



**European Bank**  
for Reconstruction and Development

## **2019 Access to Information Policy and Directive on Access to Information Report on the Invitation to Comment**

### **CONTENTS**

1   Introduction	2
2   Objectives & Approach	2
3   Stakeholders	3
4   The Consultation Process	3
4.1   Engagement Platforms	3
4.2   Specific Stakeholder engagement activities	4
4.2.1   Stage 1 - Input on the 2014 PIP	4
4.2.2   Stage 2 – Disclosure of the Draft 2019 AIP and DAI	5
5   Summary of Stakeholder Input	7
5.1   Public Consultation and Comments	7
5.2   Other Stakeholder Comments	8
5.3   Changes Made to the Policy as a Result of Stakeholder Input	9
6   Next Steps	11
Annex 1 – Agenda for Public Consultation Events	
Annex 2 – Summary of public comments	
Annex 3 – Summary of other stakeholder comments	

## 1 | INTRODUCTION

The European Bank for Reconstruction and Development's (EBRD) Public Information Policy (PIP) sets out how EBRD discloses information and consults with its stakeholders to promote awareness and understanding of its activities. The Policy is subject to review every five years. As such, the bank is in the process of reviewing the 2014 PIP in order to release an updated policy in 2019.

As part of the review of a governance policy, the 2014 Public Information Policy (PIP) requires the Bank to consult with stakeholders. This Report on the Invitation to Comment provides a summary of the stakeholder consultation process in the drafting and finalisation of the 2019 Access to Information Policy and Directive on Access to Information ("AIP/DAI"). More specifically, this report:

- Outlines EBRD's objectives and approach to stakeholder consultation during the review process;
- Identifies key stakeholder groups with whom EBRD has engaged;
- Details the means through which EBRD's external stakeholders were engaged throughout the drafting and finalisation of the AIP/DAI as well as the platforms through which these groups were able to provide input throughout the process;
- Provides a summary as well as detailed records of all public comments and other stakeholder comments received;
- Details how stakeholder feedback was taken into account in the finalisation of the 2019 AIP/DAI; and
- Outlines the next steps in the finalisation and disclosure of the draft policy.

## 2 | OBJECTIVES & APPROACH

The goal of consultation on policies was to provide to interested parties, and to those potentially affected by the Bank's operations, the opportunity to participate in and provide input on the development of the 2019 draft AIP/DAI. Important considerations included:

- Allowing for dialogue in the key regions in which the Bank operates and in the principal languages spoken in EBRD's countries of operations.
- Taking care to reach stakeholders that are representative of: the full range of issues covered within the AIP/DAI; the types of projects financed by the Bank; and the Bank's countries of operations.
- Consulting with a cross section of stakeholders, including members of public or public groups, who could be affected by, or have interest in, EBRD projects, National Governments, Civil Society Organisations (CSOs) and the Bank's Clients.
- Defining clear channels through which stakeholders could raise questions or concerns in relation to the AIP/DAI and the policy review process;
- Developing a process whereby all stakeholder comments were reviewed and considered in the final revision of the draft policy; and

- Defining a clear mechanism to disclose the results of consultation.

### 3 | STAKEHOLDERS

Key stakeholders for the review process included:

- **Academia:** representatives of academic institutions and think-tanks focused on issues of relevance to the PIP review.
- **Clients:** beneficiaries of EBRD investments in both the public and private sectors.
- **Civil Society Organisations (CSOs):** non-governmental organisations and institutions that represent the interests of the citizenry in EBRD's countries of operations and internationally.
- **Consultants:** private sector organisation that support EBRD and our clients.
- **Shareholders:** shareholding countries both inside and outside of EBRD's countries of operation.
- **Other stakeholders:** i) international organisations with an interest in transparency and disclosure practices (the Publish What You Fund, the UN ECE Aarhus Convention, the UN Office of the High Commissioner on Human Rights) and ii) international financial institutions (IFIs) such as the EIB, World Bank, IFC, ADB, IADB, and AfDB.

