

## Chapter 2.4 – Mineral Supply Chain and Responsible Sourcing

### Context & Disclaimer on IRMA DRAFT Standard 2.0

IRMA DRAFT Standard for Responsible Mining and Minerals Processing 2.0 is being released for public consultation, inviting the world to join in a conversation around expectations that drive value for greater environmental and social responsibility in mining and mineral processing.

This draft document invites a global conversation to improve and update the 2018 IRMA Standard for Responsible Mining Version 1.0. It is not a finished document, nor seeking final review, but rather is structured to invite a full range of questions, comments and recommendations to improve the IRMA Standard.

This IRMA DRAFT Standard for Responsible Mining and Minerals Processing (v.2.0) has been prepared and updated by the IRMA Secretariat based on learnings from the implementation of the Standard (v.1.0), experience from the first mines independently audited, evolving expectations for best practices in mining to reduce harm, comments and recommendations received from stakeholders and Indigenous rights holders, and the input of subject-specific expert Working Groups convened by IRMA in 2022.

IRMA's Standard has a global reputation for comprehensive in-depth coverage addressing the range of impacts, as well as opportunities for improved benefit sharing, associated with industrial scale mining. This consultation draft proposes a number of new requirements; some may wonder whether IRMA's Standard already includes too many requirements. The proposed additions are suggested for a range of reasons (explained in the text following), including improving auditability by separating multiple expectations that were previously bundled into a single requirement, addressing issues that previously weren't sufficiently covered (e.g. gender, greenhouse gas emissions), and providing more opportunities for mining companies to receive recognition for efforts to improve social and environmental protection.

Please note, expert Working Groups were created to catalyze suggestions for solutions on issues we knew most needed attention in this update process. They were not tasked to come to consensus nor make formal recommendations. Their expertise has made this consultation document wiser and more focused, but work still lies ahead to resolve challenging issues. We encourage all readers to share perspectives to improve how the IRMA system can serve as a tool to promote greater environmental and social responsibility, and create value for improved practices, where mining and minerals processing happens.

The DRAFT Standard 2.0 is thus shared in its current form to begin to catalyze global conversation and stakeholder input. It does not represent content that has been endorsed by IRMA's multistakeholder Board of Directors. IRMA's Board leaders seek the wisdom and guidance of all readers to answer the questions in this document and inform this opportunity to improve the IRMA Standard for Responsible Mining.

IRMA is dedicated to a participatory process including public consultation with a wide range of affected people globally and seeks feedback, comments, questions, and recommendations for improvement of this Standard. IRMA believes that diverse participation and input is a crucial and determining factor in the effectiveness of a Standard that is used to improve environmental and social performance in a sector. To this end, every submission received will be reviewed and considered.

The DRAFT Standard 2.0 is based on content already in practice in the IRMA Standard for Responsible Mining Version 1.0 (2018) for mines in production, combined with the content drafted in the IRMA Standard for Responsible Mineral Development and Exploration (the 'IRMA-Ready' Standard – Draft v1.0 December 2021) and in the IRMA Standard for Responsible Minerals Processing (Draft v1.0 June 2021).

# Chapter Structure

## BACKGROUND

Each chapter has a short introduction to the issue covered in the chapter, which may include an explanation of why the issue is important, a description of key issues of concern, and the identification of key aspects of recognized or emerging best practice that the standard aims to reflect.

## OBJECTIVES/INTENT STATEMENT

A description of the key objectives that the chapter is intended to contribute to or meet.

## SCOPE OF APPLICATION

A description of the conditions under which the chapter may or may not be relevant for particular mines or mineral processing sites. If the entity can provide evidence that a chapter is not relevant, that chapter will not need to be included in the scope of the IRMA assessment. A requirement is 'not relevant' if the issue to which a requirement relates is not applicable at the site. For example, requirements related to the use of cyanide would not be relevant at a site at which cyanide is never used.

### TERMS USED IN THIS CHAPTER

This is a list of the terms used in the chapter ■ Each term is separated with ■

*Terms listed here are identified in the chapter with a dashed underline. And they are defined in the Glossary of Terms at the end of the chapter.*

## Chapter Requirements

### X.X.X. These are criteria headings

X.X.X.X. And these are the requirements that must be met for an IRMA assessment to be issued and subsequently maintained by a site. Most criteria have more than one requirement. All requirements must be met in order to comply fully with the criterion.

- a. Some requirements consist of hierarchical elements:
  - i. At more than one level.
  - ii. Operations may be required to meet all elements in a list, or one or more of the elements of such a list, as specified.

### NOTES

Any additional notes related to the chapter and its requirements are explained here.

### GLOSSARY OF TERMS USED IN THIS CHAPTER

Terms used in the chapter are defined here.

### ANNEXES AND TABLES

Annexes or Tables are found here.

## IRMA Critical Requirements

The 2018 IRMA Standard for Responsible Mining v. 1.0 includes a set of requirements identified as being critical requirements. Operations being audited in the IRMA system must at least substantially meet these critical requirements in order to be recognized as achieving the achievement level of IRMA 50 and higher, and any critical requirements not fully met would need to have a corrective action plan in place describing how the requirement will be fully met within specified time frames.

The 2023 updates to the 2018 Standard may edit some critical requirements in the process of revising and therefore there will be a further review specific to the language and implications of critical requirements that follows the overall Standard review.

## Associated Documents

**This document is an extract of the full DRAFT IRMA FOR RESPONSIBLE MINING AND MINERAL PROCESSING (Version 2.0) – DRAFT VERSION 1.0, released in October 2023 for a public-comment period. The English-language full version should be taken as the definitive version. IRMA reserves the right to publish corrigenda on its web page, and readers of this document should consult the corresponding web page for corrections or clarifications.**

Readers should note that in addition to the DRAFT Standard, there are additional policies and guidance materials maintained in other IRMA documents, such as IRMA's Principles of Engagement and Membership Principles, IRMA Guidance Documents for the Standard or specific chapters in the Standard, IRMA Claims and Communications Policy and other resources. These can be found on the IRMA website in the Resources section. Learn more at [responsiblemining.net](https://responsiblemining.net)

## Comment on the IRMA Standard

Comments on the IRMA Standard and system are always welcome.

They may be emailed to IRMA at: [comments@responsiblemining.net](mailto:comments@responsiblemining.net)

Additional information about IRMA is available on our website: [responsiblemining.net](https://responsiblemining.net)

## Chapter 2.4

# Land Acquisition, Displacement, and Resettlement

**NOTES ON THIS CHAPTER:** We are proposing to remove the flag from this chapter. The flag related to encouraging assessing mines to help us better understand if the metrics in the chapter were sufficient to ensure that resettlement would be carried out in a fair and respectful manner that leads to improvements in quality of life and economic opportunities for affected peoples. Through the first audits, and an Expert Working Group on Resettlement in 2022, a great deal was learned about the challenges of carrying out resettlement, and also challenges with the chapter as written. The proposed changes below attempt to address those challenges.

We are proposing to change the title of the chapter from 'Resettlement' to 'Land Acquisition, Displacement, and Resettlement' as not all land acquisition results in displacement (i.e., if acquired lands are vacant and publicly owned there may not be displacement) and, more importantly, not all displacement is addressed through resettlement. This latter point is because the term 'resettlement' refers to a conscientious process of moving affected populations from one area to another, which may not have happened with historical displacement, if there was no physical displacement, or if an entity simply engaged in forced evictions or cash compensations. Therefore, to encompass the variety of scenarios that may arise (no displacement, no resettlement, etc.) we are proposing this as a more encompassing and therefore accurate title.

### Proposed additions and changes:

There are three major changes being proposed to the content in Chapter 2.4.

- 1) First, IRMA is proposing that all entities conduct land acquisition due diligence to support claims that no displacement occurred as a result of their land acquisition process. This is being proposed as it is not feasible for auditors to independently investigate such claims; rather, entities must provide them with evidence to evaluate (see 'Rationale for Adding Requirements Related to Historical Land Acquisition and Displacement' below).
- 2) Second, we are proposing to create a separate set of requirements - 2.4B - that will apply to circumstances where resettlements happened in the past. This would be distinct from those requirements 2.4A that apply to land acquisition that happened in the recent past and/or land acquisition proposed for the future.

The objective is to ensure that recent resettlements (2012 or later) and proposed projects follow international best practices. We are proposing a cutoff date of 2012 because this date marks the release of the most up-to-date edition of IFC's Sustainability Framework, including the Performance Standards (PS) on Environmental and Social Sustainability upon which these chapters are based. However, in recognition that Chapter 2.4A goes beyond the IFC PS in several ways, we are proposing to exempt entities that conducted land acquisition prior to the release of the final version 2.0 of the updated IRMA Standard from meeting those requirements that go above and beyond the IFC PS and therefore cannot be said to have been normative prior to the release of the updated IRMA Standard. This is explained in the 'Scope of Application' section of both 2.4A and 2.4B.

For historical (pre-2012) resettlements, the intent is not to be punitive but rather to focus on how sites can remediate and continue to improve the lives and livelihoods of those who have been displaced as a result of mineral development. Where land acquisition due diligence reveals that displacement did occur, IRMA lays out an abbreviated (compared to Chapter 2.4A – 'Proposed Land Acquisition and Resettlement') set of criteria aimed at achieving the objectives of Chapter 2.4A, to the extent possible given the historic nature of displacement.

- **View a side-by-side version of 2.4A (modified and full) and 2.4B here:** [https://responsiblemining.net/wp-content/uploads/2023/07/IRMA-STANDARD\\_Draft-1-of-Version-2.0-Chapter2.4ABsidebyside.pdf](https://responsiblemining.net/wp-content/uploads/2023/07/IRMA-STANDARD_Draft-1-of-Version-2.0-Chapter2.4ABsidebyside.pdf)

The allocation of requirements based on entity circumstance would therefore be:

- **Chapter 2.4B – 'Historical Land Acquisition, Displacement and Resettlement'** – applies to all land acquisition and displacement taking place before 2012 (see below for cut-off date rationale).
- **Chapter 2.4A (modified requirements) – 'Proposed Land Acquisition, Displacement and Resettlement'** – projects or operations with recent land acquisition processes, i.e., between 2012 and the release of the updated version of the IRMA Standard.
- **Chapter 2.4A (full requirements) – 'Proposed Land Acquisition and Resettlement'** – project or operations that are proposing new land acquisition that may lead to displacement.

This approach is similar in some ways to that of the European Bank for Reconstruction and Development (EBRD).

A resettlement guidance document published by EBRD in 2017 states that:

“When land acquisition for a project has been completed prior to the EBRD’s involvement. . .any gaps in the achievement of aims and objectives of [EBRD's Performance Requirement 5 or PR5] will have to be satisfactorily addressed by the client before approval of the loan. To identify the gaps, the Bank will usually require a review of the historic land acquisition process and compare it to PR5. . . Based on the outcomes of these activities, an action plan to fulfil gaps is prepared and agreed by the EBRD and the client.”<sup>1</sup>

However, IRMA recognizes that entities that undertook land acquisition long ago may not be able to simply identify and 'fill gaps' vis-a-vis the requirements in Chapter 2.4A (due to dispersion of the affected population, lack of documentation of assets affected, etc.). IRMA therefore takes a remediation-focused approach that encourages recognition and remedy of past displacement impacts in a manner that approximates the requirements of Chapter 2.4A to the extent possible but puts emphasis on negotiated remediation in cooperation with the persons affected based on what is realistic and feasible in a given context.

3) The third proposed substantive change is adding a requirement relating to voluntary displacement (2.4.7.9).

### **Rationale for Adding Requirements Related to Historical Land Acquisition, Displacement and Resettlement:**

Resettlements that occurred in the past create a particularly challenging scenario from an auditing and certification process. On the one hand, many land acquisition processes occurred before the concept of what constituted 'best practice' with respect to resettlement had emerged at the international level, so it seems unfair to expect entities undertaking land acquisition and/or resettlement 50 years ago, for example, to the same standards as those undertaking it today. This is not to mention logistical difficulties determining impacts in the past and the inability of entities to go back in time to rectify or remediate for shortcomings vis-à-vis today's standards.

In recognition of 2006 (the year the IFC first published their Performance Standards (PS), including PS5 on land acquisition and involuntary resettlement) as a watershed moment for international guidance on resettlement best practice, the previous version of the IRMA standard did not include requirements for entities that acquired land, displaced people, or conducted a resettlement prior to 2006, beyond requiring that unmitigated human rights impacts be remediated per Chapter 1.3. For resettlements occurring between 2006 and the release of the 2018 Mining standard, IRMA required that entities meet a selection of Chapter 2.4 criteria, aimed at identifying and mitigating the impacts of resettlement, including human rights impacts. The full chapter only truly applied to mines that proposed and carried out a resettlement project as of the date the IRMA Mining Standard came into effect (June 2018). Finally, for an entity to mark the chapter as 'not relevant,' the entity had to provide a rationale that no displacement/resettlement occurred in the past (a claim that auditors had to verify).

