and Social Framework and global standards.

For instance, World Bank assessments have identified gaps between World Bank standards and Philippine national regulations. A 2009 World Bank Country Environmental Analysis (CEA) of the Philippines noted that it has comprehensive environmental laws and policies, however it suffered from weak implementation because of inadequate capacity and financial constraints both at the national and local levels. The 2009 CEA noted that the Philippines environmental impact assessment system “has all the elements of a sound system, such as the presence of screening, scoping, independent review, public participation, disclosure, and monitoring. However, it has limited use as a planning tool because in most cases it is applied downstream of key feasibility decisions. Its implementation suffers from a highly regulatory and control-oriented approach that emphasizes compliance with rigid bureaucratic procedures, from overlap with many laws, from more attention being given to procedural compliance rather than technical contents, and from a complex and poor system of follow-up and monitoring.”¹²⁷

¹²⁰ DoE, List of existing power plants as of June 30, 2020, available at: <https://bit.ly/3m4BYBT>

¹²¹ In 2017, 96 percent of the urban population and 90 percent of the rural population had access to electricity. The World Bank Group, Systematic Country Diagnostic of The Philippines: Realizing the Filipino Dream of 2040, 2019, p.40.

¹²² Fitch Solution, *Philippines Power report, Q3 2020; Philippines Infrastructure report Q3 2020*.

¹²³ Department of Energy (2020), *2018-2040 Philippine Energy Plan (PEP)*, p.54, available at: <https://bit.ly/2W7iQZr>

¹²⁴ Fitch Solution, *Philippines Power report, Q3 2020*

¹²⁵ AC Energy, April 2020. Available at <https://bit.ly/37WDQHN>.

¹²⁶ Rappler, October 27, 2020, *No more new coal plant applications under latest PH energy policy*, available at <https://bit.ly/376iQiE>.

¹²⁷ World Bank, 2009, Philippines Country Environmental Analysis, available at <https://bit.ly/3pfjh0e>.

Other assessments have identified the following gaps:¹²⁸ The Philippine environmental and social assessment framework (e.g., Environmental Impact Statement) provides less consideration to social impacts; cumulative impacts assessments; and ecosystem services as compared to World Bank/IFC standards. The national framework provides less protection for compensation for loss income and economic displacement as PS5. While the legislation and process for safeguarding indigenous peoples' rights in the Philippines appear largely consistent with World Bank/IFC standards, there are many challenges to the protection of rights in practice, including in relation to implementing FPIC and delineating indigenous ancestral domain. As for stakeholder engagement, while the Philippines has an established process of public consultations, there are fewer provisions for consultation, information disclosure and grievance mechanisms throughout the project life cycle.

As detailed in the table below, the IFC EHS Guidelines for Thermal Power Plants also set more stringent standards for air emissions than national law.¹²⁹

Emission	IFC EHS for Thermal Power Plants (2008) ¹³⁰	Philippine Clean Air Action 1999 (Republic Act no. 8749) ¹³¹
Particulate Matter (PM)	30-50 mg/NCM	150-200 mg/NCM
Sulfur Dioxide (SO _x)	400-1500 mg/NCM	700-1500 mg/NCM
Nitrogen Oxides (NO _x)	200-510 mg/NCM	1000-1500 mg/NCM

Financial Sector E&S risk management in the Philippines

E&S risk management within commercial banks started to emerge in the early 2000s. Established in 2003, the Equator Principles are a voluntary framework for E&S risk management in the financial sector. Adhering banks to the Equator Principles agree to apply IFC's Performance Standards to their project finance and some corporate finance activities.

¹²⁸ La Rocca, R. (2016), *Philippines - Access to Sustainable Energy Project: environmental assessment: Environment and social safeguards framework (English)*. Washington, D.C.: World Bank Group, available at: <https://bit.ly/2l6C9P2>; *Revised Environmental and Social Safeguards Framework: National Power Corporation*, Access to Sustainable Energy Project, December 2019, Available at: <https://bit.ly/2JwVj12>; OECD Investment Policy Review for the Philippines (2016), p.294-295, available at: <https://bit.ly/32Sk113>; Centre for Energy, Ecology and Development (CEED), *Policy Brief: Volcanic Ash, Coal Ash, and Air Quality and Emission Standards in the Philippines*, February 2020; Greenpeace Philippines and South-East Asia reports, available at: <https://bit.ly/32Skv8F>; Oxfam America (2013), *Briefing paper: Free Prior and Informed Consent in the Philippines Regulations and Realities*, September, <https://bit.ly/32SAdke>; World Bank Group, *Philippines: Country Safeguards Framework Assessment (CSFA), Part A: Phase 1 Stocktaking*, April 2020, unpublished. On file, Interviews with stakeholders conducted through May to October 2020.

¹²⁹ The IFC EHS Guidelines permit less stringent national standards to be followed in consideration of specific project circumstances and where supported by a full and detailed justification of any proposed alternatives that demonstrates protection of human health and the environment. IFC EHS Guidelines Thermal Power Plant (2008), available at <http://bit.ly/3349yiy>.

¹³⁰ More stringent values relate to power plants in degraded airshed zones. IFC EHS Guidelines for Thermal Power Plants (2008) available at <http://bit.ly/3349yiy>.

¹³¹ More stringent PM value is applicable for power plants in industrial areas. More stringent values for NO_x and SO_x are for new power plants. Philippines Clean Air Act (1999), available at <https://bit.ly/3jZI5GN>.

In 2012, IFC conducted a survey of financial sector ESMS adoption in the Philippines, Thailand, and Indonesia. Most banks surveyed had limited understanding of and focus on E&S issues, including at the senior management level and in their credit review process. Most banks that participated in the survey did not consider it necessary for a bank to understand E&S risks, nor factor those into their credit/investment decisions. Banks also expressed concerns that adopting an ESMS would give an unfair advantage to their competitors with lower or no E&S risk management standards. It was also noted that there was an absence of qualified and affordable E&S consultants to advise banks on ESMS adoption.

In 2013, Bangko Sentral ng Pilipinas (BSP, central bank of the Philippines) joined the Sustainable Banking Network (SBN). SBN is a voluntary community of financial sector regulatory agencies and banking associations committed to advancing sustainable finance in line with international good practice.¹³²

In 2014, IFC commissioned a study of E&S risk management in the Philippines. The study concluded that although there is growing awareness among Philippines banks about the importance of E&S risk management, senior management and operational staff have limited experience in designing and implementing ESMS. It was also noted that there was a perception that E&S risk management could erode competitiveness and that the cost of ESMS could outweigh the benefits, particularly where there was an absence of standard requirements to guide banks in adoption and implementation, thus, non-compliance remained a less costly alternative.¹³³

In 2019, the SBN rated the Philippines two: “formulating” on a six-point scale of its sustainable finance framework. On 19 indicators, the assessment considered the Philippines progress with (a) strategic alignment to sustainable finance standards and targets; (b) climate and green finance; and (c) ESG integration.¹³⁴ In April 2020, BSP issued the country’s first Sustainable Financial Framework requiring banks to integrate E&S risk management in their corporate governance risk management frameworks, as well as in their strategic objectives and operations.¹³⁵

¹³² Sustainable Business Network, for further details see <http://bit.ly/3miHNMD>.

¹³³ IFC, April 2017, Competitiveness Through Sustainability: A roadmap for Philippine financial institutions. Results presented at a public workshop.

¹³⁴ SBN (2019) Philippines Country Progress Report, available at <https://bit.ly/3ahMCD9>.

¹³⁵ IFC, Sustainable Banking Network – Guidance from SBN Members, available at <http://bit.ly/38afAIG>.

Annex D: Complaint Sub-Project Analysis and CAO Observations

The CAO complaint alleges multiple impacts in relation to each coal-fired power plant (complaint sub-project). This section presents a table on each of them. Specifically, each table presents (a) overview of the power plant; (b) relevant Performance Standards in reference to complainant allegation; (c) summary of available information and IFC retained information; and (d) CAO's observations. See Figure 2 in Section 1.3. for a map of the sub-projects.

A summary of relevant Performance Standard requirements as referenced in each complaint sub-project table can be found at the end of this Annex.

Complaint Sub-Project Summary and Observations

1 - Masinloc Power Partners Ltd power plant expansion (unit 3&4)	
<i>Location</i>	Barangay Bani, Masinloc, Zambales
<i>Status</i>	Unit 3: planned commercialization by December 2020 ¹³⁶ Unit 4: pre-permit development
<i>Size and Technology</i>	670 MW (unit 3&4) Supercritical (expansion of 674MW Sub-Critical plant)
<i>Estimate Annual Carbon Emissions</i> ¹³⁷	4.2m MT (Unit 3 & 4)
<i>Distance from plant boundary to nearest community</i>	140-160m (from the eastern end of the plant to the east)
<i>RCBC exposure</i>	Project Finance Loans: 2013, 2015. ¹³⁸
<i>RCBC prepared ESMR</i>	February 2019
Relevant Performance Standard (2012)	Complainant Allegations ¹³⁹
PS 1: Stakeholder engagement	Lack of consultation and information about the power plant and its impacts
PS1: Identifications of Risks and Impacts PS3: Pollution Prevention PS5: Economic Displacement	Pollution by coal ash of crops and fruit trees, a livelihood source. Seaweed has been destroyed, also a livelihood source. Impacts on fisheries (less catch) resulting in loss of income and increased expenses for families. Since submitting the complaint, the complainants have reported continued air, water, and land pollution in the area, and impacts on the mango harvest.
Summary of available information	
<ul style="list-style-type: none"> In 2008 IFC (Project #26405) and ADB (Loan Number 2405/7273 – PHI (PS)) provided loans to support the privatization and rehabilitation of Masinloc unit 1&2 coal-fired power plant.¹⁴⁰ IFC 	

¹³⁶ Manila Standard (August 21, 2020) *SMC plans 2, 135MW power plants*, available at <https://bit.ly/3n4pFHm>.

¹³⁷ Estimation based on available E&S documentation (e.g., EIS, Engineer's Report, PDR and ESMR) and/or annual GHG emissions estimated as: capacity * capacity factor * heat rate * emission factor.

¹³⁸ RCBC 2013 Annual Report, available at <https://bit.ly/33UEnZM>. Masinloc expansion starts, *Philippine Daily Inquirer*, 5 March 2016, available at <https://bit.ly/2Itvb7f>.

¹³⁹ In this Annex, CAO has reflected complaints raised as close as possible to the original wording in the Complaint.

¹⁴⁰ IFC project disclosure 26405, *E&S Mitigation measures*, <https://bit.ly/33UgwJO>.

committed up to \$275m in debt and equity financing. IFC classified the E&S risk as Category B. IFC's supervision determined the power plant's E&S performance as Excellent. IFC completed its direct investment in Masinloc in 2016.

- In 2012, Masinloc submitted plans to the national regulator to develop unit 3&4. In 2016, Masinloc submitted a Project Description Report (PDR) to the national regulator seeking approval to increase unit 3&4 capacity.
- In February 2019, RCBC prepared an ESMR of the power plant based on a desk review of the 2018 Lender's Engineers Technical Advisor Report and a meeting with the parent company of the power plant at their office in Manila. RCBC categorized the E&S risk as Category A.
- The ESMR made three findings of non-conformance with IFC E&S requirements, assessed as medium risk (waste permits, employment permit and visas, noise levels) according to RCBC's categorization.
- A subsequent client follow-up desk review later in 2019 noted that the power plant had addressed the employment permit and noise issues. IFC's supervision documentation does not comment on the 2019 ESMR or the client's subsequent supervision.

Stakeholder engagement

- A 2015 survey of four communities in the vicinity of power plants including in Masinloc stated that out of the respondents only 45 percent of households were consulted by government agencies regarding the installation of coal plants in their localities.¹⁴¹
- The PDR records that information and education and communication (IEC) activities were conducted in three neighboring barangays to inform residents about the power plant and mitigating measures taken. The PDR does not evidence a stakeholder engagement methodology which demonstrates meaningful consultations and identifies risks and impacts to communities.
- The ESMR notes that MPPCL has a community grievance system; however, no information on the use and effectiveness of the system is provided. The ESMR's assessment of stakeholder engagement and grievance mechanism is not informed by interviews with community members.

Pollution

- IFC supervision documentation of the original plant (units 1&2) as part of its direct, earlier, investment noted that as of 2012 emissions and effluents data complied with IFC and local requirements.
- The PDR also notes that the Project will use Flue-gas desulfurization (FGD) technology to control SO₂ emissions in line with IFC EHS Guidelines.
- The ESMR records that unit 3&4 expected emissions will be in compliance with national regulations and IFC standards.
- SMC publishes a summary of environmental controls and annual air emissions measurements (NO_x, SO_x, and PM 10) for the existing plant in Masinloc in its annual report. SMC states that the plant operates within and below applicable local limits and emission limits set by the World Bank. Reported emissions for 2018 and 2019 are for the most part within IFC standards.¹⁴²
- A 2013 expert study mentioned that Masinloc power plant (Units 1&2 at the time) did not have an ash pond with polyethylene liner.¹⁴³

¹⁴¹ The Philippine Star, July 28, 2015, "Coal operations' impact on people's lives", available at <https://bit.ly/37bSRgg>.

¹⁴² SMC Global Power Holdings Corp, *2018 and 2019 Annual Reports, SEC filings 17-A*. For further details see <https://bit.ly/31TafwY>.

¹⁴³ Kessels, J. and Baruya, P. (2013), *Prospects for coal and clean coal technologies in the Philippines*, p.39, at: <https://bit.ly/3k5QqLY>

- The ESMR noted that fly ash and the bottom ash generated during plant operations will be stored at an existing on-site ash disposal pond area, shared with the original facilities. The ESMR includes no assessment of the adequacy of the ash storage facility including risk of leachate.
- The coal stockyard (shared among all units) is in the open and located 110-200m from the nearest community. The PDR notes that water sprayers are installed at the stockyard to mitigate potential coal dust dispersion.

Cumulative impacts

- The PDR presents cumulative impacts modeling for units 3&4 compared to units 1&2.
- The ESMR does not discuss potential cumulative impacts.

Livelihoods

- There have been public reports of complaints related to Masinloc units 1&2 regarding pollution and impacts on community health, crops, and fisheries.
- In 2011, opposition by CSOs and local authorities was reported. Masinloc mayor stated that local farmers complain that their crops have been affected. It was alleged that the fruits of trees, especially mango trees for which Masinloc is known, have been stunted. Fisherfolks reported less catch. This represented a significant impact because most residents derive their income from farming or fishing.¹⁴⁴ A 2015 NGO report noted that the power plant impacted on communities who use the Lawis River (where the plant gets water for cooling). The warm water from the cooling device went directly into Oyon Bay. Residents alleged that fishing was greatly affected.¹⁴⁵
- The ESMR does not present an assessment of any livelihood risks and impacts.

Community health

- IFC's 2008 direct investment disclosure to the original plant noted that the health of local residents could have been potentially compromised by fugitive dust emissions and effluent discharges. A remedial action plan was prepared.¹⁴⁶ Subsequent IFC supervision monitored implementation of this plan.
- A 2015 survey of four communities in the vicinity of power plants including in Masinloc concluded that: 77% of respondents asserted there was a higher incidence of illness in the community since the power plant's construction and operation. Respondents noted that the most common diseases were upper respiratory diseases and skin infections, which for 69% of the respondents were attributed to pollution from the power plants.¹⁴⁷
- The PDR notes that a health impact assessment was conducted by a third party in 1994, as legally required. Available documentation does not mention if further follow-up health impact assessments have been conducted.
- The ESMR noted that Masinloc has an active CSR program, including on health.