### 4 | THE CONSULTATION PROCESS

#### 4.1 ENGAGEMENT PLATFORMS

Specific engagement platforms included the following:

- **Public Consultation Meetings:** Eight consultation meetings were held in 2019 across the EBRD's countries of operations and at headquarters.
- **Focus Group Meetings:** meetings will be held with groups of stakeholders interested in specific issues addressed in the PIP review either as standalone meetings or as subcomponent of regular meetings (for example with the Bank's Environmental and Social Advisory Committee).
- **Bilateral Meetings:** one-to-one meetings will be held with key stakeholders where relevant.
- **Client Survey:** a survey will be developed to garner client feedback on the proposed changes to the PIP.
- **Written Feedback:** emails to a dedicated Email address set up for the PIP review: [PIPReview2019@ebrd.com](mailto:PIPReview2019@ebrd.com).

It was possible to participate via any of these platforms confidentially at the request of an individual or organisation.

## 4.2 SPECIFIC STAKEHOLDER ENGAGEMENT ACTIVITIES

The review process commenced in Q1 2018 and provided a number of opportunities for stakeholder input. There are three principal stages of stakeholder input in the review process:

- Stage 1 – Feedback on 2014 PIP: in March 2018, the Bank sought views on how the existing PIP had been implemented, and what changes might be considered in the light of stakeholder experience.
- Stage 2 – Disclosure of the draft 2019 revised PIP (Access to Information Policy and Directive on Access to Information): in January 2019, a draft revised policy was disclosed on the Bank's website and comments on the revised draft were sought over a 45-day period.

### 4.2.1 STAGE 1 - INPUT ON THE 2014 PIP

In early 2018, the Bank requested comments on the 2014 PIP. This review focused on:

- The performance of the 2014 policy since its adoption;
- Changes to similar policies of other IFIs, involving the IFI benchmarking exercise.

The review was aimed at identifying issues with the 2014 PIP and opportunities for improvement to integrate into the 2019 PIP. The outcome of the review has been used to prepare the draft revised PIP.

#### *Stage 1 Consultation Activities*

Consultation activities completed in this phase in relation to the policy are summarised in the table below:

*Table 1 – Stage 1 Overall Policy Consultation Activities*

<b>Time Period</b>	<b>Consultation Activity</b>	<b>Stakeholders</b>	<b>Stakeholder Engagement Platform</b>
12 Feb-10 April, 2018	Open public invitation to all stakeholders to provide comments on the 2014 Policy	All External Stakeholders	EBRD Website
10 May, 2018	Consultation workshop with CSOs at the AGM in Jordan	Civil Society Organisations	Public Meeting
23 May, 2018	Consultation with the Bank's Environmental and Social Advisory Council (ESAC)	Civil Society Organisations	Meeting
24-25 October, 2018	Key Policy and implementation issues discussed with other IFIs	IFIs	Meeting

#### 4.2.2 STAGE 2 – DISCLOSURE OF THE DRAFT 2019 ACCESS TO INFORMATION POLICY AND DIRECTIVE

In accordance with the EBRD Public Information Policy (PIP), the draft Access to Information Policy and Directive were disclosed on the EBRD web site on 21 January 2019. The draft Policy and Directive were disclosed in English alongside a document summarising the main changes made from the 2014 version. This summary document was available in English as well as the main languages spoken in the cities selected for policy consultation events as detailed below. These languages were: Arabic, English, French, Georgian, Russian, Serbian, Turkish and Ukrainian.

The disclosure of the draft policies initiated a forty five (45) day public comment period which concluded on March 6, 2019. During the disclosure period, seven (7) stakeholder consultation meetings were held in EBRD Countries of Operations (Almaty, Belgrade, Cairo, Casablanca, Istanbul, Kiev & Tbilisi) and one (1) in London. These locations were selected in order to allow for broad geographical coverage across EBRD's region of operations with a focus on specific countries of operation where the Bank has a large portfolio of investments.

A dedicated inbox was also set up to allow for submission of written public comments (PIPReview2019@ebrd.com) In addition, a number of other targeted engagement activities were held with specific stakeholder groups.

##### *Promotion*

To inform stakeholders of the disclosure of the draft policy, 45-day public comment period, public consultation events and dedicated email addresses, the following steps were taken:

- **Social media promotion:** a social media campaign was launched which included a news item posted on EBRD.com and communications via the Bank's LinkedIn and Twitter accounts.
- **Event Pages:** event pages on EBRD.com as well as Facebook events for each public consultation were promoted via advertising on Facebook.
- **Targeted Email Invitations:** invitation emails were sent for each public consultation event based on an invitation list created with the input of the following departments: Environment and Sustainability Department, Civil Society Engagement Unit, Project Complaints Mechanism. The input of EBRD's Regional Offices was also solicited.

