1. About this page

This page is designed to help fund managers quickly familiarise themselves with Indigenous Peoples matters. It is not intended to be a detailed technical guidance document.

- Additional considerations
  Formal specific technical guidance is provided at the end of the page and in Reference materials, including the International Finance Corporation (IFC) 2012 Performance Standard 7: Indigenous Peoples.

  This page provides an overview and general guidance. Fund managers should carefully consider each company based on its specific characteristics and circumstances including scale, location, technology, management capacity and commitment and track record. Risks, impacts and opportunities relating to a particular company or sector can also change over time for a number of reasons (e.g. changes in the applicable laws and regulations or to the company's activities or assets). Fund managers may need to engage external experts in some situations (see 'Advice for fund managers' section below). Fund managers should have systems in place to monitor and respond to these types of changes during the lifetime of an investment.

  Depending on the characteristics of the company or project, particular aspects of this topic may be of more importance. Risks, impacts and opportunities relating to a particular company or sector can also change over time due to a number of factors (e.g. changes in the applicable laws and regulations or in the type of the company's activities or assets). Fund managers should have systems in place to monitor and respond to these types of changes during the lifetime of an investment.

2. Introduction

There is no universally accepted definition of Indigenous Peoples. Here they are considered to be groups of people with identities that are distinct from mainstream groups in national societies. They may be referred to in different countries by terms such as 'indigenous ethnic minorities', 'aboriginals', 'hill tribes', 'minority nationalities', 'scheduled tribes', 'first nations' or 'tribal groups'.

Indigenous Peoples typically have the following characteristics: (i) self-identify as members of a distinct indigenous cultural group and are recognised as such by others; (ii) a collective attachment to geographically distinct habitats or ancestral territories, making use of natural resources in these habitats and territories; (iii) customary cultural, economic, social or political institutions that are separate from those of the dominant society or culture; and (iv) communicate in an indigenous language, often different from the official language of the country or region.

- Indigenous Peoples are often among the most marginalised and vulnerable segments of the population
  In many cases, their economic, social and legal status limits their capacity to defend their rights to, and interests in, lands and natural and cultural resources, and may restrict their ability to participate in and benefit from development. Indigenous Peoples are particularly vulnerable if their lands and resources are transformed, encroached upon or significantly degraded. Their languages, cultures, religions, spiritual beliefs and institutions may also come under threat. As a consequence, Indigenous Peoples may be more vulnerable to the adverse impacts of project development than non-indigenous communities. This vulnerability may include loss of identity, culture and natural resource-based livelihoods, as well as exposure to poverty and disease.

3. Why companies and fund managers should address this topic

- Risks for the business
  Risks for the business related to Indigenous Peoples include:
  - If a company's operations are initiated and conducted without the involvement of affected Indigenous Peoples, misunderstanding and conflict with local communities may occur, resulting in negative impacts on the company's operations.

  - Where a company's operations will, or might, impact Indigenous Peoples, particular consultation processes should be followed. These can be time consuming and costly. If agreement cannot be reached at the end of the consultation process, the company may not be able to proceed with its planned operations.

  - Increasing global concern for the wellbeing of Indigenous Peoples (due to their vulnerability) means that significant reputational risks for companies can arise if Indigenous Peoples' issues are not managed appropriately.

- Opportunities for the business
  Opportunities related to Indigenous Peoples include:
  - Providing opportunities for Indigenous Peoples can also benefit the company. For example, providing training and education can help Indigenous Peoples to meet their social and economic goals, which can help to enhance social licence and also provides a larger pool of skilled and educated workers for the company.
  - Indigenous Peoples can also play a role in sustainable development by promoting and managing activities and enterprises as partners in development.

4. Advice for fund managers

See CDC environmental and social checklist as it contains questions and tips to help fund managers to assess the E&S aspects of an investment.

Companies have a responsibility to ensure that their operations respect the rights, aspirations, identity, culture and natural resource-based livelihoods of Indigenous Peoples.

Companies and investors should have an understanding of their risks and impacts on Indigenous Peoples. Companies use to identify risks and impacts via a formal Environmental and Social Impact Assessment (ESIA), although experience indicates that Indigenous Peoples are not always identified in the ESIA reports. The assessment can also be more specific/less extensive depending on the nature and scale of the risk and impacts. Fund managers should review whether an appropriate form of assessment has been undertaken and, if it has not, ensure that the scale and significance of risks and impacts are understood prior to investment.

Where significant risks and impacts are encountered, it is likely that specialised advice will be required. This may not be provided by all E&S consultancies, as local expertise and knowledge is typically required and fund managers may need to engage with universities, NGOs or other parties to obtain the necessary expertise.