While a reasonable solution in face of the complexities of addressing historical displacement and/or resettlement, some stakeholders and auditors subsequently expressed that the categories were somewhat arbitrary and could result in resettlement chapter scores for different mining entities that appeared equivalent even though actual performance and outcomes were very different. Thus, some opportunities for improvement emerged. Namely:

- 1) Although their prominence increased with the publication of the first IFC Performance Standards in 2006, international norms surrounding good practice in resettlement existed as early as 1980, with the release of the World Bank's Operational Manual Statement OMS 2.33 (1980), which laid out basic principles for involuntary resettlement relating to fair compensation, the need to produce a resettlement plan to guide activities, and the mandate to leave affected people better off as a result of resettlement.<sup>2</sup> These policies were further refined in 1990 in the World Bank's Operational Directive 4.30 on involuntary resettlement, which introduced a preference for replacement land over cash compensation for those with land-based livelihoods and encouraged projects to provide financial management and livelihoods training to affected people. Therefore, to hold an entity that conducted resettlement in 2006 to drastically different standards than one that conducted resettlement in 2005 required rethinking.

<sup>1</sup> European Bank for Reconstruction and Development. 2017. Resettlement Guidance and Good Practice. pp. 9, 10.

<https://www.ebrd.com/publications/resettlement-guidance-good-practice.pdf>

<sup>2</sup> World Bank (2016). "Emerging Lessons Series #1: Involuntary Resettlement." Appendix A: Summary of World Bank Policy on Involuntary Resettlement. <https://documents1.worldbank.org/curated/en/521101467989568006/pdf/105660-NWP-Box394887B-PUBLIC-PUBDATE-4-12-16.pdf>

- 2) Absent at least an obligation on behalf of the entity to conduct due diligence on historical (pre-2006 under the 2018 Mining Standard) land acquisition processes, there was a potential that projects initiated prior to 2006 could become certified by IRMA despite having knowingly or unknowingly committed human rights abuses and other impacts incongruent with the spirit of IRMA and the requirements of Chapter 2.4, as this information may not be forthcoming without a dedicated effort to evaluate the events surrounding land acquisition (see also point #3 below).
- 3) By not requiring entities to develop and demonstrate an understanding of their own land acquisition processes, the onus was on the auditor to independently validate claims that 'no displacement occurred' (i.e., chapter 'not relevant') or that 'no human rights abuses occurred'. This was not only a missed opportunity for entities to understand and recognize their past, but it also put undue pressure on auditors to identify potentially affected populations (that by definition are no longer in the project area) for validation interviews or to conduct independent research into land acquisition processes on which they have little information to guide them. While investigation of past environmental impacts is often facilitated by the proximity of impacted people to the source of the impact, resettlement by nature involves the removal of affected people from the source of the impact. This further complicated the auditor's ability to independently determine whether displacement occurred in the past and, if so, whether human rights abuses resulted and/or whether those affected had or have access to grievance processes.

The creation of Chapter 2.4B ('Historical Land Acquisition, Displacement and Resettlement') was motivated by a desire – expressed by working group members and other resettlement practitioners – to ensure all entities are held accountable at a minimum for understanding and assessing the events surrounding project-related land acquisition and, where relevant and to the extent possible, identifying and offering remedy for historical impacts.

#### Glossary:

- We are proposing new/ revised definitions for several glossary terms. The 'Terms Used In This Chapter' box shows which terms are new, and the proposed definitions can be found in the glossary at the end of the chapter requirements. The full glossary is at the end of the document. Feedback on definitions is welcome.

#### PARTICIPATE IN AN EXPERT WORKING GROUP ON THIS CHAPTER

If you are interested in participating in an Expert Working Group on Land Acquisition, Displacement, and Resettlement, please contact IRMA's Standards Director, Pierre De Pasquale ([pdepasquale@responsiblemining.net](mailto:pdepasquale@responsiblemining.net)).

#### BACKGROUND

In some cases, by virtue of the location of a mineable ore body, proposed mining projects are located in close proximity to where people live. In order to develop a project, companies often have to acquire land – either permanently or temporarily – on which people are living.

Land acquisition includes both outright purchases of property and acquisition of access rights, such as easements or rights of way.<sup>3</sup> This may result in people being economically displaced from their livelihoods as well as physically displaced from their lands, homes, communities, and social and cultural ties. Project impacts can also, if sufficiently adverse and not able to be mitigated, result in physical and economic displacement even where no land acquisition occurs.

For the purposes of this Standard, the situation where those affected do not have the legal right to refuse land acquisition is referred to as involuntary displacement.<sup>4</sup> IRMA considers 'involuntary' therefore to also include people

<sup>3</sup> International Finance Corporation (IFC). 2012. Performance Standard 5: Land Acquisition and Involuntary Resettlement. Footnote 2. Available here: <https://www.ifc.org/en/insights-reports/2012/ifc-performance-standards>

<sup>4</sup> According to the International Finance Corporation, "This occurs in cases of (i) lawful expropriation or temporary or permanent restrictions on land use and (ii) negotiated settlements in which the buyer can resort to expropriation or impose legal restrictions on land use if negotiations with the seller fail." (IFC. Performance Standard 5: Land Acquisition and Involuntary Resettlement. Para. 1.). While the IFC refers to 'involuntary

who are involuntarily displaced from lands that they do not own as a result of 'voluntary' transactions between a landowner and the entity.

The World Bank experience indicates that, “involuntary resettlement under development projects, if unmitigated, often gives rise to severe economic, social and environmental risks: productive systems are dismantled; people face impoverishment when their productive assets or income sources are lost; people are relocated to environments where their productive skills may be less applicable and the competition for resources greater; community institutions and social networks are weakened; kin groups are dispersed; and cultural identity, traditional authority, and the potential for mutual help are diminished or lost.”<sup>5</sup> Social disintegration and severe impoverishment are therefore some of the immediate risks of resettlement that affect not only the displaced community but also host communities.<sup>6</sup>

IRMA does not prohibit involuntary resettlement, although it encourages entities to avoid it when doing so is in the best interest of the people and communities affected. When avoidance is not possible nor in the best interest of those affected, IRMA, like other internationally recognized standards on resettlement (e.g., the International Finance Corporation’s [IFC] Performance Standard 5 [PS5] on Land Acquisition and Involuntary Resettlement) requires that companies strive to minimize impacts on affected people by implementing mitigation measures such as fair compensation and improvements to livelihoods and living conditions that are discussed ahead of time with affected peoples. Active engagement of affected people and their advisors is required throughout the process, from the earliest stages of resettlement risk and impact assessment through the monitoring of resettlement outcomes.

As does the IFC, IRMA encourages entities to use negotiated settlements, even if they have the legal means to acquire land without the seller’s consent.<sup>7</sup> Negotiated settlements typically give affected people a greater role in planning the resettlement, help avoid expropriation, and eliminate the need to use governmental authority to remove people forcibly.<sup>8</sup> However, should efforts at good faith negotiations and subsequent arbitration options fail, any legally-permitted expropriation process ending in involuntary removal of people from the lands they occupy must only be conducted in accordance with national laws and international best practices.<sup>9</sup>

#### TERMS USED IN THIS CHAPTER

Affected Community ■ Baseline ■ Collaboration ■ Competent Professionals ■ Consultation ■ Culturally Appropriate **NEW** ■ Customary Right **NEW** ■ Displacement (Economic/Physical) ■ Displacement Remediation Plan **NEW** ■ Entity **NEW** ■ Expropriation **NEW** ■ Forced Eviction ■ Free, Prior and Informed Consent (FPIC) ■ Grievance ■ Grievance Mechanism ■ Host Community ■ Host Country Law ■ Impacts ■ Indigenous Peoples ■ In-Kind Compensation **NEW** ■ Involuntary Displacement ■ Livelihood ■ Livelihood Restoration Plan (LRP) ■ Mineral Processing **NEW** ■ Mining **NEW** ■ Mining-Related Activities ■ Mitigation ■ Operation **NEW** ■ Physical Displacement **NEW** ■ Project **NEW** ■ Replacement Cost ■ Resettlement ■ Resettlement Action Plan (RAP) ■ Stakeholder ■ Temporary Transitional Resettlement **NEW** ■ Voluntary Displacement **NEW** ■ Vulnerable Group

*These terms appear in the text with a dashed underline. For definitions see the Glossary of Terms at the end of this chapter.*

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resettlement' the IRMA Standard refers instead to involuntary displacement (as a result of land acquisition) in recognition that resettlement - particularly historically - is a process by which displaced households are physically moved to another location which may or may not have occurred following displacement.

<sup>5</sup> World Bank. 2001. Operational Manual. OP 4.12 – Involuntary Resettlement. <https://ppfdocuments.azureedge.net/1572.pdf>

<sup>6</sup> Sridarran et al. 2018. "Acceptance to be the Host of a Resettlement Programme: A literature review," *Procedia Engineering*. 212:962-969. <https://www.sciencedirect.com/science/article/pii/S1877705818301474>

<sup>7</sup> IFC Performance Standard 5. Para. 3

<sup>8</sup> European Bank for Reconstruction and Development. 2014. Performance Requirement 5. Land Acquisition, Involuntary Resettlement and Economic Displacement. p. 30. [www.ebrd.com/news/publications/policies/environmental-and-social-policy-esp.html](http://www.ebrd.com/news/publications/policies/environmental-and-social-policy-esp.html)

<sup>9</sup> See Kothari, M. 2007. "Basic Principles and Guidelines on Development-based Evictions and Displacement". A/HRC/4/18. [www.ohchr.org/Documents/Issues/Housing/Guidelines\\_en.pdf](http://www.ohchr.org/Documents/Issues/Housing/Guidelines_en.pdf)

## OBJECTIVES/INTENT OF THIS CHAPTER

To understand past and potential land acquisition and displacement, avoid displacement and resettlement if that is the most protective option for people, and, when avoidance is not the best option, equitably compensate affected people and improve the livelihoods and standards of living of displaced people.

**NOTE: REVISED.** The objectives have been revised to incorporate the terms land acquisition and displacement. The new objectives also reflect that in some cases avoidance of displacement and resettlement may not be the best option for safeguarding the health, safety and wellbeing of people and communities close to large-scale mining operations.

This approach is supported by literature on land acquisition and resettlement. For example, Owen and Kemp (2015) carried out a study that reviewed 41 resettlement events at 33 sites, and write that “Any avoidance decision must be set against the net impacts that a community will experience if resettlement is not at least offered on the basis of future mine-community cohabitation scenarios. The challenge here is that some companies claiming compliance with international standards by virtue of having ‘avoided’ resettlement in the design phase may also be avoiding the cost of land acquisition, resettlement and impact mitigation efforts. In these circumstances, the cumulative impact of avoidance may not, in fact, provide any safeguards for local communities in the context of mining.”<sup>10</sup>

## SCOPE OF APPLICATION

**RELEVANCE:** This chapter is applicable to all exploration, mining and mineral processing projects and operations. All sites undertaking and IRMA assessment must conduct the due diligence outlined in requirement 2.4A.1.1, regardless of whether land acquisition is thought to have resulted in (or may potentially result in) permanent or temporary involuntary or voluntary physical or economic displacement of people.<sup>11</sup> (See Relevance of Voluntary and Involuntary Displacement later in this section.) Beyond that, entities will be audited according to the following scheme:

- **Sites where land acquisition occurred before 2012** (i.e., the release of the 2012 edition of IFC's Sustainability Framework, including the IFC PS) **are audited against the full set of requirements in 2.4B.** This applies irrespective of whether the entity owned the asset at the time of the land acquisition. It may be the case that an entity conducted and concluded a resettlement process prior to this date that adhered to international norms (i.e., the IFC PS). In such cases, the entity may not wish to be audited against 2.4B, as its focus on retroactive assessment and remediation do not make sense for an already-concluded resettlement that meets many of the requirements of 2.4A. In such cases, the entity may opt to be audited against 2.4A.
- **Sites where land acquisition occurred between 2012 and the release of version 2.0 of the IRMA Standard** (i.e., 2024) **are audited against a modified set of the requirements in 2.4A.** These modifications reflect that some IRMA criteria go above and beyond the IFC PS, which have served as the normative guide for international best practice since 2012. It is therefore unfair to expect entities to have done things in the past which were not, at the time, considered international best practice.<sup>12</sup> There are also some requirements that cannot be met retroactively due to their temporal nature. To the extent that these requirements constituted international best practice as of 2012, entities will not be able to ‘fully meet’ these requirements; however, with remediation actions they can achieve ‘substantially’ or ‘partially’ meets.
- **Sites entering the IRMA system after the release of version 2.0 of the IRMA Standard** (and pending any grandfathering period, to be determined) **are audited against the full set of unmodified requirements of 2.4A.** There are some requirements that, if entities do not do them from the outset of their resettlement process and prior to entering the IRMA system, cannot be retroactively met due to their temporal nature. To the extent that these requirements constituted international best practice as of 2024, entities that did not undertake these actions prior to entering the IRMA system will not be able to ‘fully meet’ these requirements; however, with remediation actions they may be able to achieve ‘substantially’ or ‘partially’ meets.<sup>13</sup>