##### *Stage 2 Consultation Activities*

Specific consultation activities post disclosure of the draft 2019 AIP/DAI are summarised in the table below.

Table 2- Stage 2 Policy Consultation Activities

Activity	Stakeholders	December					January					February				March			
		3/12	10/12	17/12	24/12	1/1	7/1	14/1	21/1	28/1	4/2	11/2	18/2	25/2	4/3	11/3	18/3	25/3	
1 - PROMOTION/PUBLICITY																			
1.1 First announcement (Linkedin, Twitter)	All																		
1.2 Event pages on EBRD.com	All																		
1.3 CSEU Newsletter	All																		
1.4 Facebook event post	All																		
1.4 Event invitations to participants (at least 4 weeks prior)	Targeted lists																		
1.6 Social media around disclosure of draft policy	All																		
2 - PUBLIC CONSULTATIONS									PUBLIC CONSULTATION PERIOD (45 days)										
2.1 Kiev Meeting	All																		
2.2 Tbilisi Meeting	All																		
2.3 Almaty Meeting	All																		
2.4 Istanbul Meeting	All																		
2.5 Cairo Meeting	All																		
2.6 Casablanca Meeting	All																		
2.7 Belgrade Meeting	All																		
2.8 London Meeting	All																		
3 - OTHER STAKEHOLDER CONSULTATIONS																			
3.1 Other IFIs	IFIs																		
3.2 Client survey	Clients																		
3.3 ESAC meeting	ESAC																		
3.4 IATI Meeting	The Publish What You Fund																		

## 5 | SUMMARY OF STAKEHOLDER INPUT

### 5.1 | PUBLIC CONSULTATION AND COMMENTS

#### 5.1.1 | Public Consultation Events

##### *Overview*

Public consultation events were organised in 8 locations as detailed in the table below. Each event covered the three EBRD Good Governance Policies: Environmental and Social Policy, Project Complaints Mechanism Rules of Procedure and Public Information Policy. Each policy was discussed in a dedicated two-hour session consisting of a 15 minute presentation of the changes made in the 2019 draft version and 1 hour 45 minutes of open discussion during which participants were invited to raise questions and comments to which EBRD representatives responded. Agenda for public consultations events is shown in **Annex 1**.

Anonymous comment boxes were also made available at the events for participants who did not want to raise questions in the plenary session. Participants were also able to participate anonymously by dialling into the event via a dedicated and confidential web-based application through which they were also able to raise comments and questions. These were read out by the meeting facilitators and answered in the room by the EBRD representatives.

##### *Attendance*

Public consultation events were generally well attended with an average of 39 people per event. Event attendance is summarised below:

*Table 3 – Public consultation activities*

Location	Date (2019)	Number of Attendees
Almaty	February 11	17
Belgrade	February 28	44
Cairo	February 21	35
Casablanca	February 26	23
Istanbul	February 13	36
Kiev	February 5	67
London	March 5	48
Tbilisi	February 7	40

#### 5.1.2 | Summary of Public Comments

Following the closure of the 45-day public consultation period, all comments were reviewed and the potential to make changes to the AIP and DAI were evaluated. A brief high-level summary of key comments is presented below:

*Access to Information Policy:*

- Deletion of the reference to the UNECE Aarhus Convention is perceived as a regression from the Bank's commitment to transparency and disclosure;
- Policy lacks the people - oriented focus and is clearly geared towards protecting the interests of EBRD's clients;
- Exceptions are on the excessive side, their scope needs to be clarified and narrowed down;
- Policy principles, including such on the information requests and appeals, need to be revised to make these processes more user-friendly, to enable greater accessibility and also in view of a shrinking civic space in certain countries.

*Directive on Access to Information:*

- Reduction of consultation timeframe on Country Strategies and Sector Strategies is unacceptable;
- Disclosure of environmental and social information required on category B projects needs to be enhanced and aligned more with category A projects
- The current level of disclosure on FI projects needs to be improved substantially, especially there should be disclosure on the FI subprojects in high environmental risk sectors, such as for example the hydropower sector, in line with the ESP;
- Updates of environmental and social information within PSDs should be for all environmental categories of projects;
- Project-related disclosure is clearly geared towards the state sector projects, whilst more disclosure is also needed on private sector projects;
- Processes of information requests and appeals need to be clarified to make these processes more user-friendly, to enable greater accessibility and also in view of a shrinking civic space in certain countries.
- Clarity is required in respect to any future changes of the Directive.