CAO Observations

- The client has provided financing to the project subsequent to IFC's 2011 and 2013 equity investment. As this is a category A project, the client is required to inform IFC of its intention to finance this power plant in advance, assess and legal covenant the power plant to operate in accordance with IFC's Performance Standards (2012) and supervise the power plant operations

¹⁴⁴ Inquirer, October 2011, *Masinloc folk oppose coal plant expansion*, available at <https://bit.ly/3gtBK64>.

¹⁴⁵ Greenpeace Philippines, 'Green is gold: How renewable energy can save us money and generate jobs', available at <https://bit.ly/3gpaZ2X>.

¹⁴⁶ IFC project disclosure 26405, *E&S Mitigation measures*, <https://bit.ly/33UqwJO>.

¹⁴⁷ The Philippine Star, July 28, 2015, "Coal operations' impact on people's lives", available at <https://bit.ly/37bSRqg>.

to ensure compliance with the PS. Prior to the ESMR, IFC's supervision does not evidence whether the client assessed, legal covenant and supervised the power plant to the PS.

- The ESMR was prepared based on a very limited number of sources and no site visit. Key gaps in the ESMR include (a) no direct discussion of complainants' issues; (b) lack of critical verification of information and analysis; (c) insufficient assessment of ambient air quality; (d) limited analysis of stakeholder engagement, community health and livelihoods. Taken together, ESMR's does not present sufficient evidence to demonstrate power plant's compliance with IFC E&S requirements.
- IFC's supervision documentation does not provide comment as to whether the ESMR and subsequent client desk review provides sufficient evidence that the client has applied the Performance Standards to the coal-fired power plant (IFC ESRP 9.2.6).

2 – GN Power Dinginin Ltd. or “GNCP2”	
<i>Location</i>	Barangay Alas-asin, Mariveles, Bataan
<i>Status</i>	End of construction phase
<i>Size and Technology</i>	1,336 MW (2x668MW net) Supercritical
<i>Estimated Annual Carbon Emissions</i> ¹⁴⁸	6.3 to 8.7m MT
<i>Distance from plant boundary to nearest community</i>	100m to Dinginin Beach. 600m to village (‘Sitio’) of Dinginin
<i>RCBC exposure</i>	Project Finance 2016 and 2017 ¹⁴⁹
<i>RCBC prepared ESMR</i>	January 2018
Relevant Performance Standard (2012) and IFC Commitments	Complainant Issues
PS 1: Stakeholder engagement IFC Position statement on Retaliation against civil society and project stakeholders, 2018	Lack of consultation and information about the power plant and its impacts. It is alleged that a consultation took place only with members of Sangguniang Bayan [local legislative municipal branch], not with the neighboring community. Concerns over threats and reprisals against community members, with reference to the murder of activist Gloria Capitan in July 2016, allegedly due to her opposition to coal plants in Bataan, including GNP Mariveles (GNCP1) and GNCP2. Since the complaint submission, complainants allege that community members have experienced threats as a result of their opposition to the power plant.
PS1: Identifications of Risks and Impacts	Health impacts (respiratory and skin diseases) reported since the establishment of the coal plant.
PS3: Pollution Prevention	Foul odor emitted by the plant and affecting local community.
PS4: Community Health and Safety	Some domesticated animals have died allegedly due to power plant waste.

¹⁴⁸ Estimation based on available E&S documentation (e.g., EIS, Engineer’s Report, PDR and ESMR) and/or annual GHG emissions estimated as: capacity * capacity factor * heat rate * emission factor.

¹⁴⁹ The Asset, 2018, *Power deal of the year*, available at <https://bit.ly/396Bp85>.; *The Philippine Star*, February 11, 2018, *RCBC seals P151-B infra funding deals*, available at: <https://bit.ly/2UMImDL>.

	Since the complaint submission complainants reiterate concerns over air pollution.
PS5: Resettlement and Livelihood Restoration Planning and Implementation PS5: Economic Displacement	Inadequate compensation for physical displacement (50-100 pesos) of local residents. Loss of livelihood due to blocked access to sea for fisherfolks because of fences, warning shots by security guards, and contamination of fishing waters.
PS7: Indigenous Peoples	Part of the land that was fended off belonged to the indigenous Dumagat people – an area they regularly visit.

Summary of available information

- In 2007, GN Power commenced operations of a 600MW power plant at its site in Mariveles (GNCP1). In 2014, GN Power submitted an application to the national regulator to construct a 1200MW power plant next to its existing facilities (GNCP2). These are separate companies; however, Aboitiz Power has controlling share ownership in both companies.¹⁵⁰ RCBC provided finance to the GNCP2 power plant.
- An Environmental Performance Report and Management Plan (EPRMP) was prepared for the GNCP2 power plant (considered then an expansion of GNCP1 plant) in 2014, assessing the power plant to national law.¹⁵¹
- The plant uses “super critical technology,” i.e., has a higher plant efficiency as compared to sub-critical.
- RCBC’s external consultant prepared an ESMR of the power plant, which was under construction at the time. The ESMS was prepared based on company documents and a visit to the plant in October 2017. RCBC categorized the E&S risk as Category A. The ESMR does not include a list of risks; rather, it suggests 16 recommendations for improvement across Performance Standards 1 to 4. It observes that GNCP2 is on a path to be fully consistent with these four PS. An IFC consultant provided feedback to the client on the ESMR, which the client considered prior to finalizing the report.
- In January 2018, an IFC consultant visited GNCP2 to observe its stakeholder engagement process. The consultant met with the power plant’s community relations officer, attended two community events organized by the coal plant, visited a nearby village and drove through the power plant construction site. The consultant noted there was a commendable community engagement process. The consultant was not tasked to review the E&S performance of the power plant and noted that its role did not involve an attempt to verify any information. At the same time, the consultant asserted that some of the issues raised in the complaint to CAO appeared to be misinformed.
- IFC subsequently noted that the IFC consultant found no material E&S issues for the activities financed by the bank and GNCP2 was adequately managing community relations.
- In 2019, GNCP2 was determined “project of national significance” according to Executive Order 30, allowing for a faster approval process with presumption of prior government approval absent objection within 35 working days.¹⁵²
- In November 2019, RCBC conducted a follow-up site visit. The report, provided to IFC, concluded that 6 out of 10 previously identified issues had been resolved, leaving unaddressed issues in

¹⁵⁰ Aboitiz Power, June 2020, Final Prospectus, available at <https://bit.ly/2UN9C3U>.

¹⁵¹ GMCP and Geosphere Technologies, *Environmental Performance Report and Management Plan: GMCP2 Project*, 2014.

¹⁵² Further details available at Philippines Department of Energy (<https://bit.ly/3jA2fqB> and <https://bit.ly/3lQqKBE>)

relation to the management of foreign laborers and contractors, the update of documents and clearances related to the higher capacity of the plant (compared to original plans), and emergency response plans and preparedness.

Cumulative impact assessment

- The EPRMP did not include a cumulative impact assessment. As per GNCP2 national permit, a cumulative impact assessment was required to be undertaken after three years of power plant operation. IFC PS1 requires a cumulative impact assessment prior to construction.
- The complainants' concerns appear to relate to both GNCP1 and GNCP2.
- The ESMR noted that GNCP2 was initially planned as an expansion of GNCP1. However, ultimately GNCP2 operated as a completely different entity with different facilities to GNCP1; and RCBC only financed GNCP2. The ESMR presented expected cumulative impact data in relation to solid waste, however, there was no assessment to PS. Upon review of the ESMR, IFC queried with RCBC the cumulative assessment. IFC was informed that the EPRMP incorporated impacts from both GNCP1 and GNCP2.

Stakeholder engagement

- The EPRMP noted that a number of public consultations had been conducted between 2012 and 2014.¹⁵³ It is unclear who precisely and how many from the affected stakeholders attended.
- The ESMR provided a positive view of GNCP2's community engagement. In particular, the ESMR presented a positive view of the grievance mechanism and stakeholder engagement. The ESMR focuses on measures in place at the time but does not comment on the degree to which the power plant meaningfully consulted with stakeholders during project preparation.
- The ESMR does not assess whether there had been or were any threats to community activists.
- Upon visiting the power plant, IFC's consultant provided a positive assessment of GNCP2's community stakeholder engagement.
- IFC's consultant stated that the circumstances surrounding the death of the environmental activist had been investigated, and it appeared that the motives were related to personal disagreements, and not plant operations.¹⁵⁴ This was based on company information and the consultant did not independently verify this information.

Pollution

- The EPRMP does not include a comprehensive assessment of alternatives to coal, in particular renewable energies.
- The ESMR stated that the power plant would have anticipated emission rates below DENR standards, and that the WB EHS standards may also be met. GNCP2 stated publicly that the plant would meet the most restrictive of Philippines and World Bank's standards.¹⁵⁵
- The ESMR documented ambient air quality emissions monitoring within the DENR standards.
- The EPRMP estimated the total CO₂ annual emissions to be between 6.3 to 8.7 MT, and the total emissions including those of GNCP1 to be from 11 to 15 million MT.

Community health, safety, and security

¹⁵³ GMCP and Geosphere Technologies, *Environmental Performance Report and Management Plan: GMCP2 Project*, 2014, for instance Table 5-4.

¹⁵⁴ In July 2016, Gloria Capitan was shot dead by two unidentified men in Lucanin village in Bataan. She had campaigned against coal-fired power plants and coal storage facilities in Bataan. Her death was extensively reported on by national and international non-profit organizations and media alike. See for example Front Line Defenders (<https://bit.ly/3nF9obA>), Global Witness (<https://bit.ly/36R9CWd>, and <https://bit.ly/35KFr3H>).

¹⁵⁵ Manila Times, 2016, GN Power taps financing for power plant, available at <https://bit.ly/3kQl2ym>.

- A 2015 survey of four communities in the vicinity of power plants including in Mariveles concluded that: 77% of respondents asserted there was a higher incidence of illness in the community since the power plant's construction and operation. Respondents noted that the most common diseases were upper respiratory diseases and skin infections, which for 69% of the respondents were attributed to pollution from the power plants.¹⁵⁶
- The ESMR and the IFC consultant stated there were no pollution-related impacts on community health. The IFC consultant noted the power plant's medical staff views that upper respiratory diseases were endemic before the plant started.
- The IFC consultant noted that power plant security staff did not carry arms.

Physical and economic displacement

- According to the EPRMP the project is located on the GNP Mariveles industrial complex and there will be no land acquisition. The ESMR reiterates the same information and states that PS5 does not apply.
- The IFC consultant stated that the land on which the power plant is sited belonged to a single owner with whom GN Power reached a negotiated settlement. The ESMR noted that there had been displacement during the construction of GNCP1, but thereafter there had not been subsequent displacement.
- According to the IFC consultant, the waters on which the local fisherfolk depend for their livelihoods is generally well beyond the shoreline, and the villages have access to those waters.

Indigenous peoples

- The EPRMP noted that in addition to the site being on industrial land there was no identified Certificate of Ancestral Domain Title or Claims (CADT/CADC) in the Project site or in nearby areas. Also noting the absence of such certificates, the ESMR states that PS7 does not apply.

Coastal water contamination

- The EPRMP stated that the overall potential impacts of the power plant on various marine organisms were adverse but limited in scale and temporary in nature. Impacts were not significant and can be effectively mitigated.¹⁵⁷

CAO Observations

- The client has provided financing to the project subsequent to IFC's 2011, 2013, 2014 and 2015 investments. As this is a category A project, the client was required to inform IFC of its intention to finance this power plant in advance, assess and legally covenant the power plant to operate in accordance with IFC's Performance Standards (2012) and supervise the power plant operations to ensure compliance with the PS. Prior to the ESMR, IFC's supervision does not evidence whether the client assessed, legal covenant and supervised the power plant to the PS.
- The ESMR and IFC consultant report provide a positive view of the power plant's stakeholder engagement program, however, available documentation indicates this view is reached based on interviews with power plant staff and attending power plant organized community meetings. In the context where the complainants allege that there has not been meaningful consultation and there are allegations of threats against community activists opposing coal-fired power plants in Bataan, a more thorough assessment of the stakeholder engagement process and security context for community activists was warranted.

¹⁵⁶ The Philippine Star, July 28, 2015, "Coal operations' impact on people's lives", available at <https://bit.ly/37bSRqg>.

¹⁵⁷ GMCP and Geosphere Technologies, *Environmental Performance Report and Management Plan: GMCP2 Project*, 2014, 2.2.5.6.

- The EPRMP and the ESMR do not present evidence that an assessment of the plant's impacts on indigenous peoples' customary use of land was conducted to IFC Performance Standards requirements. While no other public information was found to corroborate the complainants' claims in this regard, where claims of indigenous peoples' customary use of land exist, the PS require an assessment of such claims.
- Given the reported complaints also relate to GNCP1, which is adjacent to GNCP2, a cumulative impacts assessment of ambient air quality, ambient water quality, water use and pollution to IFC's E&S standards would have been warranted (PS 1, para 8; PS3, para 11). Rather, the ESMR authors decided against including GNCP1 in their assessment. According to the EPRMP both EIA baseline and monitoring suggest that there are difficulties in complying with the 2015 DENR regulations.
- The EPRMP affirmed that there are no shared facilities between GNCP1 and GNCP2. This view does not sufficiently cater to the complexity of tripling the capacity in terms of MW on the same site (infrastructure, security, waste management, logistics, management, etc.). PS1 requires a cumulative impact assessment prior to project construction.
- The ESMR noted that GNCP2 commissions a third party to perform quarterly Equator Principles Compliance Monitoring and Audits, the latest available of which was provided by GNCP2 to RCBC. However, no findings from the audit were mentioned in the ESMR. The results would be important information to substantiate the power plant's performance in accordance with the Equator Principles, and thus, IFC Performance Standards.
- IFC's supervision documentation does not provide comment as to whether the ESMR and subsequent client site visit report provides sufficient evidence that the client has applied the Performance Standards to the coal-fired power plant (IFC ESRP 9.2.6).

3 - South Luzon Thermal Energy Corp. (SLTEC) or 'Putin Bato' power plant	
<i>Location</i>	Calaca, Batangas
<i>Status</i>	Operational since 2015 (unit 1) and 2016 (unit 2)
<i>Size and Technology</i>	270 MW (2 x 135 MW) Sub-Critical Circulating Fluidized Bed
<i>Estimate Annual Carbon Emissions</i> ¹⁵⁸	1.32m MT
<i>Distance from plant boundary to nearest community</i>	120-160m to the north and east. From ash management facility to community is between 230m and 420m.
<i>RCBC exposure</i>	Project Finance Loans: 2011, 2013, 2019. ¹⁵⁹
<i>RCBC prepared ESMR</i>	May 2018
Relevant Performance Standard (2012)	Complainant Allegations
PS 1: Stakeholder engagement	Lack of consultation and information about the project and its impacts.
PS1: Identifications of Risks and Impacts PS3: Pollution Prevention PS5: Economic Displacement	Loss of livelihoods due to pollution by coal ash and resulting loss of crops and plants. Since complaint submission, the complainants noted continuing concerns over air and water pollution.
PS3: Resource Efficiency PS4: Community Health and Safety	Impacts on access to water due to decreased water levels in artesian pump wells.
Summary of available information	
<ul style="list-style-type: none"> • An Environmental Impact Statement was prepared for a 135MW only power plant in 2010.¹⁶⁰ The power plant was assessed to national law. • In May 2018, the client's E&S consultant prepared an ESMR of the power plant based on project site visit, interviews with stakeholders, and limited E&S documentation provided during the site visit. RCBC categorized the E&S risk as Category A. 	

¹⁵⁸ Estimation based on available E&S documentation (e.g., EIS, Engineer's Report, PDR and ESMR) and/or annual GHG emissions estimated as: capacity * capacity factor * heat rate * emission factor.

¹⁵⁹ Ayala Annual Report 2011, Part V. Available at <https://bit.ly/2H1iaR9>; Market Screener July 2013, available at <https://bit.ly/378qvNV>; AC Energy Annual Report 2020 available at <https://bit.ly/2GQswDU>.