<sup>10</sup> Owen, J. and Kemp, D. 2015. “Mining-induced displacement and resettlement: a critical appraisal,” *Journal of Cleaner Production*. 87:478-488. <https://www.sciencedirect.com/science/article/pii/S0959652614010269>

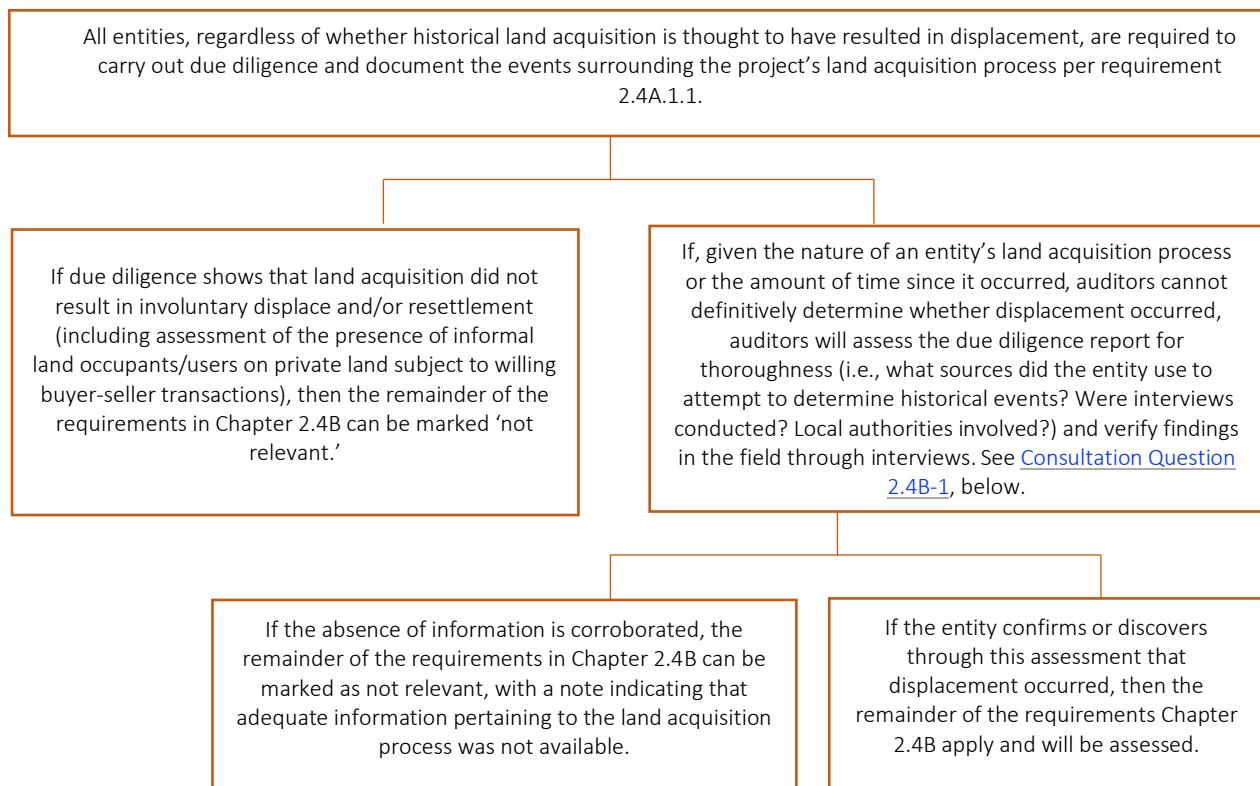
<sup>11</sup> It is important to note that displacement can be the result of permanent land acquisition or temporary land access leases (i.e., easements) for a limited period of time (i.e., during construction).

<sup>12</sup> These requirements are obligation to make demonstrable efforts to avoid temporary transitional displacement (requirement 2.4.7.7); and obligation to assess and ensure quality of “voluntary” (willing buyer-seller) transactions (requirement 2.4.7.9).

<sup>13</sup> Entities with multiple phases of land acquisition, i.e., ‘proposed’ land acquisition for an expansion but also historical land acquisition associated with the primary operations must conduct due diligence and proceed per Chapter 2.4B for historical land acquisition, while the new (post-2024) land acquisition will be subject to the criterion of Chapter 2.4A.



The flow-chart below is a proposal for how entities with **historical resettlements** would proceed through the chapter, and how/when determinations of 'not relevant' can be made.



RELEVANCE TO VOLUNTARY AND INVOLUNTARY DISPLACEMENT: IRMA considers that informal land occupiers displaced from lands as a result of 'voluntary' (i.e., "willing buyer-seller") land transactions on behalf of the landowner fall into the category of 'involuntary displacement', even if there is no inherent underlying recourse to expropriation to make the transaction by definition 'involuntary'. Therefore, as part of land acquisition due diligence (requirement 2.4.1.1), entities are required to investigate the conditions surrounding 'voluntary' land transactions. This is necessary not only to identify stakeholders that may be considered "involuntarily displaced" (and therefore subject to most of the requirements of this chapter) but also to identify potential human rights abuses associated with land acquisition (per IRMA Chapter 1.3) and to allow for evaluation of a new requirement aimed at ensuring quality of 'voluntary' land transactions (2.4.7.9 in Chapter 2.4A).

**NOTE ON SCOPE OF APPLICATION:** The Scope of Application section has been rewritten to address the proposed changes in the chapter.

This proposed version of the IRMA Standard is meant to apply to exploration, mining, and mineral processing projects and operations (see definitions of project and operation), but not all requirements will be relevant in all cases. We have provided some high-level information below, but the IRMA Secretariat will produce a detailed Scope of Application for each chapter that will indicate relevancy on a requirement-by-requirement basis (and will provide some normative language where the expectations may slightly differ for proposed projects versus operations, or for mining versus mineral processing, etc.).

## CRITICAL REQUIREMENTS IN THIS CHAPTER

**Chapter 2.4A:** Procedures to monitor and evaluate the effectiveness of the implementation of a Resettlement Action Plan (RAP) and/or Livelihood Restoration Plan (LRP) are in place, and the entity takes corrective actions as necessary until the provisions of the RAP/LRP and the objectives of this chapter have been met. These procedures are designed and implemented by competent professionals with expertise and experience in monitoring and evaluation of land acquisition and resettlement (2.4.8.1).

**Chapter 2.4B:** To the extent possible and if relevant and desired by historically affected people or communities, procedures to monitor and evaluate the implementation of the Displacement Remediation Plan (DRP) are established. Monitoring and evaluation are appropriate to the scale and scope of agreed-upon displacement remediation activities. These procedures are designed and implemented by competent professionals with expertise and experience in monitoring and evaluation of land acquisition and resettlement (2.4.8.1).

**NOTE ON CRITICAL REQUIREMENTS:** The 2018 IRMA Standard includes a set of requirements identified as being critical. Projects/operations being audited in the IRMA system must at least substantially meet all critical requirements in order to be recognized at the achievement level of IRMA 50 and higher, and any critical requirements not fully met need a corrective action plan for meeting them within specified time frames.

**INPUT WELCOME:** The proposed revisions to the 2018 Standard have led to new content, as well as edits of some critical requirements in the process. Therefore, there will be a further review of the language and implications of critical requirements prior to the release of a final v.2.0 of the IRMA Standard. During this consultation period we welcome input on any existing critical requirement, as well as suggestions for others you think should be deemed critical. A rationale for any suggested changes or additions would be appreciated

## 2.4A—Requirements for Proposed Land Acquisition, Displacement and Resettlement

### 2.4A.1. Land Acquisition Due Diligence

2.4A.1.1. The entity hires competent professionals with resettlement expertise to document:

- a. Applicable host country laws related to land acquisition and resettlement;<sup>14</sup>
- b. Circumstances of any land acquisition that already occurred in the project area, identifying, to the extent possible:
  - i. Records of formal and informal land ownership, land use, and land occupancy on any lands acquired by the project/operation prior to acquisition by the entity, prior owner, or government in the case of government-led land acquisition;
  - ii. Records of other potential project-related displacement, i.e., due to impacts on natural resources utilized by communities, exposure to noise, vibration, etc.; and
  - iii. If there was any physical or economic displacement of Indigenous Peoples.

**NOTE for 2.4A.1.1: NEW.** We are proposing to add this because, for entities claiming that land acquisition will not result in displacement (i.e., those intending to mark the chapter ‘not relevant’), this step constitutes the burden of proof required to demonstrate to auditors that land acquisition due diligence has been formally conducted and no displacement will occur. For entities that believe or are aware that displacement will occur in a proposed project, the results of this due diligence will inform – and could constitute part of – the assessment outlined in 2.4.1.2. We also created a new criterion, ‘Land Acquisition Due Diligence,’ to distinguish it from risk and impact assessment (now criterion 2.4.2).

### 2.4A.2. Risk/Impact Assessment

2.4A.2.1. If there is the potential that land acquisition for mining-related activities or the level of direct or indirect impacts from the project/operation could result in the involuntary displacement (for the remainder of this chapter, referred to as ‘displacement’) of people, the entity undertakes a rigorous assessment to evaluate the potential direct and indirect risks and impacts related to the physical and/or economic displacement of people. The assessment:

- a. Is carried out by competent professionals with expertise in land acquisition and resettlement;
- b. Occurs during the early stages of land acquisition planning;
- c. Includes identification and systematic evaluation of project design alternatives to avoid or minimize the displacement of people if that is the most protective option for people;
- d. Identifies and analyzes the social, cultural, human rights, conflict, environmental, and economic risks and impacts to displaced people and host communities for each alternative, paying particular attention to potential impacts on different genders, ages, ethnicities, and any potentially vulnerable groups;<sup>15</sup> and
- e. Identifies measures to prevent and mitigate risks and impacts and estimate the costs of implementing the measures.

**NOTE for 2.4A.2.1: REVISED.** This was 2.4.1.2 in the 2018 Mining Standard. Here we expanded the definition of “physical displacement” in the guidance notes to recognize involuntary displacement (of informal land occupants) resulting from voluntary land acquisition processes. We also combined previous 2.4.1.1, 2.4.2.2,

<sup>14</sup> This is recommended by EBRD ‘Resettlement Guidance and Good Practice’ (2017), p. 21. <https://www.ebrd.com/news/2017/ebrd-launches-new-resettlement-guidance-and-good-practice-publication.html>

<sup>15</sup> Which stakeholders must be included and what may constitute a ‘vulnerable group’ requiring additional focus depends on the context. Entities should draw on stakeholder mapping, stakeholder interviews, project documentation, as well as site observations to determine whether all relevant stakeholders have been identified and included. For this requirement, particular attention should be paid to those with existing forms of vulnerability (including insecure or non-existent land tenure, inadequate housing, debt, high-risk or informal livelihoods) as well as those whose may experience heightened impacts from resettlement such as women, children, the elderly, those with disabilities, those lacking land titles, those lacking the capacity to understand contractual matters, etc. Additional guidance will be provided in the IRMA Guidance Document.

2.4.1.3 and 2.4.1.4 as the latter were qualifiers on the former. Sub-requirement (a) in this requirement was previously 2.4.1.3 and sub-requirement (c) was previously addressed in 2.4.1.2 and 2.4.1.4.

We changed the word 'experience' to 'expertise' in sub-requirement (a) and will add guidance on how this should be defined, depending on the nature of the resettlement.

We added to (c) language indicating that avoidance should only be an objective if doing so is in the best interest of affected people.

2.4A.2.2. The assessment is made publicly available in the early stages of the resettlement planning process, and details on how it can be accessed are actively provided to potentially affected stakeholders and their advisors.

**NOTE for 2.4A.2.2: REVISED.** This was 2.4.1.5 in the 2018 Mining Standard. We added language requiring entities to actively provide the assessment to potentially affected stakeholders and their advisors.

### 2.4A.3. Community Engagement

2.4A.3.1. The entity discloses, in a culturally appropriate manner, relevant information and conducts consultations with potentially affected people and communities, including host communities, to inform:

- a. The assessment of displacement and resettlement risks and impacts, including the consideration of alternative project designs to avoid or minimize resettlement; and
- b. The development, implementation, monitoring, and evaluation of a Resettlement Action Plan (RAP) and/or Livelihood Restoration Plan (LRP), including but not limited to soliciting input on resettlement and livelihood restoration options.