Specific comments and questions received during public consultation (in discussion, via anonymous forms and on-line at the public consultation meetings as well as by way of written submissions) and responses provided are included in **Annex 2**.

**5.2 | OTHER STAKEHOLDER COMMENTS**

Comments of other stakeholders, which include (i) international organisations with an interest in transparency and disclosure practices (the Publish What You Fund, the UN ECE Aarhus Convention, the UN Office of the High Commissioner on Human Rights and ii) international financial institutions (IFIs) provided in meetings and as written submissions are incorporated into **Annex 3**.

### 5.3 | CHANGES MADE TO THE POLICY AS A RESULT OF STAKEHOLDER INPUT

Following the closure of the 45-day public consultation period, all comments were reviewed and the potential to make changes to the Access to Information Policy and Directive were evaluated. The sections below summarise the changes made as a result of comments received from the public, EBRD shareholders and other stakeholders.

#### *Access to Information Policy*

- Purpose revised to emphasise the EBRD’s commitment to transparency, including incorporation of references to the human right on access to information and the UN ECE Aarhus Convention.
- Principles revised as follows:
  - *Transparency* includes a reference to the public, including affected people;
  - *Business-Sensitive Approach* principle has been removed as this approach is already enshrined in the Exceptions to Disclosure;
  - *Accountability* includes a reference to being accountable to stakeholders; a reference to serving the interests of those who may face barriers in accessing information; and the EBRD obtaining input from a variety of sources, listening to stakeholders and engaging in dialogue;
  - *Good Governance* includes a reference to public reporting, periodic reviews of the governance policies, public consultation, and the disclosure of policies following approval by the Board of Directors.
  - *Client Responsibility to Affected Stakeholders* has been introduced in consistency with the Environmental and Social Policy
- Exceptions to Disclosure have been revised to clarify their scope and reduce their overall number.
- Overrides to Exceptions to Disclosure have been revised to incorporate a reference to the public, including affected people, with clarifications made to the scope of the Positive Overrides.
- “Redaction of Information” section has been renamed as “Separation of Information not Subject to an Exception” and revised accordingly.
- Information requests section has been revised to enable anonymous and unsupported requests; to remove a reference to the Bank not replying to unclear requests; to clarify that the Bank is not required only to reply to requests that necessitate the creation and development of new information or data; to inform requestors in case of the Bank’s response being posted on its website; and a clarification that the Bank’s responses will be provided free of charge.
- Appeals section has been revised to alleviate the undue burden of proof for the appellant.
- Further alignment with the Project Accountability Policy in the Recourse section.
- Clarifications provided in respect of the review and reporting process

*Directive on Access to Information*

- Clarification that the EBRD disclosure includes, but is not limited to, the list of Information to be disclosed, thus emphasising the presumption of disclosure in respect of information which is not subject to the exceptions on disclosure.
- Reinstatement of the 45 calendar day consultation timeline for the review of country and sector strategies.
- Clarification on the translation of the governance policies into official national languages on a demand-driven basis.
- Widening of the scope of Project Summary Documents (PSDs) in order to include disclosure about Project sponsors and/or shareholders of the Project company (subject to client's consent and/or market practice).
- Clarification that PSDs will provide contact information for both EBRD and clients as well as for the Independent Project Accountability Mechanism.
- Revisions to the Environmental and Social Information disclosure relating to Projects as follows:
  - Reinstatement of a provision from the current PIP that the requirements for disclosure of project information by EBRD clients are contained in the Environmental and Social Policy (ESP);
  - Clarification on the scope of environmental and social information disclosure by environmental category for category A and B projects, including the rationale for categorisation, a summary of any agreed action plan or supplemental measures to meet the ESP performance requirements; clarifications on the scope of GHG emissions reporting, and inclusion of free, prior and informed consent (FPIC) of indigenous people as required;
  - Clarification on the categorisation rationale for category C projects;
  - Enhancement of environmental and social information within PSDs on financial intermediary (FI) projects;
  - Introduction of environmental and social section updates within PSDs for category B projects with significant environmental and social issues and for FI projects, including as appropriate hyperlinks to the information disclosed by FIs on their website on subprojects referred to the EBRD in accordance with the ESP. This revision is made in addition to the existing environmental and social section updates within PSDs for category A projects.
- Clarifications in relation to providing responses to requests for information, such as that the typical response timeline will be 20 days, whilst 40 days for response will be taken upon provision of justification for a delay.