¹⁶⁰ Technotrix Consultancy Services, Inc. and Mediatrix Business Consultancy, for Trans-Asia Oil and Energy Development Corporation (TAOil), *Environmental Impact Statement Final report: 135 Mw Calaca Coal Power Plant and Associated Facilities Project*, 2010.

- The ESMR made 15 findings of non-conformance with IFC E&S requirements, of which 4 were high risk (high stockpiles' risks to reactor, gasoline tank farm proximity, ash pond management and dust, with resulting risks to nearby community), 4 were medium (air emissions modeling and emergency risk assessment) and 7 were low risk according to RCBC's categorization.
- RCBC conducted a subsequent visit to the power plant in December 2019 and shared a supervision report with IFC. The report noted that the power plant had addressed identified non-conformances. An assessment of the power plant's compliance with IFC air emissions, ambient air quality and wastewater effluents standards is absent from the report.
- IFC's supervision documentation does not comment on the 2018 ESMR or the client's subsequent supervision.

Pollution

- The ESMR notes that the power plant uses lower quality coal than anticipated.¹⁶¹ This results in a CO₂ Emissions Performance of 1200gCO₂/kwh, beyond the IFC EHS Guidelines benchmark.
- The ash management plan presented in the 2010 EIS is not sufficiently concrete: it states that there will be no ash pond and does not describe how the ash will be stored or assess potential impacts from ash management. Instead, the EIS assumes that the ash will be recycled by cement contractors. The 2010 ECC is silent about this issue. A separate ECC for an ash management facility was issued to SLTEC in 2012.
- The ESMR flags a 'high risk' of pollution by coal ash from the exposed ash pond, and the potential adverse effects of dust emissions on communities' health. The ESMR also notes that the dust exceeds air quality limits at full wind.
- A site visit by the client in 2019 documents improvements in the power plant's management of coal dust.

Cumulative impacts

- There are public reports of long-standing complaints related to coal-fired power plants pollution in Calaca and impacts on plants, fisheries and communities' health and livelihoods. While complaints most often focus on the impacts of the older plant in the municipality, SEM-Calaca, which was built in 1984 and privatized in 2009, they note that impacts have worsened with the addition of SLTEC.¹⁶²
- Neither the EIS nor the ESMR included a cumulative impact assessment. This is critical given the presence of another plant (SEM-Calaca) in the municipality.
- A 2019 study carried out by the University of the Philippines Manila¹⁶³ showed that average PM10 concentration between the SEM-Calaca and SLTEC power plants was 34 µg/m³ and thus, in compliance with the Philippine Clean Air Act of 1999's National ambient air quality guideline values (annual: 60 µg/m³) but exceeded the annual guideline values set by the WHO and IFC (20 µg/m³). The location for these measurements was not meant to measure the impacts of SLTEC specifically. Therefore, the results cannot be used as definite indicator for compliance / non-compliance.

¹⁶¹ The Philippines Star, April 16, 2013, *Ayala, Trans-Asia expanding thermal plant in Batangas*, available at <https://bit.ly/3jZeEp9>.

¹⁶² Business Mirror, September 12, 2016, *Environment groups detects signs of 'dangerous pollution' near Batangas coal-fired power plant*, available at <https://bit.ly/36Gef5v>.

Bulatlat, March 17, 2016, *Groups wants 31-year-old Calaca coal plant shut down*, available at <https://bit.ly/3nwt41o>.
Bulatlat, September 10, 2016, *Protests vs coal plants highlight impact of privatized, 'dirty energy'*, available at <https://bit.ly/2IMz3Qh>.

¹⁶³ PM10 concentrations in Calaca ranged from 4.64 to 61.92 µg/m³, with an average of 34.01 µg/m³. Philippine Journal of Science - 149 (S1): 117-127, Special Issue on Nuclear S&T ISSN 0031 – 7683: "Air Particulate Matter, Black Carbon, and Elemental Concentrations and Source Apportionment in Calaca, Batangas", University of the Philippines Manila, 2019.

However, they do indicate that at a 2km distance from SLTEC, the ambient air quality situation is strained.

Community health

- In relation to potential adverse health impacts, the EIS states that there are about 4,200 MW coal power plants in The Philippines as of 2008 and no indications that health and respiratory problems are caused by these. At the same time, it notes that as part of a CSR program, coordination with the Department of Health will be made on the conduct of health impact studies or in the conduct of medical missions to alleviate adverse potential health effects that may be attributed to the project.¹⁶⁴
- A 2015 survey of four communities in the vicinity of power plants including in Calaca, Barangas, found that: 77% of respondents asserted there was a high incidence of illness in the community since the power plant's construction and operation. Respondents noted that the most common diseases were upper respiratory diseases and skin infections, which for 69% of the respondents were attributed to pollution from the power plants.¹⁶⁵
- Based on community interviews, the ESMR notes that main community health problems are related to dust. The ESMR recommends that SLTEC conduct a health impact assessment with periodic monitoring for the operation of the ash management facility.

Stakeholder engagement

- The ESMR noted gaps in the community grievance mechanism and stakeholder engagement.

CAO Observations

- The client has provided financing to the project subsequent to IFC's 2011 equity investment. As this is a category A project, the client is required to inform IFC of its intention to finance this power plant in advance, assess and legal covenant the power plant to operate in accordance with IFC's Performance Standards and supervise the power plant operations to ensure compliance with the PS. Prior to the ESMR, IFC's supervision does not evidence whether the client assessed, legal covenant and supervised the power plant to the PS.
- The ESMR was based on a site visit and a review of company documents at the time of the visit. Positive aspects include (a) methodology – seeking additional data from the power plant and interviewing community members and local officials; (b) a wide-ranging and critical assessment of risks, including on pollution, stakeholder engagement and GM. Gaps in the ESMR include (a) insufficient assessment of air emissions and ambient air quality; and (b) absence of assessment of cumulative impacts.
- The ESMR noted gaps in the power plant's handling and storing of coal ash, with potential adverse impacts on community health, and crops and plants. However, access to E&S information limited the ESMR's assessment of the power plant's compliance with IFC E&S requirements.
- While a subsequent client supervision report, provided to IFC, notes that the power plant addresses identified issues from the ESMR, it does not present an assessment of the power plant's compliance with IFC E&S requirements for air emissions, ambient air quality, wastewater effluents and water use, nor comment on whether a health impact assessment was conducted.
- Given the proximity of another power plant nearby, PS1 requires that a cumulative impact assessment be conducted. Available documentation does not indicate that such an assessment

¹⁶⁴ Technotrix Consultancy Services, Inc. and Mediatrix Business Consultancy, for Trans-Asia Oil and Energy Development Corporation (TAOil), *Environmental Impact Statement Final report: 135 Mw Calaca Coal Power Plant and Associated Facilities Project*, 2010, Executive Summary ES-8, ES-20.

¹⁶⁵ The Philippine Star, July 28, 2015, *Coal operations' impact on people's lives*, available at <https://bit.ly/37bSRqg>.

was prepared. This is significant given that subsequent air measurements in a nearby community record air emissions in compliance with national law but exceeding WHO and IFC standards.

- IFC's supervision documentation does not provide comment as to whether the ESMR and subsequent client site visit report provides sufficient evidence that the client has applied the Performance Standards to the power plant (IFC ESRP 9.2.6).

4 – San Buenaventura or “SBPL” power plant		
<i>Location</i>	Barangay Cagsiay I, Mauban, Quezon province	
<i>Status</i>	Operational since September 2019	
<i>Size and Technology</i>	455 MW net Supercritical	
<i>Estimate Annual Carbon Emissions¹⁶⁶</i>	3.0m MT	
<i>Distance from plant boundary to nearest community</i>	200-300m	
<i>RCBC exposure</i>	Project Finance Loan: 2015 ¹⁶⁷	
<i>RCBC prepared ESMR</i>	February 2019	
Relevant Standards	Performance	Complainant Allegations
PS 1: Stakeholder engagement		Lack of consultation and information about the power plant and its impacts.
PS1: Identifications of Risks and Impacts PS3: Pollution Prevention		Air and water/soil pollution, with impacts on residents’ health and water biodiversity. Complainants cited a study by Greenpeace, according to which the operational coal plant in Mauban, Quezon revealed insidious presence of heavy metals: mercury, arsenic, carcinogen, as well as the hazardous substances lead and chromium. Complainants expressed fears of additional health impacts due to the plant expansion. Since the complaint submission complainants have raised concerns over continuing air and water pollution, impacting fisherfolks.
PS4: Community Health and Safety		Health impacts (tuberculosis and other respiratory diseases). The complaint stated that a study by the Health Care Ministry in Quezon had shown that the incidence of tuberculosis had increased since the operation of the existing 511MW Quezon Power Plant in Mauban, Quezon.

¹⁶⁶ Estimation based on available E&S documentation (e.g., EIS, Engineer’s Report, PDR and ESMR) and/or annual GHG emissions estimated as: capacity * capacity factor * heat rate * emission factor.

¹⁶⁷ San Buenaventura Power Ltd, *SBPL wins Asia-Pacific power deal of the year*, available at <https://bit.ly/3qu2ojW>; Business World, December 1, 2015, *Meralco unit secures P42-B loan for coal-fired power plant*, available at <https://bit.ly/3g9NjPb>.

PS1: Identifications of Risks and Impacts	Impacts on water biodiversity, which is one of the main sources of livelihood of residents in Mauban, due to heavy metals contamination. Fears of further negative impacts on ecosystems including water biodiversity due to the plant expansion.
PS5: Economic Displacement	

Summary of available information

- Quezon Power (Philippines) has operated a 470MW coal power plant at Barangay Cagsiy 1 since 2000 (QPL).¹⁶⁸ In 2007, Quezon Power (Philippines) received approval for another 500MW (455MW net) coal-fired power plant (subsequently named San Buenaventura or SBPL) adjected to QPL.¹⁶⁹ Complainants considered SBPL as expansion of QPL.
- QPL and SBPL share the same management and some facilities, including the coal handling facility and the ash disposal facility.
- In February 2019, RCBC finalized an ESMR of the power plant, which was under construction at the time. The ESMR was prepared based on a site visit and review of power plant national environmental clearance certificates and monitoring reports. RCBC categorized the E&S risk as Category A.
- The ESMR made four findings of non-conformance with IFC E&S requirements, of which one was assessed as medium risk (lack of required permits) and three as low risk, according to RCBC's categorization.
- A subsequent client visit to the power plant in January 2020 asserted that all risks had been addressed.
- IFC's supervision documentation does not provide comment on the 2019 ESMR or the client's subsequent supervision.

Stakeholder engagement

- The ESMR noted that SBPL and QPL maintain a good relationship with stakeholders through community service and regular meetings. QPL and SBPL have a common community relations manager who is responsible for receiving complaints from the community.
- The ESMR's assessment of stakeholder engagement and grievance mechanism is not informed by interviews with community members.

Pollution

- A study conducted in 2002 by Greenpeace documented the presence of heavy metals associated with the Quezon plant (QPL).¹⁷⁰ CAO did not identify a more recent study from Greenpeace.
- A 2014 Project Description Report (PDR) submission to the national regulator noted that areas allocated for ash disposal for QPL are considered to have sufficient capacity for the SBPL unit. At the same time, it noted that the facility has been partially filled and that SBPL intended to develop a recently acquired property to address the additional ash storage requirements. Provision for ash disposal area was under QPL's responsibility.¹⁷¹
- The ESMR affirmed that fly and bottom ash are to be collected and sent to cement plants, and that QPL will also share its ash disposal facility just across the SBPL plant. The ESMR does not

¹⁶⁸ Quezon Power (Philippines), see <http://www.qpl.com.ph>.

¹⁶⁹ Quezon Power (Philippines) Ltd. Co. and San Buenaventura Power Ltd. Co., *Proposed 500 MW (Gross) Power Plant Project: Project Description Report*, August 2014.

¹⁷⁰ Bridgen, K. and Santillo, D., Greenpeace Research Laboratories, Hazardous Emissions from Philippine Coal-fired Power Plants. Heavy metal and metalloid content of fly ash collected from the Sual, Mauban and Masinloc coal-fired power plants in the Philippines', <https://bit.ly/3h2T7NB>.

¹⁷¹ Quezon Power (Philippines) Ltd. Co. and San Buenaventura Power Ltd. Co., *Proposed 500 MW (Gross) Power Plant Project: Project Description Report*, August 2014.

assess the adequacy of the QPL facility. No updated information is available on coal ash management and its adequacy.

- The ESMR noted that at the time of the visit fugitive dust was all over construction area due to the movement of trucks and heavy equipment.
- The 2014 PDR noted cumulative air emissions of QPL and SBPL would have insignificant ambient air quality impacts and would be in compliance with national standards.¹⁷²
- The ESMR does not include an assessment of the SBPL's then expected air emissions, nor their expected cumulative impacts with the QPL unit. QPL is responsible for ambient air quality monitoring but does not include data.
- The 2014 PDR reported that marine water samples are being regularly monitored in five stations for heavy metals analysis. An increase in concentration was observed in the concentrations of Fe, Hg and Zn in 2011 compared to 2006 data.¹⁷³

Community health

- As a condition of the 2014 ECC, SBPL and QPL are required to have an independent third party undertake a continuous study of power plants impacts on the health of the workers and affected residents.
- The ESMR does not comment on whether a public health assessment was conducted. At the same time, the ESMR concludes that no risk exists in relation to community health.

Biodiversity

- The 2014 ECC asked that SBPL "Submit a coastal resource management program (CRMP) to EMB Central Office ... within six months prior to operations." It is unclear whether this program has been submitted. The ESMR makes no mention of it.
- The ESMR notes possible impacts on mangroves due to foreshore use. No other client or public information was found on water diversity or pollution.

CAO Observations

- The client has provided financing to the project subsequent to IFC's 2011 and 2013 equity investments. As this is a category A project, the client is required to inform IFC of its intention to finance this power plant in advance, assess and legal covenant the power plant to operate in accordance with IFC's Performance Standards and supervise the power plant operations to ensure compliance with the PS. Prior to the ESMR, IFC's supervision does not evidence whether the client assessed, legal covenant and supervised the power plant to the PS.
- Gaps in the ESMR include (a) no documented engagement with project affected people; (b) insufficient assessment of stakeholder engagement; (c) insufficient assessment of community health impacts; (d) no assessment of cumulative impacts; and (e) no direct discussion of complainants' issues.
- Subsequent client supervision summary provided to IFC notes that four risks were addressed. However, it does not present sufficient evidence to demonstrate the power plant's compliance with IFC E&S requirements.
- IFC's supervision documentation does not provide comment as to whether the ESMR and subsequent client site visit report provides sufficient evidence that the client has applied the Performance Standards to the coal-fired power plant (IFC ESRP 9.2.6).

¹⁷² Quezon Power (Philippines) Ltd. Co., *Proposed 500 MW Power Plant Project: Additional Information for ECC Amendment*, February 2014.

¹⁷³ Quezon Power (Philippines) Ltd. Co. and San Buenaventura Power Ltd. Co., *Proposed 500 MW (Gross) Power Plant Project: Project Description Report*, August 2014.