**NOTE for 2.4A.3.1: REVISED.** This was 2.4.2.1 in the 2018 Mining Standard. We combined sub-requirements (b) and (c) of the former 2.4.2.1 as the former was a constituent part of the latter. We also added language that consultations must be conducted in a culturally appropriate manner, and are proposing the following definition of **culturally appropriate**:

Refers to methods, formats, languages, and timing (e.g., of communications, interactions, and provision of information) being aligned with the cultural norms, practices, and traditions of affected communities, rights holders, and stakeholders.

2.4A.3.2. Potentially affected people and communities, including host communities, are actively and explicitly offered access to independent legal or other expert advice. This offer is made at the earliest stages of project design and continue throughout monitoring and evaluation of the resettlement process.

**NOTE for 2.4A.3.2: REVISED.** This was 2.4.2.2 in the 2018 Mining Standard. This has been revised to make it clear that the entity needs to actively inform the affected stakeholders that this is an option available to them, rather than assuming people must approach the entity to ask for it.

2.4A.3.3. Potentially affected people and communities are actively and explicitly provided with information about, and access to, a mechanism to raise and seek recourse for concerns or grievances related to displacement and resettlement.<sup>16</sup>

**NOTE for 2.4A.3.3: REVISED.** This was 2.4.2.3 in the 2018 Mining Standard. We have proposed new language that not only must affected people have access to a grievance mechanism, but that the entity must actively and explicitly inform them of the mechanism and provide them with information about how they can use it.

#### **CONSULTATION QUESTION 1.4-2** (repeated from Chapter 1.4 – 'Complaints and Grievance Mechanism and Access to Remedy')

**Background:** Chapter 1.4 - 'Complaints and Grievance Mechanism and Access to Remedy' includes a range of requirements surrounding the existence of an accessible and effective operational-level grievance mechanism. It is not possible to score well on Chapter 1.4 if the mechanism does not have certain quality-

<sup>16</sup> The operational-level grievance mechanism developed as per Chapter 1.4 may be used as a mechanism to receive and address resettlement related grievances, or a mechanism may be created to handle only resettlement-related concerns. If a separate mechanism is developed, it shall be done in a manner that is consistent with IRMA Chapter 1.4 (in particular, it shall be developed in a manner that meets the UNGP effectiveness criteria for grievance mechanisms).

related characteristics. Other chapters (i.e., human rights, gender, resettlement, security, ASM) also have requirements relating to the existence of a grievance mechanism;<sup>17</sup> however, the requirements in each of those chapters ask only that a mechanism is in place that allows grievances to be filed and addressed, but they do not speak to the overall quality of that mechanism. This is an approach proposed by IRMA to avoid too much repetition across chapters. However, this creates a situation in which an entity could theoretically score 'fully meets' on the grievance-related requirement in an individual chapter (which in most cases only asks that stakeholders have "access to" a grievance mechanism), even if the grievance mechanism as a whole is not an effective one (as reflected in the overall score for Chapter 1.4).

**Question:** Should an entity's score on grievance-related requirements within individual non-grievance-specific chapters be restrained or linked to the overall score that the entity gets on the grievance chapter (Chapter 1.4) as a whole?

For example, if a site scores 80% on Chapter 1.4, the most the site could receive for a grievance requirement in the other chapters would be a 'substantially meets,' but if a site scores 100% on Chapter 1.4 then, assuming the mechanism can handle grievances specific to the other chapters, they could possibly get a 'fully meets' rating on those grievance requirements.

## 2.4A.4. Resettlement and Livelihood Restoration Planning and Preparation

2.4A.4.1. Where displacement is deemed unavoidable, the entity undertakes the following prior to displacement:

- a. A household-level socioeconomic census to collect appropriate baseline data on the current livelihoods, standards of living, and socio-cultural practices of people who will be physically or economically displaced by the project/operation; and
- b. A land and asset survey to: establish an inventory of affected lands and other assets, along with their location, status, and condition; to determine owners or users of the assets; to determine eligibility for compensation; and to establish a cut-off for compensation claims.

**NOTE for 2.4A.4.1: REVISED.** This was 2.4.3.1 in the 2018 Mining Standard. We removed reference in sub-requirement (a) to identifying affected people, as this is done under the assessment detailed in 2.4.1.1. We separated the socioeconomic census from the land and asset survey for clarity and moved details from the guidance notes re: purpose of each into the requirement. We moved a guidance note pertaining to gender and eligibility for compensation down to NEW requirement 2.4.4.4.

**CONSULTATION QUESTION 2.4A-1:** IRMA has identified climate resiliency and adaptation as a necessary consideration in the ESIA process. Should IRMA also require that climate resiliency and climate adaptation be considered during resettlement planning (e.g., in terms of social capital development, social learning and effective community organization and leadership; livelihoods restoration strategies which respond to changing climatic conditions; climate-resilient housing, settlements layout and infrastructure; or other key areas of climate-related impact as it relates to resettlement)? Examples of current, emerging, or predicted concerns are welcome for context.

2.4A.4.2. In the case of physical displacement, the entity develops and implements a Resettlement Action Plan (RAP). If the project involves economic displacement only, then a Livelihood Restoration Plan (LRP) is developed and implemented. In either case, these plans:

- a. Are developed by competent professionals with land acquisition/resettlement expertise;
- b. Include a gap analysis of host country laws and international laws pertaining to compensation and restoration for displacement and outline how any gaps will be filled;
- c. Document the socioeconomic baseline results for the area affected by land acquisition/displacement that describes the current livelihoods, standards of living, and socio-cultural practices of affected people;

<sup>17</sup> See: Chapter 1.3, requirement 1.3.3.3; proposed Chapter 1.X, requirement 1.X.3.2; Chapter 2.4, requirement 2.4.3.3; Chapter 3.5, requirement 3.5.6.3; and Chapter 3.6, requirement 3.6.2.1.d.

- d. Describe how affected people will be involved in an ongoing process of consultation (including access to grievance processes) throughout the resettlement/livelihood restoration planning, implementation and monitoring phases, including how consultations will ensure the inclusion of potentially vulnerable groups;<sup>18</sup>
- e. Describe the strategies to be undertaken to mitigate the negative impacts of displacement and restore or, ideally, improve livelihoods and standards of living of displaced people, paying particular attention to the needs of potentially vulnerable groups and the potential for compensation or livelihoods support to create or exacerbate conflicts within or between communities;
- f. Describe how livelihood restoration measures draw on consultations with affected people concerning their preferences, as well as a demonstrated understanding of local markets and feasible economic opportunities;<sup>19</sup>
- g. Describe the methods used for valuing land and other assets;
- h. Establish the compensation framework (i.e., entitlements and rates of compensation for all categories of affected people, including host communities) in a transparent, consistent, and equitable manner;
- i. Describe how monitoring and evaluation will be conducted; and
- j. Include a budget and implementation schedule.

**NOTE for 2.4A.4.2: REVISED.** This was 2.4.3.3 in the 2018 Mining Standard. Previous requirement 2.4.3.2 moved down to 2.4.4.3. The proposed changes here include:

- Adding sub-requirements (a), (b), (c), (g)
- Adding reference in (d) to consultation with marginalized /vulnerable populations and access to grievance processes;
- Adding reference in (e) to consideration of mitigation strategies in a manner that will not exacerbate conflicts within or between communities;
- Adding reference in (f) to the need to explicitly consider stakeholder preferences and local market conditions; and
- Adding note to (h) stating that way of making the LRP/RAP publicly available must be appropriate to the affected population.

2.4A.4.3. Clear compensation eligibility criteria and a cut-off date for eligibility are established, and information regarding the cut-off date and eligibility criteria is well-documented and actively communicated to the project's/operation's stakeholders in advance of survey and census activities.

**NOTE for 2.4A.4.3: REVISED.** This was 2.4.3.2 in the 2018 Mining Standard. We removed reference to 'in absence of government procedures' to emphasize that entities must establish procedures aligned with the requirements even where government procedures exist, and where they are not aligned, make efforts to collaborate with government actors per the IRMA guidance note for 2.4.3.2.<sup>20</sup>

2.4A.4.4. The entity takes steps to integrate gender progressive approaches in the development of compensation and entitlement measures as appropriate to the context, including:

- a. Measures to address gender inequality in terms of access to and control of resources or assets;

<sup>18</sup> Which stakeholders must be included and what may constitute a 'vulnerable group' requiring additional focus depends on the context. Entities should draw on stakeholder mapping, stakeholder interviews, project documentation, as well as site observations to determine whether all relevant stakeholders have been identified and included. For this requirement, particular attention should be paid to those with existing forms of vulnerability (including insecure or non-existent land tenure, inadequate housing, debt, high-risk or informal livelihoods) as well as those whose may experience heightened impacts from resettlement such as women, children, the elderly, those with disabilities, those lacking land titles, those lacking the capacity to understand contractual matters, etc. Additional guidance will be provided in the IRMA Guidance Document.

<sup>19</sup> Note that IRMA Chapter 2.3-Obtaining Support and Delivering Benefits addresses processes that will provide additional benefits to communities through projects or initiatives such as education, training, infrastructure, economic development opportunities, etc. Community members affected by displacement and/or resettlement would have the opportunity to participate in the planning process for community-wide benefits. Entities are encouraged to consider synergies between community development programming and livelihood restoration efforts; however, for the purposes of this chapter, entities are only obligated to restore and, ideally (potentially but not mandatorily through linkages with broader community development programming), improve livelihoods that are directly affected by land acquisition and displacement.

<sup>20</sup> IRMA Standard for Responsible Mining 1.0, Guidance Document (v.1.2). See note for requirement 2.4.3.2. Available at: <https://responsiblemining.net/resources/#full-documentation-and-guidance>

- b. Ensuring gender responsive livelihood restoration approaches; and
- c. Ensuring adequate female representation on community-based resettlement, compensation, or grievance evaluation committees, if relevant.

**NOTE for 2.4A.4.4: NEW.** We are proposing to add this to more actively encourage gender progressive resettlement planning and implementation. Previously, such gender considerations were contained within the guidance notes.

2.4A.4.5. The RAP and/or LRP is made publicly available in a manner that is appropriate to the affected population.

**NOTE for 2.4A.4.5: NEW.** We separated this sub-requirement out from 2.4.4.3 (the rest of which deals with the content of the RAP/LRP, not the procedures surrounding it).

## 2.4A.5. Specific Measures Related to Physical Displacement

2.4A.5.1. In all cases where people are physically displaced, the entity:

- a. Provides relocation assistance that is suited to the needs of each group of displaced people and is sufficient for them to improve or at least restore their standard of living at an alternative location;
- b. Ensures that locations where displaced people are resettled offer equal or, ideally, improved living conditions;
- c. Takes into consideration displaced people's preferences with respect to relocating in pre-existing communities and groups; and
- d. Respects and seeks to preserve and/or reestablish existing social and cultural institutions of the displaced people and any host communities.

**NOTE for 2.4A.5.1:** This was 2.4.4.1 in the 2018 Mining Standard.

2.4A.5.2. In cases where physically displaced people have formal legal rights to the land or assets they occupy or use, or do not have formal legal rights but have a claim to land that is recognized or recognizable under host country law, the entity:

- a. Offers the choice of replacement land of at least equal value and characteristics, security of tenure, and advantages of location; and
- b. Offers the choice of replacement residential structures of at least equal value and characteristics; if original residential structures do not meet a minimum standard for dignified housing, the entity will provide replacement housing that meets these standards; or
- c. Offers as an alternative compensation that is sufficient to replace lost land and residential structures at full replacement cost in local markets, if cash compensation is appropriate and/or preferred by the affected person.

**NOTE for 2.4A.5.2: REVISED.** This was 2.4.4.2 in the 2018 Mining Standard.

2.4A.5.3. In cases where physically displaced people have no recognizable legal right or claim to the land or assets that they occupy or use, the entity:

- a. Provides affected people with options for adequate housing with security of tenure; and
- b. Compensates for the loss of assets other than land at full replacement cost, provided that the people had been occupying the project area prior to the cut-off date for eligibility.

**NOTE for 2.4A.5.3: REVISED.** This was 2.4.4.3 in the 2018 Mining Standard.

### CONSULTATION QUESTION 2.4A-2

**Background:** IFC guidance states that entities are not obligated to provide replacement land or compensation for land to affected people with no formal or customary claim to the lands on which they live /engage in productive activities. However, PS5 does state that affected people, "should be offered resettlement assistance sufficient to restore their standards of living at a suitable alternative site." If not through offering replacement land or compensation for land, how should entities restore standards of living of affected people

who do not own land and, without compensation, may not be able to purchase land to reestablish their affected structures/livelihoods?

**Question:** What guidance should IRMA give to entities concerning obligations towards physically displaced households in particular, where those households do not own lands on which to reestablish their residential structures? How should IRMA guide auditors to interpret “options for adequate housing with security of tenure” and the overall obligation to restore previous standards of living?