## 6 | NEXT STEPS

Based on the comments received during the consultation period, revised drafts of the new Policy and Directive have been prepared. These revised drafts, along with this report, have been submitted for consideration first by the Bank's Senior Management and then by the Board of Directors.

Following Board approval of the Policy and President's approval of the Directive, the Bank has posted on the EBRD website English versions of the approved Policy and Directive, and an English version of this report. The Bank will also post the Russian and French versions of the new Policy and Directive on its website. Translations into other languages of EBRD countries of operation will be provided on a needs/request basis and also posted on the Bank's website.

## ANNEX 1 – AGENDA FOR PUBLIC CONSULTATION EVENTS

## EBRD Public Consultations for Good Governance Policies: Environmental and Social Policy, Public Information Policy and Project Complaint Mechanism Rules of Procedure

London – Tuesday 5 March 2019

### Agenda

<b>08:30 – 9:00</b>	<b><i>Registration</i></b>
<b>09:00 – 9:10</b>	Welcome by EBRD representative
<b>09:10 – 11:10</b>	<b>Environmental and Social Policy 2019-2023</b> <i>Presentation on the revised Policy by the ESP Team</i> <i>Discussion: Participants to provide their views on the draft policy, including call-in participation.</i>
<b>11:10 – 11:30</b>	<b><i>Coffee break</i></b>
<b>11:30 – 13:30</b>	<b>Public Information Policy 2019-2023</b> <i>Presentation on the revised Policy by the PIP Team</i> <i>Discussion: Participants to provide their views on the draft policy, including call-in participation.</i>
<b>13:30 – 14:30</b>	<b><i>Lunch break</i></b>
<b>14:30 - 16:30</b>	<b>Project Complaint Mechanism Rules of Procedure 2019-2023</b> <i>Presentation on the revised Policy by the PCM</i> <i>Discussion: Participants to provide their views on the draft policy, including call-in participation.</i>

## ANNEX 2 – SUMMARY OF PUBLIC COMMENTS

This document summarises public comments, including such from the Civil Society Organisations, received in 8 public consultation meetings (in discussion, on-line and via anonymous forms) as well as submitted in writing as hard copies and by email during the public consultation period. Please note that revisions to the documents have been included as underlined/deleted as shown in the Management Response box.

No	Section of the Document	Comment	Changes made	Management Response
1	Policy (Section 1, Purpose) Reference to the Aarhus Convention	Deletion of the reference to the UNECE Aarhus Convention is perceived as a regression from the Bank's commitment to transparency and disclosure	Yes	Thank you, the reference to Aarhus Convention has been reinstated in the Purpose of the Policy as follows:  <i><u>“The EBRD recognises the developments made to advance the recognition and exercise of the right to access information as a human right and the importance of the principles, purposes and ultimate goals on access to information of the UNECE Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters”</u></i>
2	Policy (Section 1, Purpose: Human right of access to information)	The Policy purpose needs to be improved by expressly referencing access to information as a fundamental human right, embedding this understanding at the core of its provisions, and ensuring that it prioritises the fulfilment of this right for its key stakeholders-communities, the intended beneficiaries of development.	Yes	Thank you, included as shown above.
3	Policy (Section I Purpose and Section III Principles) Safeguards against retaliation	Policy (and Directive) lack any safeguard provisions to prevent and address reprisals or threats to individuals, communities or groups who might request or share	Yes	Thank you, this has been addressed as follows:

No	Section of the Document	Comment	Changes made	Management Response
	towards s requestors for information	information, especially in countries where the civic space is shrinking		<p>1) The Accountability principle has been revised to incorporate <u><i>“including the interests of those who may face barriers in access to information”</i></u>.</p> <p>2) The Policy has been revised to delete a reference to the Bank not responding to anonymous or unsupported requests (previously in section 5.1 (iii)) in order to safeguard against the retaliation.</p> <p>3) In January 2019 the Bank published an external statement on Retaliation Against Civil Society and Project Stakeholders: <a href="https://www.ebrd.com/who-we-are/civil-society-overview.html">https://www.ebrd.com/who-we-are/civil-society-overview.html</a>. This statement says: <i>“The impairing or harming (or threatening to impair or harm) any party, or the property of any party, directly or indirectly, with the intent to improperly influence the actions of that party in connection with a Bank project, constitutes a Coercive Practice under the Bank’s Enforcement Policy and Procedures (EPPs)(<a href="http://www.ebrd.com/news/publications/policies/enforcement-policy-and-procedures.html">http://www.ebrd.com/news/publications/policies/enforcement-policy-and-procedures.html</a>). A Bank counterparty that is suspected to have engaged in a Coercive Practice is subject to Enforcement Proceedings under the EPPs.”</i></p> <p>In addition to this statement, The Bank has also developed internal Guidelines to EBRD personnel on handling allegations of retaliations for criticism and complaints related to EBRD projects.</p> <p>4) Furthermore, Exceptions to disclosure under 2.6. “Security, Safety and Compliance” (iii) have been revised to say that the Bank will not</p>