5 – Panay Energy Development Corp (PEDC) power plant	
<i>Location</i>	Barangay Ingore, La Paz, Iloilo City
<i>Status</i>	Operational since January 2017
<i>Size and Technology</i>	132MW Sub-Critical Circulating Fluidized Bed (Unit 3, as expansion of the existing PEDC 164MW–units 1&2)
<i>Estimate Annual Carbon Emissions</i> ¹⁷⁴	0.7m MT – 1m MT
<i>Distance from plant boundary to nearest community</i>	90-150m to communities to the south and west.
<i>RCBC exposure</i>	Project Finance Loan: 2010 ¹⁷⁵ (Units 1&2) and 2015 (Unit 3) ¹⁷⁶
<i>RCBC prepared ESMR</i>	March 2019
Relevant Performance Standard (2012)	Complainant Allegations
PS 1: Stakeholder engagement	Lack of consultation and information about the project and its impacts.
PS 3: Pollution prevention PS 4: Community Health and Safety	Residents from Barangay Nipa, Concepcion, Iloilo complained of lung problems and skin diseases.
Summary of available information	
<ul style="list-style-type: none"> • In March 2019, the client prepared an ESMR of the power plant, based on some E&S documentation (the Independent Lender’s Engineer Project Assessment Report and Compliance Monitoring Reports), and a site visit in November 2018. RCBC categorized the E&S risk as Category A. The client shared the ESMR and compliance monitoring reports with IFC. • The ESMR made four findings of non-conformance with IFC Performance Standards, of which two were assessed as medium (lack of water permits and expired permits) and two as low risk according to RCBC’s categorization. • A subsequent client visit to the power plant in July 2019 identified only one pending risk (assessed as medium). RCBC reported to IFC that the power plant complies with relevant local environmental standards and laws. • IFC’s supervision documentation does not provide comment on the 2019 ESMR or the client’s subsequent supervision. 	

¹⁷⁴ Estimation based on available E&S documentation (e.g., EIS, Engineer’s Report, PDR and ESMR) and/or annual GHG emissions estimated as: capacity * capacity factor * heat rate * emission factor.

¹⁷⁵ Dumlao D., Banks to lend P14B for Panay power plant, *Philippine Daily Inquirer*, February 26, 2010, available at: <http://bit.ly/3adXtOA>.

¹⁷⁶ Business Inquirer, April 10, 2015, *GBP unit gets P11-B loan for expansion*, available at: <https://bit.ly/388U1Sr>.

Stakeholder engagement

- The ESMR noted that according to the Lender's Engineers report, community complaints are received through constant dialogue, phone calls or text messages. These serve as the grievance mechanism system. The ESMR noted that power plant staff conduct regular visits to the host barangay and other barangays. The ESMR's assessment of stakeholder engagement and grievance mechanism is not informed by interviews with community members.

Pollution

- A 2016 NGO report estimated annual emissions (SO₂, NO_X, PM₁₀) for power plants in the Visayas, including PEDC.¹⁷⁷ The report modeled annual average PM_{2.5} concentration and estimated the range of premature deaths linked to the three operating power plants in the Visayas including PEDC, raising concerns over the negative health impacts of these power plants.
- The ESMR notes that the company has an air emissions monitoring program and conducts ambient air quality monitoring. Despite having received three power plant prepared monitoring reports, the ESMR does not include or comment on air emissions or ambient air quality data. These monitoring reports record results in line with national ambient air quality standards and generally in line with noise standards.
- The ESMR did not identify any risk related to coal ash. It noted ash is sold to cement companies, while residual ashes are transported and deposited at the existing ash pond within the power plant's premises.

Cumulative impacts

- PEDC Unit 3 is an expansion of the 164MW PEDC power plant, which started operations in 2011.¹⁷⁸ Also located in the industrial zone are a 75MW and 20MW fuel power plants. All plants are owned by Global Business Power Corporation (GBP).
- PEDC Unit 3 shares common facilities with the existing power plants, including the jetty, the coal conveyor system, the covered coal yard, the desalination plant, and the sub-transmission facilities. PS1 requires that a cumulative impact assessment be prepared.
- The ESMR does not present an assessment of potential cumulative impacts.

Community health

- The complaint raises health impacts in reference to Barangay Nipa, Concepcion. This is not the correct location for PEDC. Another power plant, Palm Concepcion Power Corporation¹⁷⁹, operates in Nipa, Concepcion, which is over 70km away from PEDC.
- As a condition of the 2014 ECC, PEDC is required to have an independent third party undertake a continuing study of the effects of the project on the health of the workers and affected residents, to be submitted to Philippine Department of Health every two years. The ESMR does not make any reference to whether this survey was conducted or its results.
- A 2015 survey of four communities in the vicinity of power plants including in La Paz concluded that: 77% of respondents asserted there was a higher incidence of illness in the community since the power plant's construction and operation. Respondents noted that the most common diseases were upper respiratory diseases and skin infections, which for 69% of the respondents were attributed to pollution from the power plants.¹⁸⁰

¹⁷⁷ Greenpeace Philippines (2016), *Coal: A Public Health Crisis*, available at: <http://bit.ly/2JXTSJS>.

¹⁷⁸ Global Business Power, *Panay Energy Development Corp.* available at <https://bit.ly/3gQRJLU>.

¹⁷⁹ Palm Concepcion Power Corporation, further details available at <http://bit.ly/38aFICF>.

¹⁸⁰ The Philippine Star, July 28, 2015, "Coal operations' impact on people's lives", available at <https://bit.ly/37bSRqg>.

- Reportedly, in August 2017 the Department of Environment and Natural Resources (DENR) announced that it would sign a Memorandum of Understanding with PEDC to monitor the health of people living near the plant, some of whom were reportedly suffering from scabies and lung diseases.¹⁸¹
- The ESMR does not present an assessment of community health and potential impacts from the plant but notes that PEDC manages a health program for the host barangay.

Displacement

- Since the complaint's submission, complainants have noted that residents near the location of the plant have been displaced. It is unclear from which location people might have been displaced.
- The ESMR concluded that PS5 was not triggered as the power plant was developed on an existing industrial zone.

CAO Observations

- The client provided financing to the project expansion (Phase II) subsequent to IFC's 2011 and 2013 equity investments. As this is a category A project, the client is required to inform IFC of its intention to finance this power plant in advance, assess and legal covenant the power plant to operate in accordance with IFC's Performance Standards and supervise the power plant operations to ensure compliance with the PS. Prior to the ESMR, IFC's supervision does not evidence whether the client assessed, legal covenant and supervised the power plant to the PS.
- The client's ESMR noted very few risks in relation to Performance Standards. Gaps in the ESMR include (a) insufficient assessment of stakeholder engagement; (b) insufficient assessment and documentation of air emissions and ambient air quality; (c) no assessment of community health and cumulative impacts; and (d) no direct discussion of complainants' issues.
- Neither the ESMR nor subsequent client supervision summary provided to IFC present sufficient evidence to demonstrate the power plant's compliance with IFC E&S requirements.
- IFC's supervision documentation does not provide comment as to whether the ESMR and subsequent client site visit report provide sufficient evidence that the client has applied the Performance Standards to the coal-fired power plant (IFC ESRP 9.2.6).

¹⁸¹ IMT News, August 21, 2017, *Coal plants in Iloilo emit toxic pollutants?* Available at <https://bit.ly/2WfdCuH>.

6 – Sarangani Energy Corporation (SEC) Southern Mindanao or Kamanga power plant	
<i>Location</i>	Kamanga Barangay, Maasim Municipality, Sarangani, southern Mindanao
<i>Status</i>	Operational since 2016 (unit 1) and 2019 (unit 2)
<i>Size and Technology</i>	210 MW (2 x 105 MW net) Sub-Critical Circulating Fluidized Bed
<i>Estimate Annual Carbon Emissions¹⁸²</i>	1.4-1.6m MT ¹⁸³
<i>Distance from plant boundary to nearest community</i>	20-50m from eastern boundary to scattered houses/structures to the east and north-east 500m to Kamanga marine ecotourism park.
<i>RCBC exposure</i>	Project Finance Loans: 2013, 2017. ¹⁸⁴
<i>RCBC prepared ESMR</i>	May 2018
Relevant Performance Standards (2012) and IFC Commitments	Complainant Allegations
PS 1: Stakeholder engagement IFC Position statement on Retaliation against civil society and project stakeholders, 2018	Lack of consultation and information about the power plant and its impacts. Since the complaint submission, complainants have raised concerns over various forms of intimidation including court cases that are being brought against indigenous leaders because of their opposition to the power plant.
PS 3: Pollution prevention EHS: Thermal Power Plants	Water contamination Since the complaint submission complainants note continuing air and water pollution.
PS4: Community Health and Safety	Health impacts (severe stomach aches) reportedly due to water contamination according to municipal health office. Since the complaint submission, complainants noted that children and the elderly have reported significant coughs which they believe is due to the polluted air.

¹⁸² Estimation based on available E&S documentation (e.g., EIS, Engineer’s Report, PDR and ESMR) and/or annual GHG emissions estimated as: capacity * capacity factor * heat rate * emission factor.

¹⁸³ Berkman Systems, Inc. for Conal Holdings Corp., *Environmental Impact Statement: 200MW Southern Mindanao Power Plant*, March 2009.

¹⁸⁴ The Philippine Star December 14, 2012, *Alsons to borrow P9 B for S Mindanao power plant*, available at <http://bit.ly/3afPQHj>; Business Mirror, May 10, 2017, *Sarangani Energy Corp. signs P10.5-B loan with local banks*, available at <https://bit.ly/2Whp8WA>.

PS6: Biodiversity Conservation and Sustainable Management of Living Natural Resources	The coal plant threatens the Tino-Tampuan coral reef, a protected area.
PS7: Indigenous Peoples	Displacement of members of indigenous B'laan tribe from their ancestral lands without their Free, Prior and Informed Consent (FPIC).

Summary of available information

- An Environmental Impact Statement (EIS) was prepared in 2009 for a 200MW net power plant.¹⁸⁵ The power plant was assessed to national law.
- In May 2018, an external consultant prepared an ESMR of the power plant for RCBC, based on project site visit, including visit of the relocation site and the area where groundwater is sourced, interviews with local officials, and E&S documentation provided during the site visit and reviewed thereafter (including monitoring reports but excluding the EIS). RCBC categorized the E&S risk as Category A.
- The ESMR considers that the power plant has complied with national regulations and should consolidate its actions under its environmental and social management system (ESMS) to be consistent with the IFC E&S requirements. It makes 17 findings of non-conformance with IFC E&S requirements, of which two were high risk (water depletion, wastewater management), four were medium (septic tanks, ambient air quality measurements, plant's electricity use) and 11 were low risk according to RCBC's categorization.
- RCBC conducted a subsequent visit to the power plant in February 2020 and concluded that it had addressed all identified non-conformances with IFC E&S requirements. An assessment of the power plant's compliance with IFC air emissions, ambient air quality and wastewater effluents standards is absent from the report.
- IFC's supervision documentation does not provide comment on the 2018 ESMR or the client's subsequent supervision.

Stakeholder engagement

- The ESMR commented that SEC had a very good and active stakeholder engagement and CSR policy, which had fostered a good relationship with the local leaders. The ESMR's assessment of stakeholder engagement is not informed by interviews with community members.
- The ESMR found gaps in the way grievance mechanisms operate.
- Since the complaint submission complainants have raised concerns over the intimidations and threats against indigenous community leaders who oppose the plant, including ongoing civil and criminal cases brought against one indigenous leader in particular, which complainants consider fraudulent. The ESMR did not assess allegations of community intimidation.

Pollution prevention

- According to the EIS, the power plant has a lower heating value efficiency of 36 percent, which is in line with IFC EHS guidelines.

¹⁸⁵ Berkman Systems, Inc. for Conal Holdings Corp., *Environmental Impact Statement: 200MW Southern Mindanao Power Plant*, March 2009.

- The EIS states that the groundwater may not be fit for drinking because eight parameters exceeded the local drinking water thresholds. Marine water coastal samples and ambient air quality results were for the most part in line with local requirements.
- According to the ESMR, effluent from the plant was released to three large settling ponds of the Kamanga Agro-Industrial Economic Zone (KAIEZ) with a total area of 7,500 square meters. Only one of the tanks had a concrete exterior and the effluent was thus released both to the ground and to Sarangani Bay when overflow occurred. The ESMR recommended urgent improvement to wastewater treatment. RCBC reported to IFC that SEC did not agree with the external consultants' conclusion and considered its wastewater management to be in compliance with local requirements (as holding a valid discharge permit). IFC PS compliance on this issue was not checked. In 2020, RCBC reviewed SEC monitoring data and concluded that SEC ensures wastewater complies with national effluent regulations. It remains unclear whether the wastewater management is in line with IFC PS.
- The ESMR flagged that water offtake for the plant, using groundwater pumps, in Sitio Siguel, 12 km away from the power plant, has depleted water resources for communities in the vicinity and the adjacent school. This is particularly critical as communities rely on this water source. RCBC reports that SEC has provided a piped water system to the school and that SEC is using surface water for cooling since mid-2019. It remains unclear whether this has improved the water availability for the community.
- The ESMR noted that tests for PM₁₀ and PM_{2.5} for air quality were not included in the plant's monitoring. Hence, the ESMR could not check complaints related to ambient air pollution and associated health issues.
- The ESMR noted that the company transferred ash to an ash pond operated by a third party adjacent to the eastern perimeter of the power plant. At the time the ESMR was prepared, a cement plant took most of the ash from the facility. The ESMR did not identify any particular risk in this regard.

Community health

- The ESMR does not assess any potential pollution impacts on community health. It only notes that Community Health is one of the main pillars of SEC's Corporate Social Responsibility with medical and dental missions conducted periodically.
- Neither the ESMR nor other available information indicate whether a community impact health assessment, as required by the 2017 ECC, has been conducted.

Indigenous Peoples

- In 2007, the B'laan 'Sandag Clan' in Barangay Kamanga made a petition before the National Commission on Indigenous Peoples (NCIP) for a 280ha-land located in Tampuan, Kamanga, to be granted a Certificate of Ancestral Land Title (CALT). The petition was endorsed by elders, tribal chieftains, and the tribal council at various times between 2007 and 2014. Complainants noted that there have been major delays in processing that petition and meanwhile the power plant was approved with no attempt to obtain FPIC. Documentation provided to CAO indicates that NCIP received a counter-claim by two other clans, the Mangelen and the Balao, for that same land. The B'laan community claims that these two clans have only recently settled in the area and thus their claim is invalid, but that they were helped by NCIP personnel in presenting ownership documents. The application is still pending.
- The head claimant/representative for this petition has also been subject to civil and criminal complaints allegedly due to his opposition to the plant (see above).
- In 2015, the B'laan community, through the same representative, submitted a petition to NCIP for a Certificate of Ancestral Domain Title (CADT) for the same land area.

- The 2010 EIS noted that 13% of the population in barangay Kamanga was B'laan. The EIS did not include an assessment of the way the project might impact the B'laan people and concluded that there was no known indigenous group or tribe in the proposed project site.¹⁸⁶
- The ESMR noted the majority of people in barangay Kamanga are from the B'laan clan (with 354 B'laan households out of 573 total households surveyed in 2011). The ESMR concluded that there was no risk to PS7 as: (a) no indigenous peoples were on the industrial site (KAIEZ) prior to relocation and the land did not overlap existing ancestral lands; (b) there was no NCIP Certificate of Ancestral Domain Title application; and a certificate of 'non-overlap' was issued in 2015 by the NCIP. The ESMR determination was based on company documents and the NCIP website; it did not evidence an assessment in accordance with PS7 requirements.
- The 2009 EIS did not envisage any resettlement as a result of the SEC power plant. The ESMR noted that the plant was in an industrial zone and 143 families were relocated from that area in 2012. The ESMR external consultant visited the relocation site and considered it adequate, noting only one low risk related to community relations. The ESMR did not comment on whether any of the relocated families self-identified as indigenous peoples.

Biodiversity

- The plant is located next to the Sarangani Protected Bay seascape and Kamanga marine ecotourism park and sanctuary in Maasim.
- The ESMR notes that as part of SEC's Integrated Coastal Protection and Management Plan (ICPMP), the Artificial Reef Deployment Program has been carried out since 2009 to rehabilitate and restore coral reefs, provide nursery ground, and a habitat for fishes in Sarangani Bay.
- According to the ESMR, SEC's work with the Kamanga Marine Ecotourism Park and Sanctuary is exemplary.