Impacts on Indigenous Peoples depend on the location of a company's activities. However, impacts on Indigenous peoples more often occur in some sectors given their intrinsic characteristics.

- Sectors most likely to present potential impacts on Indigenous Peoples
    - Extractives sector (e.g. oil and gas, and mining).
    - Projects and activities involving large-scale construction.
    - Agribusiness and forestry.
    - Utilities (e.g. transmission lines).
    - Healthcare (specifically pharmaceutical and biotechnology).

Fund managers should ensure that, at a minimum, companies' management systems are designed to be compliant with local laws and regulations. In many cases, local regulations may not be fully aligned with good international industry practice (GIIP). Fund managers should assess companies' alignment with international standards and where appropriate, develop action plans to ensure that any gaps are addressed within a reasonable time frame. Companies should be able to demonstrate that they have implemented management plans in accordance with GIIP:

- Avoiding or minimising adverse impacts
  If a company's operations are located within traditional or customary lands, or involve the commercial use of natural resources located on these lands, adverse impacts on the livelihoods or cultural identity of the Indigenous Peoples community are likely to occur. The Indigenous Peoples may also be exposed to disease as a result of a company's activities. Companies should ensure that the ESIA identifies the potential impacts.

In these cases, fund managers need to ensure that companies have:

1. Informed the Affected Communities of their rights under national laws and international good practice, including the recognition of customary rights;
2. Made efforts to avoid impacts.
3. Offered land-based compensation, as well as culturally appropriate development opportunities, to Affected Communities.

When a company cannot avoid impacts on Indigenous Peoples, it needs to mitigate or compensate for any impacts in a culturally appropriate manner and with the informed participation of affected Indigenous Peoples. The fund manager should ensure that these provisions have been made and accounted for financially.

- Consultation and Free, Prior Informed Consent (FPIC)
  Companies should always establish a constructive ongoing relationship with Indigenous Peoples affected by the company's activities in a way that is culturally appropriate and ensures that the interests of the community are fairly represented by the person, leader, or group that is negotiating with the company. This will enable the company to understand the community's concerns and explain its plans and intentions to them. The fund manager should verify whether this has been done.

  If a company proposes to locate a project, or commercially develop natural resources, on lands traditionally owned by (or under the customary use of) Indigenous Peoples, and adverse impacts can be expected, the company should establish a formal consultation process and gain the FPIC of the Indigenous Peoples. FPIC applies to project design, implementation and expected outcomes related to impacts affecting the communities of Indigenous Peoples. See IFC Performance Standard 7: Indigenous Peoples for further explanation of this type of consent and the process that should be followed. It is highly likely that companies will need expert assistance (e.g. experienced social consultants, universities) to design or run the consultation process. Experience in the country and region in question is also recommended. Fund managers should ensure compliance with this process.

- Relocation and compensation

Companies should avoid the relocation of Indigenous Peoples from their dwellings and/or traditional and customary lands. If relocation is unavoidable, the company should enter into a transparent and good faith negotiations and ensure that any relocation complies with good international standards as described in IFC Performance Standard 7: Indigenous Peoples and IFC Performance Standard 5: Land Acquisition and Involuntary Resettlement. Given the vulnerability of Indigenous Peoples, companies will typically need to provide more assistance to these communities than to non-vulnerable communities (e.g. relocation assistance and assistance or guidance on how to manage compensation payments to ensure these are used to restore Indigenous Peoples' livelihoods). See E&S topics: Land acquisition and involuntary resettlement.

- Collaborating with local authorities
  Where the government has a defined role in the management of Indigenous Peoples issues, companies should collaborate with the responsible government agency, to the extent feasible and permitted by the agency. Where government capacity is limited, companies (and investors) will likely have to play a proactive role during the planning, implementation and monitoring of activities (to the extent permitted by the agency).

- Sharing development benefits with Indigenous Peoples
  Companies need to identify potential development benefits for affected Indigenous Peoples in order to improve the long-term sustainability of the natural resources on which they depend and their standard of living in a culturally appropriate manner. Fund managers should determine whether companies have followed an appropriate process and agreed to this type of benefit sharing.

5. Further resources

- Further information and guidance
  - IFC 2012 Performance Standard 7: Indigenous Peoples
  - IFC 2012 Guidance Note 7: Indigenous Peoples
  - IFC 2012 Performance Standard 5: Land Acquisition and Involuntary Resettlement
  - IFC 2012 Guidance Note 5: Land Acquisition and Involuntary Resettlement