### CONSULTATION QUESTION 2.4A-3

**Background:** In the case of tenants, IFC does not specify a particular outcome. IFC guidance states that, “In some cases, tenants may qualify for replacement housing and in other cases they will be resettled in similar housing under similar or improved tenure arrangements.”<sup>21</sup> Without some boundaries it is difficult for companies and auditors to know if the requirement for providing “adequate housing with security of tenure” is fully being met.

**Question:** What should ‘security of tenure’ look like in practice for households renting residential structures that are affected by the project? Should IRMA specify a best practice outcome? If so, what would that look like, e.g., similar housing with a 12-month lease (if there was no previous lease), or something else?

## 2.4A.6. Specific Measures Related to Economic Displacement

2.4A.6.1. If project- or operation-related land acquisition or restrictions on land use result in economic displacement in the form of displaced business operations or commercial structures, regardless of whether the affected people are physically displaced, the entity:

- a. Compensates business owners for the cost of rebuilding affected non-moveable commercial structures, for re-establishing commercial activities elsewhere, for lost net income during the period of transition, and for the costs of the transfer and reinstallation of any moveable business-relevant equipment, goods, or structures;
- b. Compensates renters of commercial structures for lost net income during the period of transition, for the costs of the transfer and reinstallation of any moveable business-relevant equipment or goods, and provides assistance to establish a new, equivalent commercial lease with secure tenure (i.e., 12 months lease); and
- c. Compensates employees of affected businesses for lost income.

**NOTE for 2.4A.6.1: REVISED.** This was 2.4.5.1 in the 2018 Mining Standard. Divided this into separate requirements for clarity, addressing displacement of commercial structures (a), renters of commercial structures (b), and impacts on business-related income for employees of commercial business owners (c).

2.4A.6.2. If project- or operation-related land acquisition or restrictions on land use result in economic displacement in the form of acquisition of lands on which affected people engage in productive activities or possess productive assets, regardless of whether or not the affected people are physically displaced, the entity:

- a. Compensates affected people with legal rights or claims to lands that are recognized or recognizable under national law with replacement land of equal or greater value appropriate to the affected people’s livelihoods or, where appropriate, with cash compensation for land/improvements to the land at full replacement cost; and
- b. Compensates economically displaced people who are without legally recognizable claims to land for lost assets other than land (i.e., productive structures, crops/trees/grasses, and other improvements to lands) at full replacement cost.

**NOTE for 2.4A.6.2: REVISED.** This was part of 2.4.5.2 in the 2018 Mining Standard. We incorporated aspects of the original 2.4.5.2 into 2.4.6.1 and 2.4.6.2.

2.4A.6.3. To economically displaced people whose livelihoods are wage-based or dependent upon access to natural resources and where project- or operation-related restrictions on access or other impacts adversely affect livelihoods or income levels, the entity provides:

<sup>21</sup> International Finance Corporation (IFC). 2012. Guidance Notes 5. Land Acquisition and Involuntary Resettlement. p. 6.



- a. Continued access to affected resources or access to alternative resources with at least equivalent livelihood-earning potential and accessibility; or
- b. Alternative income earning opportunities to restore livelihoods that are feasible and agreed to by affected people, where circumstances prevent the entity from providing land or similar resources as described above.

**NOTE for 2.4A.6.3: REVISED.** This was part of 2.4.5.2 in the 2018 Mining Standard. We incorporated aspects of original 2.4.5.2 into 2.4.6.1 and 2.4.6.2 above. Requirement 2.4.6.3 now focuses specifically on displacement of land-based or wage-based livelihoods due to land access restrictions or other project impacts.

## 2.4A.7. Resettlement and Livelihood Restoration Agreements and Implementation

2.4A.7.1. If proposed mining-related activities require the displacement of Indigenous Peoples' communities from their traditional lands or economically displace them from pursuing their traditional livelihoods, the entity obtains the free, prior and informed consent (FPIC) of affected Indigenous Peoples' communities before proceeding with the resettlement and proposed mining-related activities (as per IRMA Chapter 2.2).

**NOTE for 2.4A.7.1:** This was 2.4.6.1 in the 2018 Mining Standard. In the 2018 Mining Standard there was a similar requirement (2.4.6.2) that applied to non-Indigenous Peoples, but we are proposing to remove because there was nothing to be evaluated that was independent of other requirements, i.e., the evaluation of the requirement was the culmination of all other requirements because the entire chapter is premised on negotiations occurring.

2.4A.7.2. Prior to negotiating with affected people, the entity provides or facilitates access to resources necessary to participate in an informed manner. This includes, at minimum:

- a. Copies of the RAP/LRP (based on results of consultations outlined in requirement 2.4.3.1);
- b. Details on what to expect at various stages of the resettlement or livelihood restoration process (e.g., when an offer will be made to them, how long they will have to respond, how to access the grievance mechanism if they wish to appeal property or asset valuations, legal procedures to be followed if negotiations fail); and
- c. Access to independent legal experts or others to ensure that affected people understand the content of any proposed agreement and associated information.

**NOTE for 2.4A.7.2: REVISED.** This was 2.4.6.3 in the 2018 Mining Standard. We will add a guidance note for 2.4A.7.2.c to clarify that assistance of legal or other expert assistance must be explicitly offered to potentially affected stakeholders.

2.4A.7.3. In cases where affected people reject compensation offers that meet the requirements of this chapter and where subsequent arbitration efforts fail and, as a result, expropriation or other legal procedures are initiated, the entity explores opportunities to collaborate with the responsible government agency, and, if permitted by the agency, plays an active role in resettlement planning, implementation, and monitoring to mitigate the risk of impoverishment of affected people.

**NOTE for 2.4A.7.3: REVISED.** This was 2.4.6.4 in the 2018 Mining Standard. Added language of "where subsequent arbitration efforts fail" to reflect that there are additional steps (previously left implicit) between presentation of compensation offers and expropriation.

2.4A.7.4. The entity does not carry out forced evictions, defined as the permanent or temporary removal against their will of people from their homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection as outlined in this chapter.

**NOTE for 2.4A.7.4: REVISED.** This was 2.4.6.5 in the 2018 Mining Standard. The text of this requirement has been changed to reflect an important distinction between "forced eviction" in terms of arbitrarily or systematically removing people from lands that they either own or are occupying without due process or compensation, and the involuntary removing of people from removing people from lands that have been legally acquired through an expropriation process (dealt with in the new requirement 2.4A.7.5).

2.4A.7.5. Should affected people refuse to leave the lands they own or occupy at the end of a legal expropriation process preceded by good faith negotiations that meet the requirements of this chapter, the entity only removes people from their lands in accordance with law and international best practice,<sup>22</sup> meaning the entity:

- a. Provides affected people with clear and timely information on the procedures for and timing of proposed evictions;
- b. Gives adequate and reasonable notice to all affected people prior to the scheduled date of eviction;
- c. Arranges for government officials or their representatives, and any relevant local authorities, to be present during the removal;
- d. Does not carry out removals in particularly bad weather or at night unless the affected people consent otherwise;
- e. Provide information about legal remedies and where possible, legal aid to people who are in need of it to seek redress from the courts;
- f. Identifies all people carrying out the removal and ensures that they are trained on human rights and the appropriate use of force; and
- g. Establishes and trains relevant people on procedures describing appropriate actions to take in case of conflicts or violent opposition to the removals.

**NOTE for 2.4A.7.5: NEW.** We are proposing to add this requirement to address an absence of requirements concerning the conditions under which forced removals of project-affected people can take place (i.e., at the end of a legal expropriation process) and how those removals should occur. This requirement draws on guidance from the UN Committee on Economic, Social and Cultural Rights.

2.4A.7.6. The entity takes possession of acquired land and related assets only after full compensation has been made available and replacement housing/lands/assets and moving allowances have been provided to the displaced people, where applicable.

**NOTE for 2.4A.7.6:** This was 2.4.6.6 in the 2018 Mining Standard.

2.4A.7.7. The entity takes steps to avoid temporary transitional resettlement. Where temporary transitional resettlement cannot be avoided, the entity ensures that:

- a. Affected people have been consulted on the implications of transitional temporary relocation and are in agreement;
- b. Transitional temporary residential structures and replacement lands meet the requirements of this chapter (i.e., housing adequate, respect for social networks and stakeholder preferences, access to basic amenities, adequate to support livelihoods including continued access to natural resources, etc.);
- c. Transitional temporary resettlement is time-bound and agreed upon with affected people; and
- d. Affected people are duly compensated for the multiple disruptions to their lives.

**NOTE for 2.4A.7.7: NEW.** We are proposing this addition to address a concern indicated by working group members and resettlement practitioners about the lack of attention paid to issues of temporary or multiple displacements. Temporary displacement can result from temporary land acquisition wherein an entity only requires use of/access to lands for a limited period of times (e.g., during construction due to noise impacts or risks associated with equipment transport). Temporary resettlement can also occur when entities permanently acquire lands and clear people from those lands before providing them with replacement lands/residential structures, thus requiring them to move to a transitional temporary location until their permanent location/assets are ready (hence, 'temporary transitional resettlement'). For physically displaced people in particular, this entails a double disruption to their lives (the transitional move, and then the permanent move when replacement land/housing is available) and makes it difficult for them to reestablish social networks and build a sense of community. Therefore, best practice suggests that this should be avoided.

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<sup>22</sup> See: UN Committee on Economic, Social and Cultural Rights (CESCR). 1997. General Comment No. 7: The right to adequate housing (Art. 11.1): forced evictions. In particular, see Paragraph 15. Available at: [www.refworld.org/docid/47a70799d.html](http://www.refworld.org/docid/47a70799d.html)

**PROPOSAL:** For displacement taking place after 2012 and prior to the release of the updated version 2.0 of the IRMA Standard, entities can choose not to be audited against this requirement. This 'cutoff date' of 2012 because this date marks the release of the most up-to-date edition of IFC's Sustainability Framework, including the Performance Standards (PS) on Environmental and Social Sustainability upon which many requirements in this standard these derive their content. However, in recognition that this requirement arguably goes beyond the IFC PS, we are proposing to exempt entities that conducted land acquisition prior to 2024 (i.e., the release of this standard) from meeting this requirement as it cannot be said to have been normative prior to the release of this standard.

#### CONSULTATION QUESTION 2.4A-4

**Background:** Per IRMA guidance for requirement 2.4.7.6 (which was 2.4.6.6 in the 2018 Mining Standard<sup>23</sup>) the IFC PS5 requires entities to pay compensation and provide affected people with replacement lands/structures prior to displacement, while recognizing that circumstances can arise in which it is not feasible to do so. However, there is little international guidance detailing how these 'transitional' temporary resettlements should occur. Requirement 2.4.7.7 is designed to fill this gap and ensure that the treatment of displaced people subject to transitional temporary physical resettlement is done in a manner that is consistent with the spirit of this chapter in terms of reducing vulnerability and ensuring that stakeholders are not made worse off as a result of displacement.

**Question:** Do you agree that this is an issue that needs to be addressed? And if so, do you have any feedback on the requirement as proposed?

2.4A.7.8. All transactions to acquire land rights and all compensation discussions, measures, and resettlement activities are documented.

**NOTE for 2.4A.7.8:** This was 2.4.6.7 in the 2018 Mining Standard.

2.4A.7.9. In the case of voluntary displacement (i.e., willing buyer-seller transactions where there is no recourse to expropriation), the entity ensures that:

- a. All land transactions are documented;
- b. Affected people are paid a fair (market) price paid;
- c. Landowners (sellers) have sufficient information about project timelines and the various options available to them (including the voluntary nature of the sale) to make an informed decision;
- d. Decisions are made free of coercion and on a timeline conducive to informed decision-making and consultation with family members/legal experts as necessary; and
- e. Informal land occupants are identified and considered in a way that is consistent with the contents of this chapter relating to involuntarily displaced people as well as the chapter on Human Rights Due Diligence (Chapter 1.3).