CAO Observations

- The client has provided financing to the project subsequent to IFC's 2011 and 2013 equity investment. As this is a category A project, the client is required to inform IFC of its intention to finance this power plant in advance, assess and legal covenant the power plant to operate in accordance with IFC's Performance Standards (2012) and supervise the power plant operations to ensure compliance with the PS. Prior to the ESMR, IFC's supervision does not evidence whether the client assessed, legal covenant and supervised the power plant to the PS.
- The 2009 EIS does not assess whether indigenous land use might be affected by the Project, while the ESMR only partly assesses potential risks to indigenous land and solely based on company information and the NCIP website. PS7 requires additional assessment with the assistance of competent external experts to verify power plant compliance.
- RCBC reported to IFC that identified shortcomings on wastewater have been addressed by the power plant, however, remains silent on whether this is in line with IFC PS, in particular, the quality and capacity of the third-party wastewater treatment facility.
- The ESMR's positive aspects include (b) interviews with local officials and site visits to relocation site and area for groundwater. Gaps in the ESMR include (a) inadequate assessment of stakeholder engagement, including of potential risks; (b) inadequate assessment of the plant's potential impacts on indigenous land; (c) inadequate assessment of community health impacts (d) lack of independent review of information in relation to the above issues; and (e) inadequate recommendations to reach compliance with IFC PS on all water related issues.

¹⁸⁶ Berkman Systems, Inc. for Conal Holdings Corp., *Environmental Impact Statement: 200MW Southern Mindanao Power Plant*, March 2009, section 4.4.

- IFC's supervision documentation does not comment as to whether the ESMR and subsequent client site visit provides sufficient evidence that the client has applied the Performance Standards to the coal-fired power plant (IFC ESRP 9.2.6).

7 - GN Power Kauswagan or 'Lanao Kauswagan' power plant	
<i>Location</i>	Kauswagan, Lanao del Norte, Mindanao
<i>Status</i>	Operational since 2019
<i>Size and Technology</i>	552MW (4x138 MW) Sub-Critical
<i>Estimated Annual Carbon Emissions</i> ¹⁸⁷	3.12m MT
<i>Distance from plant boundary to nearest community</i>	40m to barangay Libertad to the south. Distance from ash management facility to nearest houses to the north is 60m.
<i>RCBC exposure</i>	Project Finance Loans: 2015 ¹⁸⁸
<i>RCBC prepared ESMR</i>	February 2019
Relevant Performance Standard (2012)	Complainant Allegations
PS5: Resettlement and Livelihood Restoration Planning and Implementation PS5: Physical Displacement	Eviction and resettlement in 2016 of 321 families to an unfinished site, with inadequate infrastructure and no security of tenure. Since the complaint submission, complainants stated that the livelihoods of resettled families, who relied on fishing, had been adversely affected due to the distance of the resettlement sites to the shores.
PS1: Stakeholder Engagement	Lack of consultation and information about the project and its impacts.
PS1: Identifications of Risks and Impacts PS3: Pollution Prevention	Since the commencement of operations, complainants raised issues of noise, air, and water pollution, with adverse impacts on fish and mangroves, and fisherfolks' livelihoods.
Summary of available information	
<ul style="list-style-type: none"> An EIS was finalized for the power plant in March 2014.¹⁸⁹ The power plant was assessed to national law. 	

¹⁸⁷ Estimation based on available E&S documentation (e.g., EIS, Engineer's Report, PDR and ESMR) and/or annual GHG emissions estimated as: capacity * capacity factor * heat rate * emission factor.

¹⁸⁸ Ayala (2017) Bond Program, p.20, available at <https://bit.ly/3jrVY04>, and RCBC (2015) Annual Report, p.17, available at <https://bit.ly/2GuQbJL>.

¹⁸⁹ Geosphere Technologies, Environmental Impact Statement: Proposed GN Power Kauswagan Power Project, 2014.

- In 2019 GNP Kauswagan was determined “project of national significance” according to Executive Order 30, allowing for a faster approval process with presumption of prior government approval absent objection within 35 working days.¹⁹⁰
- In February 2019, RCBC staff prepared an ESMR. The power plant was under construction at the time. The ESRM was prepared based on company documents and a site visit to the plant conducted in December 2018. RCBC categorized the E&S risk as Category A.
- The ESMR made four findings of non-conformance with IFC E&S requirements, of which one was medium risk (MW capacity) and three were low risk according to RCBC’s categorization.
- IFC’s supervision documentation does not provide comment on the 2019 ESMR.

Displacement

- The 2014 EIS stated that the Project was on industrial land and that 321 ‘informal settlers’ and 10 tenants in Barangay Libertad would be resettled. The EIS presented a Resettlement Action Plan (RAP) Framework and a social development plan (SDP), including livelihood restoration and consultations. The EIS noted that compensation and relocation of the informal settlers was compliant with national regulations. The EIS also noted that houses had already been built at one resettlement site, and that the majority of those to be resettled were fisherfolks.
- The ESMR noted that two resettlement sites were set up with all amenities, and that 409 families in Barangay Libertad, and 27 families in Barangay Tacub, respectively, were displaced. The ESMR cites company information that the RAP was implemented in cooperation with government authorities, and that the company had just initiated livelihood restoration programs. While the report concluded that there were no E&S risks associated to PS5, an independent assessment of the RAP and its implementation and adequacy of livelihood restoration programs is absent.
- Since the complaint submission, complainants reiterated that the livelihoods of resettled families, who relied on fishing, had been adversely affected due to the distance of the resettlement sites to the shores.

Stakeholder Consultation

- The 2014 EIS made one reference to a public consultation being held prior to the EIS. The EIS included an Information, Education and Consultation (IEC) plan. It is unclear to what extent it was implemented.
- In 2016, a criminal case was brought against eight residents of Kauswagan for alleged opposition of the 10-year Development Plan of Kauswagan. On January 10, 2019, the regional trial court found the defendants guilty and sentenced them to a six-month prison sentence and a fine. All defendants have reportedly led advocacy against the GNP Kauswagan Plant.
- Since the complaint submission complainants have reiterated concerns over the continuing climate of intimidation in Kauswagan, some of which were documented in a 2018 public report.¹⁹¹
- The ESMR does not comment on the Project’s approval disclosure and consultation process. The ESMR states that coal power plant staff conduct regular visits to local communities and maintain a good relationship with stakeholders.

Pollution

¹⁹⁰ Further details available at Business World (<https://bit.ly/34vqMsr>) and Philippines Department of Energy (<https://bit.ly/3jA2fqB>).

¹⁹¹ IDI, BIC Europe, Philippines Movement for Climate Justice, *Broken Promises: The World Bank, International Investors and the Fight for Climate Justice in the Philippines*, April 2018, available at <https://bit.ly/2HuR7ys>.

- The EIS does not examine the plant's efficiency in detail. It states that the technology used will result in 'relatively small amount of CO₂ generation.' The EIS asserts that the power plant would comply with World Bank air and effluent emission standards.
- The ESMR recorded mitigation measures the plant would implement to reduce emissions of fugitive dust and high concentration of Sulphur dioxide.

CAO Observations

- The client has provided financing to the project subsequent to IFC's 2011 and 2013 equity investments. As this is a category A project, the client is required to inform IFC of its intention to finance this power plant in advance, assess and legal covenant the power plant to operate in accordance with IFC's Performance Standards (2012) and supervise the power plant operations to ensure compliance with the PS. Prior to the ESMR, IFC's supervision does not evidence whether the client assessed, legal covenant and supervised the power plant to the PS.
- The EIS does not present sufficient evidence that a stakeholder consultation process and an assessment of land tenure was conducted to IFC Performance Standards. The EIS does present a resettlement action plan and stakeholder engagement plan.
- Key gaps in the ESMR include (a) lack of critical analysis and independent verification of company information; (b) limited focus on complainants' issues; (c) weak analysis of stakeholder consultations; and (d) insufficient assessment of whether the power plant was designed and constructed to operate in accordance with IFC PS.
- While the ESMR stated that there were no E&S risks as a result of the resettlement of 436 families, the review did not comment on whether (a) the Resettlement Action Plan met the requirements of PS5, including in relation to adequate housing, water and security of tenure; (b) loss to families was compensated in accordance with PS5 requirements; (c) there were adequate livelihood restoration measures; and (d) there were independent monitoring and reporting of outcomes to achieve PS5 objectives.
- The ESMR noted that GNPk commissioned a third party to perform quarterly Equator Principles Compliance Monitoring and Audits, the latest available of which was provided by GNPk to RCBC. However, no findings from the audit were mentioned in the ESMR. The results could have been useful given the Equator Principles apply IFC's Performance Standards.
- IFC's supervision documentation does not provide comment as to whether the ESMR provides sufficient evidence that the client has applied the Performance Standards to the coal-fired power plant (IFC ESRP 9.2.6).

8 - Toledo Power Company or TPC1A power plant	
<i>Location</i>	Daanlungsod, Barangay Sangi, Toledo City, Cebu
<i>Status</i>	Operational since 2014
<i>Size and Technology</i>	82 MW Sub-Critical Circulating Fluidized Bed (as expansion of 60MW TPC Sangi)
<i>Estimate Annual Carbon Emissions</i> ¹⁹²	0.63m MT
<i>Distance from plant boundary to nearest community</i>	100-200m
<i>RCBC exposure</i>	Project Finance Loan: 2013 ¹⁹³
<i>RCBC prepared ESMR</i>	March 2019
Relevant Performance Standards (2012)	Complainant Allegations
PS1: Stakeholder Engagement	Lack of consultation and information about the project and its impacts.
PS1: Identifications of Risks and Impacts PS3: Pollution Prevention	All the coal ash generated is being dumped indiscriminately around the open spaces in Toledo City and its immediate environs. This has caused serious harm, including pollution of seawaters surrounding the plant. The company has not put any prevention and mitigation measures in place.
Summary of available information	
<ul style="list-style-type: none"> Toledo Power Plant expansion (TPC1A) is an expansion of the original TPC Sangi 60MW power plant in the Daanlungsod industrial area.¹⁹⁴ TPC also owns a 40 MW fuel oil power station – Carmen plant. The industrial land also includes 246MW Cebu Energy Development Corporation (CEDC) coal-fired power plant. In 2019, Therma Visayas Inc commenced operations of a 340MW coal-fired power plant in Toledo City. An Environmental Performance Report and Management Plan (EPRMP) for the TPC1 was completed in 2012. CAO did not have access to this report. In March 2019, an IFC consultant prepared an ESMR of the power plant for RCBC, based on a desk review of the power plant's 2012 Independent Engineer Report and some operational monitoring reports. RCBC categorized the E&S risk as Category A. 	

¹⁹² Estimation based on available E&S documentation (e.g., EIS, Engineer's Report, PDR and ESMR) and/or annual GHG emissions estimated as: capacity * capacity factor * heat rate * emission factor.

¹⁹³ Business Insider (2013) Toledo Power obtains P7-B loan for new power plant, available at <https://bit.ly/33Q50Pw>. Global Business Partners, Annual Financial Statement (2016), page 48. Available at <https://bit.ly/36PaJH3>.

¹⁹⁴ Philstar September 20, 2014, *Global Power switches on P10.2-B Toledo power plant*, available at <https://bit.ly/2K7oQyA>.

- The ESMR made seven findings of non-conformance with IFC E&S requirements, of which six were medium risk (emergency preparedness plan; labor conditions, groundwater study, land and sea coal and ash transport, and impacts on protected seascape; community health study) and one low risk according to RCBC's categorization framework.
- A subsequent client visit to the power plant in July 2019 identified continuing risks (categorized as four medium and three low risks). Supportive evidence of the power plant's compliance with IFC standards is absent from this assessment.
- IFC's supervision documentation does not provide comments on client's subsequent supervision.

Stakeholder engagement

- The ESMR noted that the consultation and community engagement programs per national requirements were in place. The ESMR does not include an assessment of the effectiveness of these programs or their compliance with relevant PS.

Pollution

- The ESMR notes that the company's monitoring program includes continual emissions monitoring and regular effluent, noise, waste, and ambient air quality monitoring. The ESMR concludes that the power plant complies with regulatory requirements and, in general, with the WBG EHS General Guidelines.
- The ESMR notes that available documentation does not assess the power plant's GHG emissions.
- The 2012 engineer's report and the ESMR noted that ash was transported by road to a disposal site, 6km away. This disposal facility is shared with another power plant operator and is managed by a third party. The 2012 engineer's report noted that ash transportation was expected to be contracted out to a third party.
- A 2013 study mentioned that Toledo power plant does not have an ash pond with polyethylene liner.¹⁹⁵
- The ESMR notes a medium risk in that there is no evidence of how the ash is loaded, transported, and entombed at the dumping site.
- No public or client information was found on seawater pollution.
- The 2012 engineer's report recommended an integrated management plan be prepared to protect the area's groundwater reserve. The ESMR noted that it was not clear if that plan had been undertaken and if there were any impact on communities.

Cumulative impacts

- An Environmental Compliance Certificate (ECC) was granted to TPC for 2x83MW expansion project in 2012. The ESMR notes that the second phase has not yet been implemented. It is unclear whether there are plans to do so.
- The ESMR does not discuss whether an adequate cumulative impact assessment of TPC1A was prepared. It notes, however, that source emission, ambient air quality and noise level monitoring has been monitored by an independent service provider at the facilities of TPC (TPC1A, Sangi Power Station and Carmen Power Station) and CEDC and they are all compliant with regulatory requirements.

Biodiversity

- The ESMR noted that the information provided by the power plant was insufficient to assess the marine ecosystem adjacent to the plant and potential impacts on the protected seascape.

¹⁹⁵ Kessels, J. and Baruya, P. (2013), Prospects for coal and clean coal technologies in the Philippines, p.39, at: <https://bit.ly/3k5QqLY>

CAO Observations

- The client has provided financing to the project subsequent to IFC's 2011 equity investment. As this is a category A project, the client was required to inform IFC of its intention to finance this power plant in advance, assess and legal covenant the power plant to operate in accordance with IFC's Performance Standards (2006) and supervise the power plant operations to ensure compliance with the PS. Prior to the ESMR, IFC's supervision does not evidence whether the client assessed, legal covenant and supervised the power plant to the PS.
- The ESMR presents an adequate review of the power plant's design and main operations with reference to IFC E&S requirement. Gaps in the ESMR include insufficient assessment of stakeholder engagement, community health, and water use.
- The ESMR noted risks in relation to several Performance Standards, the majority of which related to gaps in information. The lack of site visit and interview with project affected people, and the limited E&S documentation available to the IFC consultant, presented challenges to assessing the power plant's compliance with IFC standards.
- Available documentation does not indicate that a cumulative impacts assessment of ambient air quality and water use to the PS was prepared (PS 1, para 8; PS3, para 11). This is of relevance given that this project involved the expansion of an existing facility.
- Coal ash handling, transportation and disposal can present significant environmental contamination risks and increased health risks to local communities.¹⁹⁶ This plant was expected to produce 100,000kgs of ash per day. While the complaint raises concern regarding coal ash transportation, the ESMR does not provide assurance that this process is being conducted to IFC's PS. Rather, the ESMR notes that coal ash transportation and disposal is managed by a third-party with no evidence provided on that process. The ESMR flags this as a medium risk non-conformance with IFC PS.
- A subsequent client supervision report reiterates the findings and recommendations from the ESMR. It does not present any additional evidence of the power plant's compliance with IFC E&S requirements.
- IFC's supervision documentation does not provide comment as to whether the ESMR and subsequent client site visit report provides sufficient evidence that the client has applied the Performance Standards to the coal-fired power plant (IFC ESRP 9.2.6).

