

# Private Sector Operations Legal and Policy Framework

Presentation by  
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ADB

## Private Sector Operations Legal & Policy Framework

Article 11 of the Charter: The Bank may carry out its operations

(iii) "by investments in funds ... in the equity capital of an institution or enterprise, provided no such investment shall be made until after the Board of Governors, by a majority of the total number of Governors, representing a majority of the total voting power of the members, shall have determined that the Bank is in a position to commence such type of operations"

[The Board of Governors made such determination on 18 March 1983]

(iv) "by guaranteeing, whether as primary or secondary obligor, in whole or in part, loans for economic development participated in by the Bank."

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## Private Sector Operations Legal & Policy Framework

- 1983 – First Board policy on equity operations
- 1985 – First comprehensive policy on private sector operations (loans and guarantees)
- Framework Agreements
- No objection letter from DMC Government - Article 14(iii) of the Charter: “The Bank shall not finance any undertaking in the territory of a member if that member objects to such financing.”

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Types of non-sovereign investments:

- Equity
  - financial institutions (public and private)
  - private equity funds (SME and microfinance)
  - infrastructure (public, private and PPP)
- Loans
  - financial sector (public and private)
  - infrastructure (public, private and PPP)
- Credit guarantees
  - SME lending & trade finance
  - capital markets
- Political risk guarantees - infrastructure

# Private Sector Operations Legal & Policy Framework

ADB's business process:

- Concept Clearance
- First Guarantee Committee / Interest Rate Committee
- Independent risk analysis by ADB's Risk Management Unit (RMU)
- Management Review (PSCC)
- Second Guarantee Committee / Interest Rate Committee
- No Objection
- Board Approval

## Private Sector Operations Legal & Policy Framework

Documentation process:

- Confidentiality Agreement
- Mandate Letter
- Terms and Conditions
- Investment Documentation

# For More Information

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The logo for the Asian Development Bank (ADB), consisting of the letters "ADB" in a white serif font on a dark blue square background.

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