**NOTE for 2.4A.7.9: NEW.** We are proposing to add this requirement in recognition that risks in market transactions arise when there is incomplete information on behalf of the seller (e.g., as to what constitutes fair market value), inability/unwillingness of the seller to advocate for their own best interest, and/or feelings of coercion or obligation to sell (whether real or perceived). In many instances in which resettlement occurs, the 'sellers' are characterized by at least one of the above conditions. Moreover, inherent to the "willing buyer-seller" transaction is the idea of formal, private land ownership. This means that vulnerable households physically residing informally or without legal rights on project-affected lands could be forcibly evicted with no protections by a project subsequently seeking IRMA certification. Therefore, IRMA has added this requirement to ensure voluntary land transactions meet basic requirements for voluntarily displaced people (landowners engaged in willing buyer-seller transactions) and to identify and address involuntary displacement of vulnerable people that may occur as a result of willing buyer-seller transactions.<sup>24</sup>

<sup>23</sup> IRMA Standard for Responsible Mining 1.0, Guidance Document (v.1.2). See note for requirement 2.4.6.6. Available at: <https://responsiblemining.net/resources/#full-documentation-and-guidance>

<sup>24</sup> Note: per the guidance offered at the beginning of this chapter, informal land occupiers or users that are affected by voluntary transactions affecting the lands on which they reside or produce are considered as "involuntarily displaced" and thus treated as per the criteria in the rest of

**PROPOSAL:** For voluntary displacement taking place after 2012 and prior to the release of the updated version 2.0 of the IRMA Standard, entities can choose not to be audited against this requirement. This cutoff date of 2012 because this date marks the release of the most up-to-date edition of IFC's Sustainability Framework, including the Performance Standards (PS) on Environmental and Social Sustainability upon which these chapters are based. However, in recognition that this requirement arguably goes beyond the IFC PS, we are proposing to exempt entities that conducted land acquisition prior to the release of the updated IRMA standard from meeting this requirement as it cannot be said to have been normative prior to the release of this standard.

#### CONSULTATION QUESTION 2.4A-5

**Background:** The current proposal for requirement 2.4.7.9 is that entities undertaking their land acquisition between 2012 and the release of the updated IRMA Standard can choose to be exempted from this requirement, based on the logic that regulation of voluntary land transactions goes beyond the IFC PS and therefore cannot be said to have been normative (and therefore expected of entities) beginning in 2012.

However, one might also argue that the requirements indicated for voluntary transactions (fair market price, decisions made free of coercion, etc.) constitute norms of fair market value transactions that were normative long before 2012.

**Question:** Do you agree with the proposed approach of allowing entities whose land acquisition occurred between 2012 and the release of IRMA Version 2.0 (2024) to choose to be audited (or not) against this requirement (2.4.7.9 - obligation to assess and ensure quality of "voluntary" [willing buyer-seller] transactions) as it was arguably not considered international best practice.

Or do you believe that despite not falling under the gamut of the IFC standards (the motivation for the current 'exemption' clause indicated above), 2.4.7.9 reflects extant normative expectations since 2012 concerning the characteristics and outcomes of good faith free-market negotiations, and that it should therefore be applied retroactively to all voluntary land acquisition processes occurring between 2012 and the release of the updated IRMA Standard? Put differently, do you agree that entities should not be exempt from this requirement in the updated IRMA Standard, as they are from others that arguably go beyond IFC norms?

#### CONSULTATION QUESTION 2.4A-6

**Background:** The previous consultation question suggests that the conditions under which voluntary (willing buyer-seller) land transactions occur in the context of land acquisition for mining-related activities often do not meet the requirements for truly voluntary (informed, equitable, non-coerced) land transactions.

**Question:** If that is the case, should IRMA go further than the proposed 2.4.7.9 for entities undertaking land acquisition after the release of the updated IRMA Standard and require that all land acquisition be treated as "involuntary," regardless of whether it is what the IFC deems to be involuntary (i.e., the entity has recourse to expropriation) or voluntary (willing buyer-seller)?

This would mean that entities acquiring lands after the release of this version of the IRMA Standard would therefore be required to meet the full set of requirements in this Chapter 2.4A, including not only the outcome components (full replacement value, livelihood restoration, etc.) but also the process requirements such as creation of a transparent common compensation framework, community engagement, creation of a RAP/LRP, etc.

### 2.4A.8. Resettlement and Livelihood Restoration Monitoring and Evaluation

#### 2.4A.8.1. (Critical Requirement)

Procedures to monitor and evaluate the effectiveness of the implementation of a RAP/LRP are in place, and the entity takes corrective actions as necessary until the provisions of the RAP/LRP and the objectives of this chapter have been met. These procedures are designed and implemented by competent professionals with expertise and experience in monitoring and evaluation of land acquisition and resettlement.

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this chapter. This criterion therefore refers to landowners or formal land users who, due to their formal association with affected lands, are able to engage in willing buyer-seller transactions.

**NOTE for 2.4A.8.1: REVISED.** This was 2.4.7.1 and was a critical requirement in the 2018 Mining Standard (for more on critical requirements see the note that accompanies ‘Critical Requirements In This Chapter,’ above). We combined the previous 2.4.7.1 and 2.4.7.2.a to ensure that the ‘competence’ of those designing monitoring and evaluation activities was also incorporated into this critical requirement. We removed reference to ‘significant social impacts’ which was in 2.4.7.2.a, in recognition that 1) all resettlements pose a risk of significant social impacts if not done well, and therefore; 2) all resettlement monitoring and evaluation should be designed and/or implemented by competent professionals.

2.4A.8.2. Monitoring and evaluation indicators will incorporate both input and outcome related criteria that are substantively and directly linked to the objectives of the RAP/LRP to restore or, ideally, improve affected people’s livelihoods and standards of living.<sup>25</sup>

**NOTE for 2.4A.8.2: NEW.** We are proposing to add this because feedback from working group members and other resettlement experts indicated that monitoring and evaluation was too often focused on inputs rather than outcomes. An input-focused approach is not conducive to evaluating the success or impact over time of restoration measures on the lives of those impacted.

2.4A.8.3. The entity reports periodically to affected people and other relevant stakeholders on progress made toward full implementation of the RAP/LRP.

**NOTE for 2.4A.8.3:** This was 2.4.7.3 in the 2018 Mining Standard.

2.4A.8.4. When the entity determines that its RAP/LRP has been successfully and fully implemented, a completion audit is commissioned and undertaken to determine if the objectives of the RAP/LRP have been met. The completion audit:

- a. Is carried out by external competent professionals with expertise in livelihood restoration and/or resettlement as applicable;
- b. Includes a review of the mitigation measures implemented by the entity and a comparison of implementation outcomes against the requirements of this RAP/LRP;
- c. Clearly demonstrates that the objectives of the RAP/LRP have been successfully met (and therefore the monitoring process can be ceased); and
- d. Is made available to affected people and their advisors.

**NOTE for 2.4A.8.4:** This was 2.4.7.3 in the 2018 Mining Standard. Minor structural changes.

2.4A.8.5. If the completion audit determines that the objectives of the RAP and/or LRP have not been met, a corrective action plan is developed and implemented. This plan includes concrete measures to be implemented and a timeline budget for doing so and provisions for a second completion audit that meets the requirements of 2.4A.8.4 when the objectives of the correction action plan are deemed to have met the objectives of the RAP and/or LRP.

**NOTE for 2.4A.8.5: NEW.** We propose to add this requirement as the 2018 Standard offered guidance notes but did not explicitly include a requirement indicating obligations of entities in instances where the original completion audit determines the objectives of the RAP/LRP have not been met. This is based on guidance included in IFC PS Guidance Notes 5. Land Acquisition and Involuntary Resettlement. Para. 15, Footnote 18.

## 2.4A.9. Private Sector Responsibilities Under Government-Managed Resettlement

2.4A.9.1. Where land acquisition and resettlement are the responsibility of the government, the entity collaborates with the responsible government agency, to the extent permitted by the agency, to identify government resettlement and compensation measures. If these measures do not meet the relevant requirements of this chapter, the entity prepares a supplemental plan that, together with the documents prepared by the responsible government agency, addresses the relevant requirements of this chapter. The entity includes in its supplemental plan, at a minimum:

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<sup>25</sup> Examples of input indicators include number of improved seed varieties provided, number of livelihoods trainings offered, percentage of affected households signing up for financial management training, etcetera. Conversely, examples of outcome indicators can include affected people’s perceptions of their standards of living vis-à-vis pre-displacement levels, changes in educational attendance and achievement versus pre-displacement levels, reestablishment of functioning socio-cultural networks and cooperatives, etc.

- a. Identification of affected people and impacts;
- b. A description of regulated activities, including the entitlements of physically and economically displaced people provided under applicable national laws and regulations;
- c. The supplemental measures to achieve the requirements of this chapter in a manner that is permitted by the responsible agency and implementation time schedule; and
- d. The financial and implementation responsibilities of the entity in the execution of its supplemental plan.

**NOTE for 2.4A.9.1: REVISED.** This was a combination of 2.4.8.1 and 2.4.8.3 in the 2018 Mining Standard. We combined the previous 2.4.8.1 and 2.4.8.2 into this requirement to reduce redundancy as both spoke to the need to collaborate with government bodies.

#### CONSULTATION QUESTION 2.4A-7

**Background:** As per IRMA Chapter 1.1, entities are not expected to violate host country law in order to meet IRMA requirements. Therefore, under both the 2018 and this proposed version of the IRMA Standard entities will only be expected to fulfill IRMA requirements to the extent that is possible within the law in situations where host country law largely controls the resettlement process. If the law is silent on aspects addressed in the IRMA chapter, then entities will be expected to advocate for their inclusion in government resettlement projects or plans, or the entity should include those provisions in their own supplemental resettlement plan. This is aligned with the IFC PS, which state that, "While government agencies are often mandated to lead resettlement efforts, experience indicates that there are generally opportunities for clients to either influence or supplement the planning, implementation and monitoring of government-led resettlement..."<sup>26</sup>

However, the auditing of this requirement as written is challenging because, if an entity applies for IRMA assessment and their land acquisition was (or will be) government-led, then the Standard as currently written asks them to attempt - to the extent possible - to meet all of the requirements in this entire chapter but only evaluates them against 2.4.9.1. This puts the full weight of the chapter onto a single requirement and does not allow the audit report to easily capture nuances such as which of the various components of this chapter the entity did or did not meet and/or where the entity failed to meet a component due to negligence/omission versus where they made a good faith effort to do so but were constrained by government regulations.

Working group members also expressed concerns that hinging an entity's performance on this 'best effort' requirement in the case of a government-led resettlement might allow entities to shift blame onto governments for poorly executed resettlements and claim 'government restrictions' prevented them from fair compensation and due process. Even where the entity does indeed make acceptable efforts to supplement or substitute government actions, in instances where government regulations are particularly restrictive, IRMA could end up certifying a land acquisition/resettlement process that is, in fact, deeply problematic.

**Question:** Is it common that host country laws explicitly prohibit private entities from supplementing/supporting land acquisition processes (i.e., engagement, notification timelines, etc.) and outcomes (i.e., compensation and other support) provided for by government bodies? If so, should entities be simply evaluated against the extent of their demonstrable efforts to influence government (the 2018 and proposed approach)? If not, should entities be audited against the full set of requirements of this chapter, regardless of whether it is an entity-led or government-led land acquisition/resettlement?

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<sup>26</sup> International Finance Corporation (IFC). 2012. Guidance Notes 5. Land Acquisition and Involuntary Resettlement. GN74. Available at: <https://www.ifc.org/en/insights-reports/2012/ifc-performance-standards>

## 2.4.B—Requirements for Historical Land Acquisition, Displacement, and Resettlement

### 2.4B.1. Land Acquisition Due Diligence

2.4B.1.1. If past development or expansion of a mining and/or mineral processing site involved land acquisition (whether by the current, owning entity or a previous owner), the entity hires competent professionals with land acquisition and resettlement expertise to document and assess the circumstances of any displacement of people. This due diligence identifies, to the extent possible:

- a. Applicable host country laws related to land acquisition and resettlement;<sup>27</sup>
- b. Records of formal and informal land ownership, land use, and land occupancy on project/operation lands prior to acquisition;
- c. If there was any physical or economic displacement resulting from land acquisition, considering both formal and informal owners, as well as occupants and land users, if any; and
- d. If there was any physical or economic displacement of Indigenous Peoples.

**NOTE for 2.4B.1.1:** In the 2018 Standard, historical (i.e., pre-2006 in the 2018 Standard) land acquisition processes were not subject to any explicit requirements under Chapter 2.4. We are proposing to add this as a necessary step to allow auditors to easily assess entity claims that historical land acquisition did not result in displacement (for those intending to mark the chapter 'not relevant') or, where no such claim is made, to facilitate the identification of impacts and issues subject to the remediation requirements outlined in the remainder of the chapter in the updated version of the Standard.

### 2.4B.2. Impact Assessment

2.4B.2.1. If land acquisition or direct impacts from the operation resulted in physical or economic displacement the entity hires competent professionals with land acquisition and resettlement expertise to identify, to the extent possible:<sup>28</sup>

- a. The names and current locations of all displaced people;
- b. The social, cultural, and economic impacts of displacement on displaced people and host communities, paying particular attention to impacts on women, children, the poor, and other potentially marginalized or vulnerable groups; and
- c. Impacts on the human rights of displaced people or host communities that occurred because of the displacement process (before, during, or after land acquisition/resettlement occurred).