¹⁹⁶ Kravchenko, J; and Lyerly, H. Kim (2018), *The Impact of Coal-Powered Electrical Plants and Coal Ash Impoundments on the Health of Residential Communities*. North Carolina Medical Journal. Available at <https://bit.ly/3rOf4Sk>.

9 – Atimonan One Energy	
<i>Location</i>	Barangay Vila Ibaba, Atimonan, Quezon
<i>Status</i>	Site preparation activities
<i>Size and Technology</i>	1200 MW (2x600MW) Ultra-Supercritical
<i>Estimated Annual Carbon Emissions</i> ¹⁹⁷	Up to 9.4m MT
<i>Distance from Plant boundary to nearest community</i>	500-700m to resettlement site
<i>RCBC exposure</i>	Approved exposure confirmed in 2017 ¹⁹⁸
<i>RCBC prepared ESMR</i>	None
Relevant Performance Standards (2012)	Complainant Allegations
PS1: Stakeholder Engagement	Lack of consultation and information about the project and its impacts: in particular, inadequate consultation (with specific reference to 2015 consultations) and misrepresentation of the project as a liquified natural gas (LNG) project.
PS4: Community Health and Safety	Concerns over future adverse health impacts due to pollution.
PS1: Identifications of Risks and Impacts	The community is concerned that they will be economically displaced and not provided with any job opportunities by the company.
PS5: Physical and Economic Displacement	Since the complaint submission, complainants have raised concerns over the displacement process (with impacts on livelihoods) as well as inadequate conditions at the resettlement site.
PS 6: Biodiversity, Natural Habitats	The proposed plant is threatening Lamon Bay.
Summary of available information	
<ul style="list-style-type: none"> In 2012, Meralco and a Japanese power company engage in talks and commission studies to develop LNG power plant.¹⁹⁹ 	

¹⁹⁷ Estimation based on available E&S documentation (e.g., EIS, Engineer's Report, PDR and ESMR) and/or annual GHG emissions estimated as: capacity * capacity factor * heat rate * emission factor.

¹⁹⁸ Meralco Q3 2017 Earning Call. IEEFA (October 2017) *Carving out coal in the Philippines*. Available at <https://bit.ly/3kiv1MQ>.

¹⁹⁹ Business Inquirer, August 2012, *Meralco, Japan firm in talks to build LNG plant in Quezon*. Available at <https://bit.ly/3lqayq>. IEEFA (October 2017) *Carving out coal in the Philippines*. Available at <https://bit.ly/3kiv1MQ>.

- An Environmental Impact Statement (EIS) for a coal-fired power plant was prepared between March 2014 and June 2015.²⁰⁰ The EIS briefly stated that coal was selected over LNG due to a perceived unfavorable regulatory environment. Other energy alternatives were not discussed in the EIS.
- Construction has been delayed due to legal challenge before the Supreme Court by a consumer group.²⁰¹
- In 2018 Atimonan was determined “project of national significance” according to Executive Order 30, allowing for a faster approval process with presumption of prior government approval absent objection within 35 working days.²⁰²
- No ESMR was prepared for Atimonan. In 2017, RCBC signed a mandate letter with 7 other local banks to finance the power plant. In 2020, RCBC reported to IFC that it does not have an outstanding exposure to Atimonan.

Stakeholder consultations

- The EIS listed various information meetings and focus group discussions that were conducted from March through July 2014 with NGOs, residents, and local officials. Concerns raised during those meetings ranged from air, land, and water pollution, impacts on marine life and community health, resettlement process, and livelihoods.
- Media coverage shows strong public opposition to the plant since at least 2015. In 2015, community members and NGOs petitioned the Environment Management Bureau (EMB) to cancel the ECC issued that year; the petition was rejected.²⁰³ In November 2019, a coalition of NGOs, community members and church leaders submitted another petition to the EMB to ask for the suspension or cancellation of the ECC based on inadequate information and consultation with communities and lack of proper permits for the cutting of coconut and other trees.²⁰⁴ As of June 2020, DENR had yet to act upon the complaint. In 2020, church leaders and NGOs in Quezon province have reiterated their call to halt Atimonan’s construction.²⁰⁵

Pollution

- The EIS estimates annual CO₂ emissions to amount to over 9 million metric tons should the power plant operate at full capacity. The EIS concludes that the power plant would contribute less than 0.2% of GHG emissions worldwide. The EIS notes that the power plant will develop a carbon sink project to offset carbon emissions. No other information is provided.²⁰⁶
- As per EIS, the plants carbon intensity of electricity generated is predicted to be 1000g CO₂/kWh (IFC EHS standards are: 770g CO₂/kWh). The EIS does not comment on the plant’s energy efficiency.

²⁰⁰ Aperçu Consultants Inc, *Environmental Impact Statement, A1E 2X600MW Coal-Fired Power Plant Project, Barangay Villa Ibaba, Atimonan, Quezon.*

²⁰¹ Meralco, Annual Report 2019, SEC form 17-A, pp.99-100, <https://bit.ly/3ppigne>.

²⁰² Further details available at Business World (<https://bit.ly/34vqMsr>), Philippines Department of Energy (<https://bit.ly/3jA2fqB>), and <https://bit.ly/3ePU74F>.

²⁰³ Philstar, November 27, 2019, *Green groups, Quezon locals file petition vs Atimonan coal plant ECC*, available at <https://bit.ly/38BBfVK>.

²⁰⁴ Complaint letter to the EMB, November 20, 2019, on file. See also: Philstar, November 27, 2019, *Green groups, Quezon locals file petition vs Atimonan coal plant ECC*, available at <https://bit.ly/38BBfVK>.

²⁰⁵ Manila Bulletin, September 1, 2020, *People’s coalition, Lucena diocese oppose Quezon coal power plants*, available at <https://bit.ly/3lBKjNW>. and Business Mirror, June 18, 2020, *Quezon church leaders ask MGen to stop coal project*, available at <https://bit.ly/35n8jyF>. <https://bit.ly/35n8jyF>

²⁰⁶ Aperçu Consultants Inc, *Environmental Impact Statement, A1E 2X600MW Coal-Fired Power Plant Project, Barangay Villa Ibaba, Atimonan, Quezon*, p.324.

- An independent study in 2017 raised concerns over risks of coal ash pollution and coal ash spillages from the plant, with material impacts on the area's fishing and agriculture industry, especially given the low elevation of the planned site and its proximity to a river basin.²⁰⁷

Community health

- While the EIS includes a baseline on mortality and morbidity in the barangay, it does not include any analysis on how the power plant will assess and mitigate potential adverse impacts on community health. The Social Development Plan envisages addressing 'real and perceived threats to public health' through continuing stakeholder engagement activities.
- EIS demonstrates that stack emissions will be in line with DENR standards, however, remains largely silent on risks of dust in ambient air and related health impacts.

Physical and economic displacement / Eco-system services

- The EIS stated that about 79 households residing in sitio Carinay, Villa Ibaba would be resettled.²⁰⁸ The resettlement was nearing completion by March 2017.²⁰⁹
- The EIS includes a Resettlement Action (RAP) Plan outline which references IFC PS5 and provides for compensation due to physical displacement at full replacement cost or resettlement.²¹⁰ The EIS does not assess whether the power plant will lead to economic displacement.
- The EIS noted that a majority of residents relied on farming as their primary source of income, with many also relying on fishing and animal raising. A large part (88%) of the municipal land area is devoted to agricultural use, primarily consisting of coconut plantations.
- The EIS noted that the rezoning of the project site from Environmental Conservation Area (ECA) to Industrial Area by municipal ordinances (from 2012, 2013 and June 2015) would not have any impact on the land uses of the host communities, "especially since the project was one of the priority projects of the Municipality of Atimonan."²¹¹
- An independent expert review of the EIS considered the re-zoning and the subsequent loss of 138.31ha of ECA to be problematic, with risks to biodiversity and farming-based livelihoods.

CAO Observations

- The client committed to provide financing to the project subsequent to IFC's 2011 and 2013 equity investments. As this is a category A project, the client is required to inform IFC of its intention to finance this power plant in advance, assess and legal covenant the power plant to operate in accordance with IFC's Performance Standards (2012). In 2020, the client reported to IFC that it did not have an active exposure to the power plant.
- The client did not prepare an ESMR of this power plant, citing that it did not have outstanding exposure to the power plant. It is unclear to CAO whether the client's 2017 commitment to finance the power plant remains active.
- The EIS does not present sufficient justification for changing from an LNG power plant to a coal-fired power plant.

²⁰⁷ IEEFA (October 2017) *Carving out coal in the Philippines*. Available at <https://bit.ly/3kiv1MQ>.

²⁰⁸ Aperçu Consultants Inc, *Environmental Impact Statement, A1E 2X600MW Coal-Fired Power Plant Project, Barangay Villa Ibaba, Atimonan, Quezon*, p.379.

²⁰⁹ Business Mirror, March 7, 2017, *Meralco to raise P110 billion for Quezon coal plant*, available at <https://bit.ly/36oRQti> and Atimonan Energy, available at <https://bit.ly/32FKEYy>.

²¹⁰ Aperçu Consultants Inc, *Environmental Impact Statement, A1E 2X600MW Coal-Fired Power Plant Project, Barangay Villa Ibaba, Atimonan, Quezon*, p.389.

²¹¹ Aperçu Consultants Inc, *Environmental Impact Statement, A1E 2X600MW Coal-Fired Power Plant Project, Barangay Villa Ibaba, Atimonan, Quezon*, Table EP18, p.370-371, p.388.

- The EIS's estimates annual GHGs emissions of up to 9.4m MT. CO₂ emissions are very high - both overall and per kWh, compared to IFC EHS Guidelines (Table 4). The EIS is silent on the plant's efficiency.
- The EIS does not critically assess the risks of economic displacement, in particular the impacts of rezoning land for the project on eco-system services and biodiversity despite noting that livelihoods are largely based on agricultural use.
- IFC's supervision documentation does not clarify whether the client has an ongoing obligation to finance the power plant. Where the client has an ongoing obligation, IFC's role is to assure itself that the client has assessed the E&S risk of the power plant in accordance with IFC's Performance Standards and has applied these standards to its financing agreements.

10 - San Miguel Corporation Global Power Limay (SMC Limay)	
<i>Location</i>	Lamao, Limay, Bataan
<i>Status</i>	Operational (Units 1 & 2 since 2017; Unit 3 since 2018; Unit 4 since 2019)
<i>Size and Technology</i>	600 MW (4x150MW) Sub-Critical Circulating Fluidized Bed
<i>Estimated Annual Carbon Emissions²¹²</i>	Up to 4.6m MT
<i>Distance from plant boundary to nearest community</i>	30m to the barangay of Lamao (pop 19,329). ²¹³
<i>RCBC exposure</i>	Project Finance Loan: 2017 ²¹⁴
<i>RCBC prepared ESMR</i>	February 2019
Relevant Performance Standard (2012)	Complainant Allegations
PS1: Stakeholder Engagement IFC Position statement on Retaliation against civil society and project stakeholders, 2018	Lack of consultation and information about the project and its impacts: Only some people were invited to a public scoping. A public hearing was only conducted after the plant was already constructed. Concerns over threats and reprisals against community members, including with reference to the murder of activist Gloria Capitan in July 2016, allegedly due to her opposition to coal plants in Bataan, including in Limay.
PS1: Identifications of Risks and Impacts PS3: Resource Efficiency PS3: Pollution Prevention PS4: Community Health and Safety	The company did not build a proper facility to prevent the fly ash from scattering all over the communities. Pollution of crops, plants, and rivers by fly ash, as well as reduction of water in rivers, resulting in loss of productivity of fruit trees and crops. Health impacts (lung and skin diseases) due to fly ash (with specific reference to fly ash incident of late 2016/early 2017).
PS5: Physical Displacement	Displacement of some residents to resettlement area lacking in livelihood opportunities or with inadequate compensation.
Summary of available information	

²¹² Estimation based on available E&S documentation (e.g., EIS, Engineer’s Report, PDR and ESMR) and/or annual GHG emissions estimated as: capacity * capacity factor * heat rate * emission factor.

²¹³ PhilAtlas, reference 2015 Census. Available at <https://bit.ly/3sZCEwC>.

²¹⁴ SMC Global Power 2018 SEC-17a filing and 17c filing (August 2018). Available at <https://bit.ly/3jFPCu0>.

- SMC Limay is immediately south of an integrated crude oil refinery and petrochemicals complex owned by Petron, subsidiary of San Miguel Corporation, and a 140 MW coal-fired power plant, also owned by SMC.
- An EIS was finalized for the power plant in August 2013.²¹⁵ The power plant was assessed to national law.
- RCBC staff finalized an ESMR in February 2019. It was prepared based on the power plant's Independent Engineer Report and a video conference meeting with SMC. No site visit was conducted for this review. The power plant was operational at the time.
- RCBC categorized the E&S risk as Category A. The ESMR review concluded that there were no identified risk factors.

Stakeholder Consultation

- The 2013 EIS noted that a majority of residents surveyed had a negative opinion about the power plant and feared air, water, and land pollution, especially given past experiences with industrial projects in the area. The EIS recommended that an Information, Education and Communication plan be implemented a few months prior to and during construction and that a social development plan takes into account residents' concerns.²¹⁶
- A 2016 third party review of the power plant to PS noted community concerns that there was no consultation prior to construction commencing and there were allegations of security guard intimidation.²¹⁷

Pollution

- The EIS presents limited discussion on how coal fly ash will be collected, stored, and disposed of, and what would be the related impacts on ambient air quality.
- A 2016 third party review noted that at the worst-case, the estimated annual GHG emission of the power plant was 4,594,163 MT with a normalized GHG emission of 966g/kWh.²¹⁸
- In December 2016 and January 2017, DENR ordered SMC Limay to stop activity "in the wake of an ash spill that has reportedly caused several residents to fall ill."²¹⁹ Government authorities issued SMC violation notices, stating that the plant's testing operations had potentially resulted in ash spills into a waterway, and that fly ash from the plant had been reported as causing respiratory problems among local residents.²²⁰ SMC Limay asserted that there was a limestone powder spill, and not a coal ash spill.²²¹
- In February 2017, a community complaint was filed to DENR with a request for investigation (with 649 documented health complaints submitted by the Coal Free Bataan Movement in early 2017).²²²

²¹⁵ LCI Envi corporation, Environmental Impact Assessment: Proposed SMC Limay 600MW power plant, August 2013.

²¹⁶ LCI Envi corporation, Environmental Impact Assessment: Proposed SMC Limay 600MW power plant, August 2013.

²¹⁷ SMC Limay commissioned E&S review, February 2016, available at <https://bit.ly/2Jqfei9>.

²¹⁸ SMC Limay commissioned E&S review, February 2016, see 3.4.3 available at <https://bit.ly/2Jqfei9>.

²¹⁹ DENR, January 2017, available at <https://bit.ly/3jQX6dK> and at <https://bit.ly/32614sY>

²²⁰ DENR, available at: <https://bit.ly/32614sY>; "Lopez asked to shut down Bataan coal plant", *Business Mirror*, February 19, 2017. SMC Limay power plant started commercial operations in May and September 2017 for units 1 & 2, respectively; Roque, V, « DENR orders suspension of San Miguel coal plan », *Power Philippines News*, <https://bit.ly/36bqczG> and <https://bit.ly/36l5nlp>.

²²¹ DENR, available at <https://bit.ly/3oQnAji>.

²²² Tupaz, V, "Bataan community asks Gina Lopez to close SMC coal plant", February 15, 2017, <https://bit.ly/2It217M>. DENR, February 2017, *Lopez vows continued help to Limay coal ash spill victims*, available at <https://bit.ly/3jQX6dK>.

- The same month a DENR assessment of air and water indicated that there were acceptable levels of pollution as per DENR standards, and the company was allowed to resume operations. However, DENR did order the halting of the dumping of bottom ash in the shared storage sites.
- At the time of the incident the company publicly acknowledged that it had run into problems in the construction of an ash pond.²²³ A 2016 third party review had noted that there were plans to construct an ash storage facility later that year 2 km away from the power plant and that to mitigate soil contamination containment measures such as concrete lining and clay base were planned.²²⁶
- In addition, in relation to the same reported incident, the Department of Health conducted a preliminary assessment dated January 13, 2017.²²⁴ A comprehensive health impact assessment was conducted in 2018, however, the report was not made public.
- SMC publishes a summary of environmental controls and annual air emissions measurements (NO_x, SO_x and PM₁₀) for SMC Limay in its annual report. SMC states that the plant operates within and below applicable local limits and emission limits set by the World Bank.” For 2019, SMC reports the following emissions for SMC Limay: 85.4 NO_x (ppm); 89 SO_x (ppm) and 5.5 PM (Mg/Nm₃).²²⁵ SMC Limay has also published some weekly air emissions data which indicate performance in compliance with DENR and World Bank standards.^{226 227}
- An NGO provided CAO with ambient air quality measurements from a monitoring station installed in a community living 1km from SMC Limay power plant, conducted over a six-month period in 2020. The data indicates exceedances of local ambient air quality threshold value on numerous occasions, in particular for PM_{2.5} (short term 24h) measurements.
- The ESMR review summarizes the company’s approach to fly ash management and disposal, noting one ash storage area had been constructed outside the power plant area and a second ash pond was newly constructed. The review did not assess whether the facilities and management plans pose any particular risk and it made no reference to the 2016/2017 ash spill incident.

Displacement

- The 2013 EIS did not include an assessment of land tenure in Limay but noted that given that the proposed project would be situated in a previously operational industrial area, no residents would need relocation and no property should be damaged.²²⁸
- In 2015, it was reported that 110 families would be displaced due to the power plant’s construction.²²⁹
- A 2016 third-party review of the power plant noted that pre-construction activities included land acquisition and transfer ownership, however the specific details were not discussed.²³⁰
- In 2017, DENR affirmed that provincial authorities gave assurance that housing for 250 affected families would be provided within 3-5 months. Informal settlers within SMC’s Limay buffer zone

²²³ Torres, J, “Philippine coal plant accused of spewing toxic ash”, *Union of Catholic Asian News*, <https://bit.ly/3n570uh>.

²²⁴ Department of Health, Epidemiological Bureau, Field Epidemiology Training Program, *Preliminary report on the alleged increasing number of respiratory and skin illnesses cases in Limay, Bataan, January 2017*, Memo dated January 13, 2017.

²²⁵ SMC Global Power Holdings Corp, *2018 and 2019 Annual Reports, SEC filings 17-A*. For further details see <https://bit.ly/31TafwY>.

²²⁶ SMC Global Power Limay Disclosure available at <https://bit.ly/38rEsHE>.

²²⁷ SMC Global Power Limay, available at <http://bit.ly/38rEsHE>.

²²⁸ LCI Envi corporation, *Environmental Impact Assessment: Proposed SMC Limay 600MW power plant*, August 2013.

²²⁹ Karunungan, R.J, “Coal power plants in Bataan commit human rights violations”, August 6, 2015, available at <https://bit.ly/3eh8iiG>.

²³⁰ SMC Limay commissioned E&S review, February 2016, available at <https://bit.ly/2Jqfei9>.

would be given priority.²³¹ No updated information was found to verify whether adequate housing or compensation were provided.

- The ESMR review noted that PS 5 was not triggered as the power plant was constructed in an existing industrial estate and did not result in community relocation. An independent review of land tenure and zoning in this area to confirm PS5 determination is absent.

CAO Observations

- The client has provided financing to the project subsequent to IFC's 2011 and 2013 equity investments. As this is a category A project, the client is required to inform IFC of its intention to finance this power plant in advance, assess and legal covenant the power plant to operate in accordance with IFC's Performance Standards and supervise the power plant operations to ensure compliance with the PS. Prior to the ESMR, IFC's supervision does not evidence whether the client assessed, legal covenant and annually supervised the power plant to the PS.
- The ESMR review was solely based on a review of the Independent Engineers Report and video conference call with SMC Limay. The report was prepared based on a limited number of sources and lacked critical verification of information and analysis. Key gaps in the ESMR include (a) no direct discussion of complainants' issues; (b) insufficient assessment of ambient air quality and ash management (c) general weak analysis of social issues; and (d) insufficient coverage of PS1 issues such as public reports of community opposition and formal complaints.
- The ESMR does not discuss widely reported 2016/2017 ash spill incident, implementation of any remedial actions and the adequacy of the power plant's approach to ash management.
- Similarly, the ESMR concluded that PS5 was not triggered. Available information does not support this conclusion. In particular, the 2016 third party review and 2017 DENR statements noted land acquisition and displacement.
- In this case, the inadequate access to and critical examination of relevant E&S information across a large range of issues limited the ESMR's assessment of the power plant's compliance with all relevant IFC E&S standards.
- IFC's supervision documentation does not provide comment as to whether the ESMR provides sufficient evidence that the client has applied the Performance Standards to the coal-fired power plant (IFC ESRP 9.2.6).

²³¹ DENR, available at <https://bit.ly/2HVBZdu>.

11- San Miguel Consolidated Power Corporation Malita (SMC Malita) or SMC Davao	
<i>Location</i>	Malita, Davao Occidental
<i>Status</i>	Operational (Unit 1 since July 2017; Unit 2 since February 2018)
<i>Size and Technology</i>	300 MW (2x150MW). Sub-Critical Circulating Fluidized Bed
<i>Estimated Annual Carbon Emissions²³²</i>	1.4-2m MT
<i>Distance from plant boundary to nearest community</i>	30-150m to the barangay of Poblacion to the south.
<i>RCBC exposure</i>	Project Finance Loan: 2017 and 2018 ²³³
<i>RCBC prepared ESMR</i>	February 2019
Relevant Performance Standards (2012)	Complainant Allegations
PS 1: Stakeholder Engagement	Lack of adequate information and meaningful consultations with communities, who fear negative impacts.
PS1: Identifications of Risks and Impacts PS3: Pollution Prevention PS4: Community Health and Safety	Since the complaint submission the complainants allege impacts due to air pollution and reported increases of cough, skin rashes and itching, and heavy breathing among the community as well as impacts on livelihoods of farmers and fisherfolks due to pollution of water and crops and plants.
Summary of available information	
<ul style="list-style-type: none"> RCBC staff finalized an ESMR in February 2019. It was prepared based on a desk review of the power plant's Independent Engineer Report and a video conference meeting with SMC Davao and parent company SMC Global Power Holdings. The power plant was operational at the time. RCBC categorized the E&S risk as Category A. The ESMR concluded that there were no identified risk factors and there was substantial evidence that the coal-fired power plant complied with most PS requirements. 	
Stakeholder engagement	

²³² Estimation based on available E&S documentation (e.g., EIS, Engineer's Report, PDR and ESMR) and/or annual GHG emissions estimated as: capacity * capacity factor * heat rate * emission factor.

²³³ In December 2017, RCBC was named as a co-arranger of a bond which listed refinancing of Davao Greenfield as a use of funds. Further details available at <https://bit.ly/3e4OqiS>. SMC Global Power 2018 SEC-17a filing and 17c filing (August 2018). Available at <https://bit.ly/3jFPCu0> and <https://bit.ly/31TqgtE>.

- The ESMR cites philanthropic activities by SMC Global Power and SMC Foundation. The effectiveness of those programs and whether they constitute adequate stakeholder engagement as per PS1 is not assessed.

Pollution

- The ESMR the power plant conducts ambient air quality monitoring at three nearby villages. The ESMR affirms that monthly monitoring between 2016-2018 is within national limits for 2-hour duration.
- SMC publishes a summary of environmental controls and annual air emissions measurements (NO_x, SO_x, and particulate matter PM₁₀) for SMC Davao since 2018. SMC states that the plant operates within and below applicable local limits and emission limits set by the World Bank. For 2019, SME reports the following emissions for SMC Davao: 68.2 NO_x (ppm); 71.7SO_x (ppm) and 6.2 PM (Mg/Nm₃).²³⁴
- The ESMR noted that fly ash and bottom ash disposal was an immediate risk as the existing ash pond would be running out of space within two months. The ESMR cited company information that as of February 2019 the power plant was building a second ash pond and was negotiating off take sales with the cement industry. It is unclear whether the second ash pond is operational and the arrangement with cement companies confirmed.

CAO Observations

- The client has provided financing to the project subsequent to IFC's 2011 and 2013 equity investments. As this is a category A project, the client is required to inform IFC of its intention to finance this power plant in advance, assess and legal covenant the power plant to operate in accordance with IFC's Performance Standards (2012) and supervise the power plant operations to ensure compliance with the PS. Prior to the ESMR, IFC's supervision does not evidence whether the client assessed, legal covenant and supervised the power plant to the PS.
- The ESMR was solely based on a review of the Independent Engineers Report and video conference call with SMC Davao. The ESMR does not present sufficient information to evidence that the power plant has implemented an adequate stakeholder consultation process and disclosure of information in accordance with PS1.
- The ESMR affirms that the power plant is operating within World Bank air emissions standards, however, summary data is not presented. SMC public disclosure reports emissions below World Bank standards. The ESMR did not assess the adequacy of the power plants measurement protocols.
- RCBC supervision activities have not evidenced adequate monitoring of the power plant's ash management. Considering the health-related complaints, assessing, and ensuring compliance of ash disposal with PS 3 is important.
- IFC's supervision documentation does not provide comment as to whether the ESMR provides sufficient evidence that the client has applied the Performance Standards to the coal-fired power plant (IFC ESRP 9.2.6).

²³⁴ SMC Global Power Holdings Corp, 2018 and 2019 Annual Reports, SEC filings 17-A. For further details see <https://bit.ly/31TafwY>.

Summary of Relevant IFC Requirements

2012 PS Topic	Summary requirement
<p>PS1: Identifications of Risks and Impacts</p>	<p>Identification of risks and impacts in Project's area of influence, including impacts on ecosystem services upon which affected communities' livelihoods are dependent (para 8). A project's area of influence includes: (a) the area likely to be affected by the project; (b) associated facilities of the project; (c) cumulative impacts that result from the incremental impact of the project and from other existing facilities.</p>
<p>PS1: Stakeholder Engagement</p>	<p>PS 1: Stakeholder engagement (para 25-33). Effective consultation should begin early in the E&S risk identification process, based on prior disclosure of information, focus on inclusive engagement, free of manipulation, enable meaningful participation and be documented (para 30). Where there are potentially significant adverse impacts on communities, the project is required to conduct an Informed Consultation and Participation process (para. 31).</p>
<p>PS3: Resource Efficiency</p>	<p>A project should not have significant adverse impact on community water use (para 9).</p>
<p>PS3: Pollution Prevention</p>	<p>The client will avoid the release of pollutants or, when avoidance is not feasible, minimize and/or control the intensity and mass flow of their release. This applies to the release of pollutants to air, water, and land due to routine, non-routine, and accidental circumstances with the potential for local, regional, and transboundary impacts.</p> <p>Hazardous materials are sometimes used as raw material or produced as product by the project. The client will avoid or, when avoidance is not possible, minimize and control the release of hazardous materials. In this context, the production, transportation, handling, storage, and use of hazardous materials for project activities should be assessed (para. 10-13).</p> <p>Use of control measures to prevent, minimize, and control particulate matter emissions (EHS: Thermal Power Plants).</p>
<p>PS4: Community Health and Safety</p>	<p>The client will evaluate the risks and impacts to the health and safety of the Affected Communities during the project life cycle and will establish preventive and control measures consistent with good international industry practice (GIIP), such as in the World Bank Group Environmental, Health and Safety Guidelines (EHS Guidelines) or other internationally recognized sources.</p> <p>The client will design, construct, operate, and decommission the structural elements or components of the project in accordance with GIIP, taking into consideration safety risks to third parties or Affected Communities.</p> <p>The client will avoid or minimize the potential for community exposure to hazardous materials and substances that may be released by the project (para 5-7).</p>

<p>PS5: Resettlement and Livelihood Restoration Planning and Implementation</p>	<p>Prepare a Resettlement or Livelihood Action Plan (para 12-16) which includes compensation at full replacement cost, mitigate negative impacts of resettlement and implement livelihood restoration plan.</p>
<p>PS5: Physical Displacement</p>	<p>In the case of physical displacement, the client will develop a Resettlement Action Plan that covers, at a minimum, the applicable requirements of this Performance Standard regardless of the number of people affected. This will include compensation at full replacement cost for land and other assets lost. The Plan will be designed to mitigate the negative impacts of displacement; identify development opportunities; develop a resettlement budget and schedule; and establish the entitlements of all categories of affected persons (including host communities). Particular attention will be paid to the needs of the poor and the vulnerable (para. 19).</p>
<p>PS5: Economic Displacement</p>	<p>Economically displaced persons whose livelihoods or income levels are adversely affected will also be provided opportunities to improve, or at least restore, their means of income-earning capacity, production levels, and standards of living: For persons whose livelihoods are natural resource-based and where project-related restrictions on access envisaged in paragraph 5 apply, implementation of measures will be made to either allow continued access to affected resources or provide access to alternative resources with equivalent livelihood-earning potential and accessibility (para 28).</p>
<p>PS6: Biodiversity Conservation and Sustainable Management of Living Natural Resources</p>	<p>Consider direct and indirect project-related impacts on biodiversity and ecosystem services and identify any significant residual impacts. This process will consider relevant threats to biodiversity and ecosystem services, especially focusing on habitat loss, degradation and fragmentation, invasive alien species, overexploitation, hydrological changes, nutrient loading, and pollution. It will also take into account the differing values attached to biodiversity and ecosystem services by Affected Communities and, where appropriate, other stakeholders.</p>
<p>PS7: Indigenous Peoples</p>	<p>The Performance Standard applies to groups or communities of Indigenous Peoples (IPs) who maintain a collective attachment to distinct habitats or ancestral territories, and may include those communities who do not live on the lands affected by the project, but who retain ties to those lands through traditional ownership and/or customary usage, including seasonal or cyclical use (PS 7/GN 7).</p> <p>Retain competent external experts to assist in conducting an impact assessment of traditional or customary use of land and natural resources by IPs, and any ad hoc, seasonal, or cyclical use of land and natural resources (PS 7/GN 42).</p> <p>The client will obtain the Free, Prior and Informed Consent (FPIC) of the Affected Communities of Indigenous Peoples in certain circumstances, including when impacts on land and natural resources subject to traditional ownership or use are expected (para 11).</p>

Annex E: CAO Assessment of Likelihood of Complaint Sub-Project Impacts

The following table summarizes each sub-project level complaint issue and CAO's assessment of likelihood of impact and risk. It should be read in conjunction with the more detailed tables on each sub-project in Annex D. These conclusions were reached based on a review of available information specific to each power plant and/or location, complemented by/contrasted with a review of general information on relevant issues (such as known health impacts related to coal-fired power plants), and of information specific to the national Philippines context (see Annex C), and in the absence of compelling contradictory information. Information examined included power plant environmental assessment documentation, IFC information, public ECCs, regulatory documentation and action, media reports, satellite imaging, independent studies, and expert interviews. In relation to each complaint issue, CAO makes the following assessment:

- Very likely: available information substantially supports a conclusion of sub-project level impact
- Rather likely: available information supports a conclusion of sub-project level impact, however there is insufficient information to support the conclusion that the impact is very likely.
- Inconclusive: available information is contradictory and/or not sufficient to determine the likelihood of sub-project level impact.