**NOTE for 2.4B.2.1:** Further to the overall approach of this version of the Standard to hold entities responsible for historical land acquisition impacts, we are proposing this requirement (along with 2.4B.2.2 below) to mirror requirement 2.4A.2.1 in Chapter 2.4A, albeit with a focus on past impacts rather than risks of resettlement.

#### CONSULTATION QUESTION 2.4B-1:

**Background:** Depending on the nature of a project's land acquisition process or the amount of time since it occurred, there may be instances where entities are unable to find information on the extent/nature of a historical land acquisition/displacement process. In these cases, IRMA proposed that the requirement be assessed based on the robustness of the methodology utilized by the entity to determine sufficiency in terms of investigating the impacts of a historical displacement. The purpose of doing so is to avoid an open-ended obligation on entities to investigate historical displacement.

**Question:** Keeping in mind the intent to balance robustness of the due diligence process with the constraints faced by entities whose efforts are unlikely to bear fruit (due to previous project owners, amount of time

<sup>27</sup> This is recommended by EBRD 'Resettlement Guidance and Good Practice' (2017) <https://www.ebrd.com/news/2017/ebird-launches-new-resettlement-guidance-and-good-practice-publication.html>, pg. 21.

<sup>28</sup> If the due diligence undertaken in 2.4.1.1 reveals that no involuntary physical and/or economic displacement occurred, no further efforts are required.

passed since displacement occurred, etc.), what criteria should be considered when evaluating the 'robustness' of the investigation? Some suggestions are: What sources did the entity use to attempt to determine historical events? Were interviews conducted? Were local authorities involved? Were notices posted in relevant communities soliciting information, if relevant? Are there recordkeeping timeframes by law that limit access before a certain period?

2.4B.2.2. Based on the information gathered, an assessment is done to determine:

- a. What resettlement/livelihood restoration efforts were undertaken, if any, including:
  - i. If physically displaced people received replacement lands/assets of equal or greater value or full replacement value for any lost lands or assets and, if lands provided, if security of tenure was ensured;
  - i. If the livelihoods of economically displaced people were restored (or, if restoration was not possible, alternative means of income earning provided) and if standards of living were restored or improved compared to pre-displacement levels;
  - ii. Any other compensation paid, or assistance given to displaced people during or after the land acquisition process; and
  - iii. Any engagement with or involvement of affected people in the planning of the above;
- b. If land acquisition, displacement, and/or any subsequent resettlement or livelihood restoration activities led to any human rights impacts on displaced people that have not yet been remediated.

**NOTE for 2.4B.2.2:** This requirement is similar to requirement 2.4A.2.1 in Chapter 2.4A but adapted to focus on past impacts rather than risks of resettlement.

2.4B.2.3. The assessment is publicly available in the early stages of the remediation process and details on how it can be accessed are actively provided to potentially affected stakeholders and their advisors.

**NOTE for 2.4B.2.3:** This requirement mirrors requirement 2.4A.2.2 in Chapter 2.4A.

### 2.4B.3. Community Engagement

2.4B.3.1. The entity discloses relevant information and conducts consultations with historically affected people and communities, including host communities, to inform:

- a. The due diligence and assessment of historical displacement and resettlement impacts (2.4B.1 and 2.4B.2); and
- b. The development, implementation, monitoring, and evaluation of a Displacement Remediation Plan (DRP) or its equivalent (2.4B.2.2).

**NOTE for 2.4B.3.1:** This is similar to requirement 2.4.2.1 in the 2018 Mining Standard but adapted to the due diligence and remediation process outlined in Chapter 2.4B, which is slightly distinct in terms of timelines and the need for flexibility in approach depending on historical circumstances.

2.4B.3.2. Historically affected people and communities, including host communities, are actively and explicitly offered access to independent legal or other expert advice. This offer is made at the outset of the due diligence process and continued throughout the development and monitoring and evaluation of a DRP or its equivalent (if relevant and desired by historically affected people or communities).

**NOTE for 2.4B.3.2:** This is similar to requirement 2.4.2.2 in the 2018 Mining Standard but slightly distinct in terms of timelines and the need for flexibility in approach depending on historical circumstances.

2.4B.3.3. Historically affected people and communities, including host communities, are actively and explicitly provided with information about and access to a mechanism to raise and seek recourse for concerns or grievances related to displacement and resettlement.

**NOTE for 2.4B.3.3:** This is similar to requirement 2.4.2.3 in the 2018 Mining Standard but slightly distinct in terms of timelines and the need for flexibility in approach depending on historical circumstances.

### 2.4B.4. Displacement Remediation Planning and Preparation



2.4B.4.1. Where historic operation-related displacement has been identified, the entity undertakes, to the extent possible, an inventory of lost assets and a socioeconomic census to collect appropriate baseline data to characterize those that were physically or economically displaced by the operation as well as their current livelihoods, standards of living, and socio-cultural practices.

**NOTE for 2.4B.4.1:** This is similar to requirement 2.4.3.1 in the 2018 Mining Standard but slightly distinct in terms of timelines and the need for flexibility in approach depending on historical circumstances (i.e., as the scoring guidelines and guidance notes will detail, it may not be possible to retroactively conduct a full asset inventory or household survey as per the expectations for entities under 2.4A).

2.4B.4.2. In the case of identified historical physical and/or economic displacement, the entity develops and implements a DRP (or equivalent) that is scaled to the scope of impacts and the identifiability/proximity of impacted people and communities. This plan, at a minimum:

- a. Is developed by competent professionals with land acquisition/resettlement expertise;
- b. Describes how affected people, including different genders, ages, ethnicities, and any potentially vulnerable groups, will be involved in an ongoing process of consultation concerning the development, implementation, and monitoring and evaluation of the plan;
- c. Describes the strategies to be undertaken to remediate the impacts of displacement, paying particular attention to the needs of different genders, ages, ethnicities, and any potentially vulnerable groups, including:
  - i. If relevant, how any un-remediated impacts on human rights will be remediated;
  - ii. If relevant, measures to compensate for physical and economic displacement that align with criteria 2.4A.5 and 2.4A.6 to the extent possible;
  - iii. If relevant, measures and methodology used to determine compensation equivalent to full replacement value for land and other assets to the extent possible; and
  - iv. If relevant, establish a displacement remediation framework in a transparent, consistent, and equitable manner;
- d. Assigns implementation of actions, or oversight of implementation, to responsible staff;<sup>29</sup>
- e. Includes an implementation schedule; and
- f. Includes estimates of human resources and budget required and a financing plan to ensure that funding is available for the effective implementation of the plan.

**NOTE for 2.4B.4.2:** This is similar to requirement 2.4.3.3 in the 2018 Mining Standard but, given the nature of historical resettlements and this chapter's focus on remediation, it refers to a DRP rather than a RAP/LRP.

2.4B.4.3. Clear remediation eligibility criteria including a temporal timeframe for eligibility are established and information regarding the timeframe and eligibility criteria is well-documented and actively communicated to the operation's stakeholders at the outset of remediation activities.

**NOTE for 2.4B.4.3:** This is similar to requirement 2.4.3.2 in the 2018 Mining Standard but refers to timeframes associated with remediation rather than resettlement process.

2.4B.4.4. The entity takes steps to integrate gender progressive approaches in the development of remediation measures as appropriate to the context, including:

- a. Measures to address gender inequality in terms of access to or control of resources or assets;
- b. Ensuring gender responsive livelihood restoration approaches; and
- c. Ensuring adequate female representation on community-based remediation or grievance evaluation committees, if any.

**NOTE for 2.4B.4.4:** Equivalent of 2.4A.4.4 in 2.4A. We are proposing to add this to more actively encourage gender sensitive resettlement planning and implementation. In the 2018 Standard, such gender considerations were contained within the guidance notes.

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<sup>29</sup> If work is carried out by third party contractors, then there needs to be a staff employee responsible for overseeing the quality of work, timelines, etc.

2.4B.4.5. The DRP is made publicly available in a manner that is appropriate to the affected population.

**NOTE for 2.4B.4.5:** Equivalent of 2.4A.4.6 in 2.4A. We are proposing to add this requirement for public sharing of the DRP to mirror the introduction of similar requirements for RAP/LRP expertise in 2.4A.

## 2.4B.5. Specific Measures Related to Physical Displacement

[See requirement 2.4B.4.2.c.ii]

**NOTE for 2.4B.5:** 2.4B.4.2.c.ii requires entities to incorporate into their DRP measures to compensate for physical and economic displacement that align with criterion 2.4A.5 and 2.4A.6 in 2.4A to the extent possible. Attempting to make 'historical' variants of these criteria is not effective, as the extent to which entities can approximate the original criteria (and therefore what a reasonable 'modified' criteria would include) will vary greatly depending on the situation. We are therefore proposing to summarize the relevant criteria from 2.4A in the guidance notes as a guide for entities conducting self-assessments as well as auditors evaluating the extent to which entities with historical displacement have attempted to and succeeded in meeting the relevant criteria given the circumstances of the displacement.

## 2.4B.6. Specific Measures Related to Economic Displacement

[See 2.4B.4.2.c.ii]

**NOTE for 2.4.6:** See above explanation for criterion 2.4B.5.

## 2.4B.7. Displacement Remediation Plan Agreements and Implementation

2.4B.7.1. If a historical land acquisition process resulted in the displacement of Indigenous Peoples' communities (as identified in 2.4B.1.1) the entity establishes mutually agreed processes for Indigenous Peoples to raise concerns related to past and present impacts or concerns related to displacement and to determine provisions for the mitigation and remediation of past and present impacts in a manner that is acceptable to Indigenous Peoples.<sup>30</sup>

**NOTE for 2.4B.7.1:** This is similar to requirement 2.4A.7.1 in Chapter 2.4A but slightly distinct in terms of timelines and the need for flexibility in approach depending on historical circumstances.

2.4B.7.2. Prior to negotiating specific remediation activities with affected people (if applicable), the entity provides or facilitates access to resources necessary to participate in an informed manner. This includes, at minimum:

- a. Copies of the DRP (based on results of consultations outlined in Criteria 2.4B.3.1);
- b. Details on what to expect at various stages of the displacement remediation process (e.g., timelines for various components including payment of compensation or implementation of remediation programming, how to access the grievance mechanism, etc.); and
- c. Access to independent legal experts or others to ensure that affected people understand the content of any proposed agreement and associated information.

**NOTE for 2.4B.7.2:** This is similar to requirement 2.4A.7.3 in Chapter 2.4A but adapted to refer to DRP processes, rather than RAP/LRP. Requirement 2.4A.7.2 in Chapter 2.4A was not relevant for historical displacement so there is no equivalent.

2.4B.7.3. All displacement remediation discussions, measures, and activities and their implementation are documented.

**NOTE for 2.4B.7.3:** This is the equivalent of requirement 2.4.7.8 in Chapter 2.4A but it has been adapted to refer to remediation rather than resettlement processes. Requirements 2.4A.7.3 - 2.4A.7.7 in 2.4A were not relevant for historical displacement so there is no equivalent. There is also no historical equivalent for 2.4A.7.9 in Chapter 2.4A.

<sup>30</sup> Refer to Chapter 2.2, requirement 2.2.4.1, regarding developing a mutually agreed process to remediate for past impacts.

## 2.4B.8. Displacement Remediation Monitoring and Evaluation

### 2.4B.8.1. (Critical Requirement)

To the extent possible and if relevant and desired by historically affected people or communities, procedures to monitor and evaluate the implementation of the DRP are established. Monitoring and evaluation are appropriate to the scale and scope of agreed-upon displacement remediation activities. These procedures are designed and implemented by competent professionals with expertise and experience in monitoring and evaluation of land acquisition and resettlement.

**NOTE for 2.4B.8.1:** This is the equivalent of requirement 2.4A.8.1 in Chapter 2.4A but adapted to refer to remediation rather than resettlement processes (for more on critical requirements see the note that accompanies 'Critical Requirements In This Chapter,' above).

2.4B.8.2. To the extent possible and if relevant and desired by historically affected people or communities, monitoring and evaluation indicators will incorporate both input and outcome related criteria that are substantively and directly linked to the objectives of the DRP.

**NOTE for 2.4B.8.2:** This is the equivalent of requirement 2.4A.8.2 in Chapter 2.4A but adapted to refer to remediation rather than resettlement processes and outcomes.

2.4B.8.3. The entity reports to affected people and other relevant stakeholders as appropriate on progress made toward implementation of the DRP.

**NOTE for 2.4B.8.3:** This is the equivalent of requirement 2.4A.8.3 in Chapter 2.4A but adapted to refer to remediation rather than resettlement processes and outcomes.

2.4B.8.4. When the entity determines that its DRP has been successfully and fully implemented, a completion audit is commissioned and undertaken to determine if the objectives of the DRP have been met (to the extent possible and if relevant and desired by historically affected people or communities). The completion audit:

- a. Is carried out by external livelihood restoration and/or resettlement experts as applicable;
- b. Includes a review of the mitigation measures implemented by the entity and a comparison of implementation outcomes against the requirements of this DRP;
- c. Clearly demonstrates that the objectives of the DRP have been successful and therefore the monitoring process can be terminated; and
- d. Is made available to affected people and their advisors.