	Complaint Sub-Project	Issues raised in the complaint²³⁵	CAO Assessment of likelihood of Sub-Project level risks and impacts
1	Masinloc Power Partners expansion	Contamination of crops by coal ash	Rather likely
		Loss of livelihoods as a result of crop contamination and impacts on fisheries	Rather likely
		Lack of consultation and information about the project and its impacts	Rather likely
2	GN Power Dinginin Ltd. (GNCP2)	Health impacts associated with coal pollution	Rather likely
		Loss of livelihood due to blocked access to sea for fisherfolks and contamination of fishing waters	Inconclusive
		Loss of animals as a result of contaminated plants	Inconclusive
		Inadequate compensation for physical displacement	Inconclusive

²³⁵ Lack of PS complaint grievance mechanism is not individually listed for each plant but is considered highly likely in relation to all power plants for several reasons: (a) IFC PS include more stringent requirements than the national framework; (b) the national private sector approach to Corporate Social Responsibility (CSR) and community engagement, reflected in the practice of power plants operators, is largely focused on philanthropy and social development rather than IFC PS1; (c) in a few instances these shortcomings were explicitly confirmed.

		Restrictions on the Dumagat indigenous peoples' access to land	Inconclusive
		Lack of consultation and information about the project and its impacts, and intimidation of anti-coal activists (raised in the body of the complaint and in updated information from complainants)	Rather likely
3	South Luzon Thermal Energy Corp. (SLTEC) ²³⁶	Loss of livelihoods due to contamination of crops by coal ash	Very likely
		Impacts on access to water due to decreased water levels in artesian pump wells	Inconclusive
		Erosion of shoreline by plant construction with impacts on one person's rest house business	Not related to SLTEC ²³⁷
		Lack of consultation and information about the project and its impacts	Rather likely
4	San Buenaventura (SBPL)	Health impacts (due to heavy metals contamination from fly ash). Since the complaint submission complainants have raised concerns over continuing air and water pollution	Rather likely
		Impacts on water biodiversity by heavy metals contamination. Since the complaint submission complainants have raised concerns over continuing water pollution, impacting fisherfolks	Inconclusive
		Lack of consultation and information about the project and its impacts	Rather likely
5	Panay Energy Development Corp (PEDC)	Health impacts associated with coal pollution in Barangay Nipa, Concepcion, Iloilo	Not related to PEDC ²³⁸
		Lack of consultation and information about the project and its impacts	Rather likely
6	Sarangani Energy Corporation (SEC) Southern Mindanao ²³⁹	Displacement of members of the indigenous B'laan tribe from their ancestral lands without Free, Prior and Informed Consent (FPIC)	Inconclusive ²⁴⁰
		Health impacts due to water contamination from coal. Since the complaint submission	Very likely

²³⁶ In addition to complaint issues, available information indicates likely impacts on health due to pollution.

²³⁷ Available information indicates that this issue potentially relates to another power plant in another location.

²³⁸ Available information does not support a conclusion that the power plant results in health impacts at the complainants' stated location of Nipa, over 70 km away from PEDC. At the same time, available information does indicate rather likely health impacts associated with PEDC. See Annex D.

²³⁹ In addition to complaint issues, available information indicates likely impacts on water resources.

²⁴⁰ Available information is inconclusive whether there has been physical displacement of indigenous peoples in the project area. At the same time CAO notes that based on available information the B'laan community has been seeking recognition of its land (as ancestral domain) in the area since 2004. See Annex D for further details.

		complainants have noted continuing health impacts	
		Lack of consultation and information about the project and its impacts, including with indigenous peoples	Very likely
		Since complaint submission complainants have raised concerns over the intimidation of indigenous leaders	Rather likely
		Threatening protected area (Tino Tampuan)	Inconclusive
7	GN Power Kauswagan	Eviction in 2016 of over 300 families and resettlement to an unfinished site in poorly built and unsafe housing units, lacking access to water and security of tenure. Since complaint submission complainants stated that the livelihoods of resettled families, who rely on fishing, has been adversely affected due to the distance of the resettlement sites to the shores.	Rather likely ²⁴¹
		Lack of consultation and information about the project and its impacts	Very likely
		Since complaint submission complainants have raised concerns over the intimidation of community activists	Very likely
8	Toledo Power Company	Dumping of coal in open spaces with impacts on health	Rather likely
		Livelihood impacts due to dumping of coal in areas surrounding the plant, including seawater pollution	Rather likely
		Lack of consultation and information about the project and its impacts	Rather likely
9	Atimonan One Energy	Lack of consultation and information about the project and its impacts, including lack of disclosure about the project change from Liquefied Natural Gas to coal	Very likely
		Concerns over potential inadequate economic displacement and lack of employment opportunities from the company. Since the complaint submission complainants have raised issues about inadequate displacement and resettlement, with livelihood impacts	Very likely
		Concerns over potential health impacts and environmental impacts on Lamón Bay, where the project is located	Inconclusive

²⁴¹ Available information including from the client confirms the involuntary resettlement to two resettlement sites took place. The inadequate conditions of the two resettlement sites identified are rather likely.

10	SMC Limay	Lack of consultation and information about the project and its impacts	Very likely
		Loss of livelihoods due to pollution of crops by coal ash	Rather likely
		Health impacts associated with coal pollution	Very likely
		Inadequate physical displacement, especially related to compensation and livelihood restoration following an eviction of residents	Inconclusive ²⁴²
11	SMC Malita	Lack of consultation and information about the project and its impacts	Rather likely
		Concerns over community impacts once the plant is in operation. Since the complaint submission and the plant's start of operations complainants have alleged health impacts due to coal pollution	Rather likely
		Since the complaint submission the complainants have alleged impacts on livelihoods of farmers and fisherfolks due to coal contamination of water and crops.	Rather likely

²⁴² The displacement of residents is very likely based on available information; however insufficient information is available to assess compensation, housing and livelihood restoration measures.

Annex F: CAO compliance findings

CAO FINDINGS
IFC's Pre-Investment Review and Risk Mitigation Measures
IFC correctly classified the investment as FI and applied the appropriate E&S requirements (Sustainability Policy 2006, para. 18).
IFC deviated from the ESRP requirement to ensure that identified ESMS implementation gaps (in this case establishment and implementation of an ESMS from the start) were addressed prior to disbursement. As a result, IFC's leverage to meet the requirements of the Sustainability Policy in relation to its investment in RCBC was reduced
IFC's 2011 investment agreement did not reflect the ESRP requirement to retain the right to review its client's first few financing activities to ensure robust ESMS implementation (contrary to ESRP 2009, 7.2.10).
IFC's decision documentation does not present to the Board all material facts related to the E&S risks associated with this investment that the Board required for it to reach an informed decision (contrary to IFC Operational Procedures: New Business (para VIII.2.A.2, 2009)).
IFC's pre-investment review did not provide a basis to expect that the client would meet IFC's E&S requirements over a reasonable period of time (contrary to Sustainability Policy 2006, para. 17).
IFC's investment in RCBC was at risk of supporting projects with significant adverse E&S impacts that would not meet the requirements of IFC's Performance Standards.
IFC Supervision
<u>IFC's 2013 Investment</u>
IFC's 2013 pre-investment review did not provide IFC with a basis to conclude that the client would meet IFC's E&S requirements within a reasonable period of time (contrary to Sustainability Policy para. 22).
As with the 2011 investment, IFC's 2013 investment did not meet the requirement to close identified gaps in the client's ESMS before IFC's commitment or as a condition of disbursement (contrary to ESRP (2009, 7.2.19). As a result, IFC's leverage to meet the requirements of the Sustainability Policy from its additional investment in 2013 was reduced.
IFC did not subsequently disclose the status of ESAP implementation (contrary to para. 41 (b) of the Access to Information Policy).
As with the 2011 investment, IFC's 2013 investment in RCBC was at risk of supporting projects with significant adverse E&S impacts that would not meet the requirements of IFC Performance Standards.
<u>IFC's 2015 Investment</u>
IFC's 2015 pre-investment review did not provide IFC with a basis to expect that the client would implement IFC's Performance Standards within a reasonable time period (Sustainability Policy para. 22).
As with the 2011 and 2013 investments, IFC's 2015 investment did not meet the requirement to close identified gaps in the client's ESMS before IFC's commitment or as a condition of disbursement (contrary to ESRP (2014, 7.3.4.4)). As noted by IFC, the client's E&S performance

would remain an unquantified risk for some time to come. As a result, IFC's leverage to ensure outcomes expected by the Sustainability Policy was reduced.

IFC did not disclose the ESAP in full or provide an adequate summary of key measures, and IFC has not subsequently updated its disclosure regarding the status of ESAP implementation (contrary to para. 31 b (iii) and 41 (b) of the Access to Information Policy).

IFC General Supervision

Over the course of ten years since making its first investment, IFC has not verified that the client (a) is operating its ESMS as envisaged at the time of IFC's pre-investment review or (b) is applying the IFC Performance Standards, to its high-risk sub-projects (ESRP 2009 and 2014, para. 9.2.5/6).

IFC has made multiple investments in a commercial bank in the Philippines that is financing projects with high levels of E&S risk without assurance of Performance Standard compliance. Further, available evidence suggests that through its investment in RCBC, IFC has exposure to high-risk projects without assurance that they are operating in accordance with IFC Performance Standards, with likely adverse impacts on communities and the environment.

IFC Response to issues raised in the CAO Complaint

Upon review of available evidence in relation to the issues raised in the complaint and considering relevant Performance Standard requirements, CAO concludes that at the sub-project level the following adverse impacts and outcomes raised in the complaint are very likely or rather likely : (a) adverse health impacts due to air pollution or water contamination from coal ash at six power plants; (b) impacts on livelihoods due to coal ash contamination at five power plants and due to physical or economic displacement at two power plants; (c) displacement and resettlement related impacts at two power plants; (d) threats against, and intimidation of, community activists in relation to four power plants; and (e) inadequate stakeholder engagement and consultation, including lack of grievance mechanisms, at all power plants.

The adverse E&S impacts of the RCBC funded coal-fired power plants that CAO concludes to be likely or rather likely are of a significant nature and require urgent assessment and mitigation following IFC's Performance Standards.

IFC response to the issues raised in complaint has not provided assurance that the client has applied IFC E&S requirements to the coal-fired power plants it financed as required by ESRP 2014 (para. 9.2.5).

IFC's Investments and Climate Change Commitments

While making multiple investments in RCBC, IFC did not assess either i) the client's exposure to sub-projects with significant GHG emissions; or ii) the client's commitment and capacity to manage this exposure in accordance with Performance Standard 3 which includes requirements to measure GHG emissions and evaluate technical and financially feasible options to reduce or offset GHG emissions (contrary to Sustainability Policy 2006 para. 11, and 2012, para 7). Furthermore, while the World Bank Group implemented additional criteria, which raised the bar for it to finance coal-related projects, there is no evidence these criteria were applied to IFC's investments in RCBC.

Shortcomings in IFC's review and supervision of its investments in RCBC have contributed to an outcome whereby RCBC has co-financed the construction of multiple coal-fired power plants which emit significant amount of CO₂, without sufficient evidence that they will operate in accordance with IFC's requirements to reduce greenhouse gas emissions.

Annex G: CAO Recommendations

To address CAO's compliance findings, CAO recommends that IFC take the following actions:

<p>CAO recommendations to IFC regarding RCBC's ESMS implementation</p>	<p>For RCBC's ESMS to operate as required, in particular for RCBC's higher risk lending activities, IFC should require RCBC to contractually commit to a revised E&S Action Plan (ESAP) including provisions to:</p> <ul style="list-style-type: none"> i. engage a sufficient number of qualified staff and expert consultants to support ESMS implementation across its portfolio and to apply the Performance Standards to the higher risk business activities it is financing; ii. develop template loan agreements, E&S Action Plans and E&S due diligence requirements for higher risk business activities which reflect the Performance Standards and commit borrowers to both national E&S law and Performance Standards compliance; iii. not provide any new financing for coal-fired power generation or agree to any renegotiation, refinancing, or waiver in relation to any existing financing of a coal-fired power plant without a commitment to, and evidence of, full compliance with the Performance Standards for that plant; iv. commission E&S audits of all Category A projects in its portfolio to assess compliance with national law and identify gaps against IFC E&S requirements, a sample of which should be reviewed by IFC E&S staff.
<p>CAO recommendations to IFC regarding complaint sub-projects</p>	<p>IFC should support RCBC to conduct an independent E&S gap analysis by appropriately experienced and qualified consultants for each power plant with a focus on issues raised in the complaint and in CAO's investigation to verify compliance with IFC's E&S requirements. These gap analyses should:</p> <ul style="list-style-type: none"> i. include consultation with project-affected communities (including the complainants); ii. review the client's sub-project investment agreements to verify inclusion of Performance Standards covenants; and iii. be disclosed publicly together with any sub-project level remedial action plans. <p>The gap analyses should include a review of available information and, as necessary, request from the power plant operator, or commission, additional assessments to evaluate project performance in relation to the allegations of harm raised by the complainants. Given the issues raised in the complaint, it is important that these gap analyses assess project performance in relation to air emissions, coal ash storage, and ambient air and water quality, as well as potential resettlement impacts.</p> <p>If a power plant operator does not agree to participate in the gap analysis process with IFC and RCBC, IFC should at a minimum: (i) undertake an assessment of the gaps based on available E&S information related to the power plant's development and operations (including information retained by RCBC) against Performance Standards requirements, with a focus on the issues raised in the complaints; and (ii) commission third-party</p>

	<p>ambient air quality and water quality measurements at suitably selected locations outside the plant.</p> <p>Where gaps are identified, IFC should work with RCBC and its sub-clients to ensure that instances of harm raised by project-affected communities are assessed and remediated consistent with Performance Standards requirements. In doing this, IFC should consider ways to maximize its positive influence on the corporate owners and financiers of each power plant, as well as contributing to remedial solutions as appropriate.</p>
<p>CAO recommendations to IFC regarding complaint sub-projects air and GHG emissions</p>	<p>IFC should finance an onsite energy efficiency evaluation of each coal-fired power plant financed by RCBC to recommend costed efficiency and other improvements to reduce CO₂ emissions consistent with IFC's PS3 and EHS Guidelines. These assessments should be disclosed publicly together with any power plant improvement proposal. In some instances, these evaluations may lead to lifetime financial cost reductions for power plant operations which mean that capital costs could be borne by the operator. In other instances, IFC may consider alternative financing models to support efficiency improvements, GHG offsets or other measures to reduce GHG emissions from the plants. IFC may also consider its potential role in assisting private sector energy producers in the Philippines to transition to low carbon energy production.</p>
<p>CAO recommendations to IFC to address underlying factors that led to non-compliance findings</p>	<p>To address underlying factors that led to non-compliance findings in this case, IFC should:</p> <ul style="list-style-type: none"> i. prior to the initial financing of those FI clients required to implement the Performance Standards, conduct an E&S and financial assessment of the costs, benefits, and operational implications of implementing IFC's E&S requirements. This includes staffing estimates for ESMS implementation based on the FI's portfolio size and E&S risk for inclusion in the Environmental and Social Action Plan (ESAP); ii. ensure that systems are in place prior to disbursement to verify that an FI client is implementing an ESMS to apply the Performance Standards, as required for FIs that are financing higher risk business activities; iii. systematically provide direction and assistance to FI clients to support ESMS implementation at the sub-project level, including prior review of higher risk sub-projects for clients without a strong track record of ESMS implementation following IFC standards; and iv. require public disclosure on IFC's website for all FI sub-projects that are required to apply the IFC Performance Standards following the model applied by IFC in relation to Private Equity investments. v. IFC should consider requiring FI clients to measure and report to IFC on GHG emissions from their portfolios in accordance with industry best practice. IFC would need to prepare guidance and tools to support this. Good practice would include the FI and sub-project publicly disclosing Scope 1, 2 and 3 GHG emissions following the Greenhouse Gas Protocol.