**NOTE for 2.4B.8.4:** This is the equivalent of requirement 2.4A.8.4 in Chapter 2.4A but adapted to refer to remediation rather than resettlement processes and outcomes.

2.4B.8.5. If the completion audit determines that the objectives of the DRP have not been met, a corrective action plan is developed and implemented (to the extent possible and if relevant and desired by historically affected people or communities). This plan includes concrete measures to be implemented and a timeline budget for doing so, and provisions for a second completion audit that meets the requirements of 2.4.8.4 when the objectives of the correction action plan are deemed to have met the objectives of the DRP.

**NOTE for 2.4B.8.5:** This is the equivalent of requirement 2.4A.8.5 in Chapter 2.4A but adapted to refer to remediation rather than resettlement processes and outcomes.

## 2.4B.9 Private Sector Responsibilities Under Government-Managed Resettlement

2.4B.9.1. Where land acquisition was the responsibility of the government, the entity conducts due diligence and impact assessment per requirements 2.4B.1.1 - 2.4B.1.3 and, to the extent possible collaborates with government (if and where necessary and possible) to incorporate affected people into the DRP per the requirements of this chapter.

**NOTE for 2.4B.9.1:** This is the equivalent of requirement 2.4A.9.1 in Chapter 2.4A but adapted to refer to remediation rather than resettlement processes and outcomes and to put less emphasis on a 'supplemental plan' and more on incorporation of affected people into remediation activities.

This chapter draws primarily on the International Finance Corporation's (IFC) Performance Standard 5 (PS5) – Land Acquisition and Involuntary Resettlement, which applies to involuntary physical and/or economic displacement resulting when an entity acquires land rights or land use rights in a host country legal context where the entity would ultimately have recourse to expropriation or other compulsory procedures. However, recognizing that the IFC PS were most recently updated in 2012, this chapter goes beyond the requirements of PS5 to reflect a more up-to-date conception of international best practice in resettlement, as captured by other standards on which this chapter draws, referenced throughout.

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## GLOSSARY OF TERMS USED IN THIS CHAPTER

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### PROPOSED NEW DEFINITIONS

#### **Culturally Appropriate**

Refers to methods, formats, languages, and timing (e.g., of communications, interactions, and provision of information) being aligned with the cultural norms, practices, and traditions of affected communities, rights holders, and stakeholders.

#### **Customary Rights**

Rights that arise from a behavior or act that is repeated over time under the belief that it is obligatory, and due to repetition and acceptance acquire the force of law within a geography or society. Such rights may be based on patterns of long-standing land and resource usage in accordance with Indigenous Peoples' and local communities' customary laws, values, customs, and traditions. Such rights apply to the lands, resources, and territories that Indigenous Peoples and local communities have traditionally owned, occupied, or otherwise used. They do not apply to lands, territories, and resources that these groups have acquired in other ways, such as by purchase or part of a compensation package. These rights are a collective human right of Indigenous Peoples and local communities that exists whether or not a title from the State has been issued.

Source: Accountability Framework. <https://accountability-framework.org/the-framework/contents/definitions/>

#### **Displacement Remediation Plan**

Remediation refers to both the processes of providing remedy for an adverse impact and the substantive outcomes that can counteract, or make good, the adverse impact. Referring to historical land acquisition and displacement, this means a plan designed to remediate (through whatever means are most appropriate in the context) the adverse impacts of displacement caused by historical land acquisition processes. This plan should, to the extent possible, endeavor to achieve the objectives of a Resettlement Action Plan or Livelihoods Restoration Plan (see respective definitions).

#### **Entity**

A company, corporation, partnership, individual, or other type of organization that is effectively in control of managing an exploration, mining or mineral processing project or operation.

#### **Exploration**

A process or range of activities undertaken to find commercially viable concentrations of minerals to mine and to define the available mineral reserve and resource. May occur concurrent with and on the same site as existing mining operations.

#### **Expropriation**

The legal (according to host country laws) taking of land without the consent of the owner by an expropriating authority (often the host government) for the purposes of using said land for public interest. Definitions of public interest vary by country, but typically mining is considered to be in the public interest.

### **In-Kind Compensation**

In the context of resettlement, in-kind compensation refers to compensating project-affected people for lost assets with similar or equivalent assets (e.g., offering replacement land for lands acquired by a project/operation, rather than simply paying cash compensation for land value).

### **Mineral Processing**

Activities undertaken to separate valuable and non-valuable minerals and convert the former into an intermediate or final form required by downstream users. In IRMA this includes all forms of physical, chemical, biological and other processes used in the separation and purification of the minerals.

### **Mining**

Activities undertaken to extract minerals, metals and other geologic materials from the earth. Includes extraction of minerals in solid (e.g., rock or ore) and liquid (e.g., brine or solution) forms.

### **Operation**

The set of activities being undertaken for the purpose of extracting and/or processing mineral resources, including the running and management of facilities and infrastructure required to support the activities, and the ongoing legal, environmental, social and governance activities necessary to maintain the business endeavor.

### **Project**

The development phases before a mining or mineral processing operation can begin (e.g., exploration, pre-feasibility, feasibility, conceptual design, planning, permitting). Includes all desk-top and field-based activities, including exploration activities, needed to inform and develop a project proposal, support the environmental and social impact assessment of a proposal, generate information necessary to fulfill regulatory and permitting requirements, engage with stakeholders and rights holders, and maintain the entity's business endeavor.

### **Site**

An area that is owned, leased, or otherwise controlled by the entity and where mining-related activities are proposed or are taking place.

### **Temporary Transitional Resettlement**

Temporary transitional resettlement occurs when entities permanently acquire lands and clear people from those lands before providing them with replacement lands/residential structures, thus requiring them to move to a transitional temporary location until their permanent location/assets are ready.

### **Voluntary Displacement:**

Displacement that occurs as a result of voluntary land transactions (i.e., market transactions in which the seller is not obliged to sell, and the buyer cannot resort to expropriation or other compulsory procedures sanctioned by the legal system of the host country if negotiations fail) that lead to the relocation of willing sellers.

## **EXISTING DEFINITIONS**

### **Affected Community**

A community that is subject to risks or impacts from a project/operation.

**REVISED.** Changed wording from project to project/operation.

### **Baseline**

A description of existing conditions to provide a starting point (e.g., pre-project condition) against which comparisons can be made (e.g., post-impact condition), allowing the change to be quantified.

### **Collaboration**

The process of shared decision-making in which all stakeholders constructively explore their differences and develop a joint strategy for action. It is based on the premise that, through dialogue, the provision of appropriate information, collectively defined goals, and the willingness and commitment to find a solution acceptable to all parties, it is possible to overcome the initially limited perspectives of what is achievable and to reach a decision which best meets the interests of the various stakeholders. At this level, responsibility for decision-making is shared between stakeholders.

### **Competent Professionals**

In-house staff or external consultants with relevant education, knowledge, proven experience, necessary skills and training to carry out the required work. Competent professionals would be expected to follow scientifically robust methodologies that would withstand scrutiny by other professionals. Other equivalent terms used may include: competent person, qualified person, qualified professional.

**REVISED.** Deleted reference to Chapter 4.1.

### **Consultation**

An exchange of information between a company and its stakeholders that provides an opportunity for stakeholders to raise concerns and comment on the impacts and merits of a proposal or activity before a decision is made. In principle the company should take into account the concerns and views expressed by stakeholders in the final decision.

### **Displacement (Economic/Physical)**

A process by which the development of a project or operation causes people to lose land or other assets, or access to resources. This may result in physical and/or economic displacement, defined below.

- *Economic Displacement:* the loss of assets or access to assets that leads to a loss of income sources or other means of livelihood (i.e., the full range of means that individuals, families, and communities utilize to make a living, such as wage-based income, agriculture, fishing, foraging, other natural resource-based livelihoods, petty trade, and bartering). Economic displacement results from an action that interrupts or eliminates people's access to jobs or productive assets, whether or not the affected people must move to another location.
- *Physical displacement:* the relocation or loss of shelter (i.e., residential housing) as a result of project- or operation-related land acquisition and/or restrictions on land use.

Source: Adapted from IFC. 2012. Performance Standard 5

**REVISED.** We are proposing to combine definitions of physical and economic displacement under the broader category of 'displacement' as we more often refer to it in this general sense in the text.

### **Forced Eviction**

The permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection.

### **Free, Prior and Informed Consent**

Consent based on: engagement that is free from external manipulation, coercion and intimidation; notification, sufficiently in advance of commencement of any activities, that consent will be sought; full disclosure of information regarding all aspects of a proposed project or activity in a manner that is accessible and understandable to the people whose consent is being sought; acknowledgment that the people whose consent is being sought can approve or reject a project or activity, and that the entities seeking consent will abide by the decision.

## Grievance

A perceived injustice evoking an individual's or a group's sense of entitlement, which may be based on law, contract, explicit or implicit promises, customary practice, or general notions of fairness of aggrieved communities.

**REVISED.** Added that IRMA Standard uses grievances and complaints interchangeably.

## Grievance Mechanism(s)

Any routinized, state-based or non-state-based, judicial or non-judicial process through which project- or operation-related complaints or grievances, including business-related human rights abuses stakeholder complaints, and/or labor grievances, can be raised and remedy can be sought. An operational- or project-level grievance mechanism is a formalized means through which individuals or groups can raise concerns about the impact of a specific project/operation on them—and can seek remedy.

**REVISED.** Changed wording from mining project to project- or operation-related, and added operation-level grievance mechanism to this definition.

## Host Communities

With respect to resettlement, any communities receiving displaced people.

## Host Country Law

May also be referred to as national law, if such a phrase is used in reference to the laws of the country in which the project or operation is located. Host country law includes all applicable requirements, including but not limited to laws, rules, regulations, and permit requirements, from any governmental or regulatory entity, including but not limited to applicable requirements at the federal/national, state, provincial, county or town/municipal levels, or their equivalents in the country where the project or operation is located. The primacy of host country laws, such as federal versus provincial, is determined by the laws of the host country.

**REVISED.** Changed wording from mining project to project or operation.

## Indigenous Peoples

An official definition of “indigenous” has not been adopted by the United Nations system due to the diversity of the world's Indigenous Peoples. Instead, a modern and inclusive understanding of “indigenous” includes peoples who: identify themselves and are recognized and accepted by their community as Indigenous; demonstrate historical continuity with pre-colonial and/or pre-settler societies; have strong links to territories and surrounding natural resources; have distinct social, economic or political systems; maintain distinct languages, cultures and beliefs; form non-dominant groups of society; and resolve to maintain and reproduce their ancestral environments and systems as distinctive peoples and communities. In some regions, there may be a preference to use other terms such as: tribes, first peoples/nations, aboriginals, Adivasi and Janajati. All such terms fall within this modern understanding of “indigenous.”

**REVISED.** Removed the term “ethnic groups” as this is broadly applicable to other populations that are not considered Indigenous Peoples, and could make it challenging to audit.

## Involuntary Displacement

Displacement is considered involuntary when affected people or communities do not have the right to refuse land acquisition or restrictions on land use that result in physical or economic displacement. This occurs in cases of (i) lawful expropriation or temporary or permanent restrictions on land use (see also 'Forced Eviction') and (ii) negotiated settlements in which the buyer can resort to expropriation or impose legal restrictions on land use if negotiations with the seller fail. See also definition for 'Voluntary Displacement.

Source: IFC. 2012. *Performance Standard 5*.

**REVISED.** We are proposing to change this definition from 'Involuntary Resettlement' to 'Involuntary Displacement' in recognition that resettlement - particularly historically - is a process by which displaced

households are physically moved to another location which may or may not have occurred following displacement.

### **Livelihood**

The full range of means that individuals, families, and communities utilize to make a living, such as wage-based income, agriculture, fishing, foraging, other natural resource-based livelihoods, petty trade, and bartering.

### **Livelihood Restoration Plan**

A plan that establishes the entitlements (e.g., compensation, other assistance) of affected people and/or communities who are economically displaced, in order to provide them with adequate opportunity to reestablish their livelihoods.

### **Mining-Related Activities**

Any activities carried out during any phase of the mineral development life cycle for the purpose of locating, extracting and/or producing mineral or metal products. Includes physical activities (e.g., land disturbance and clearing, road building, sampling, drilling, airborne surveys, field studies, construction, ore removal, brine extraction, beneficiation, mineral or brine processing, transport of materials and wastes, waste management, monitoring, reclamation, etc.) and non-physical activities (e.g., project or operational planning, permitting, stakeholder engagement, etc.).

**REVISED.** Added reference to mineral development life cycle, project/operation, brine.