No	Section of the Document	Comment	Changes made	Management Response
				disclose information that would compromise security of individuals seeking access to information.  5) Environmental and Social Policy (Performance Requirement 10) also contains provisions prohibiting clients to retaliate against affected communities.
4	Policy, Section III Principles, Transparency principle	Presumption of disclosure in the Transparency principle should be amended to fully embrace the principle of maximum disclosure, in line with the Global Transparency Initiative (GTI) Transparency Charter for IFIs, which determines that all information should be disclosed, except when falling under a set of narrow exceptions.	Yes	Thank you, the Transparency principle has been revised to include a reference to the public as underlined:  <i><u>"This Policy sets out clear and well-defined exceptions to disclosure which take into account, in a balanced manner, the legitimate interests of the Bank, clients, shareholders, the public including affected people, counterparties and other stakeholders."</u></i>  This has been accompanied by deletion of the Business-Sensitive Approach principle.
5	Policy Section III Principle of Business-Sensitive Approach	On sequence: As currently drafted, the EBRD commits to "the principles of transparency, a business sensitive approach, accountability and good governance in all of its Operations and Activities." We note the change in order from the previous Public Information Policy which ordered "accountability and governance" as second while "safeguarding the business approach" was placed fourth. The shift in order (and language) point to a further prioritization by the Bank, favouring an attitude that places clients over people. The EBRD should not be	Yes	Following suggestions from internal and other external stakeholders, the Business - Sensitive Approach principle has been deleted, as it is already safeguarded by the Exceptions to Disclosure, which is in line with the approach of other IFIs. Other principles have been clarified further and a new principle of the Client Responsibility to Affected Stakeholders has been introduced.

No	Section of the Document	Comment	Changes made	Management Response
		prioritizing client retention within the very principles of its Access to Information Policy.		
6	Policy (Section III Scope: Principles)	Policy's Principles are recommended to include an express commitment by the EBRD to provide information to project-affected people, for example similarly to the ADB's 2018 Access to Information Policy's Principle of <i>Providing information to project - affected people and other stakeholders</i> .	Yes	Thank you, this is addressed by incorporating a principle on Client's Responsibilities to Affected Stakeholders.
7	Policy (Section III Scope: Principle of Accountability)	The current framing of the principle "Accountability", which inter alia states that "the EBRD works closely with its clients to provide appropriate the information, in a suitable manner, to people affected under its Operations and Activities " when compared to the principle of "Business Sensitive Approach" , which sets out that "the EBRD must maintain the confidence and trust of its clients, co-financiers and other counterparties", sets up the Policy to cater to client interests without regarding affected communities as key stakeholders. The Policy should consider individuals and communities affected by EBRD operations as key stakeholders, and fundamentally reflect in its entirety that the Policy's aim is to fulfil the humane right to access information. Rename the heading "Accountability" as "Participation and Accountability".	Yes	<p>Thank you, following various stakeholders' feedback, this principle has been revised as follows:</p> <p><i>"The EBRD shares information on its Operations and Activities, in a timely and appropriate manner in order to <u>support its commitment to accountability to stakeholders</u>, facilitate dialogue and understanding, <del>to</del> support policy design and strategic decision-making, and with a view to creating a wider impact beneficial to the fostering of transition of its recipient countries or economies of operations towards sustainable market economies.</i></p> <p><i>The EBRD endeavours to identify, raise awareness and engage with a broad range of stakeholders including affected people and communities, civil society groups and members of the public, taking into account the diverse nature and significance of specific interests, <u>including the interests of those who may face barriers in access to information</u>.</i></p>

No	Section of the Document	Comment	Changes made	Management Response
				<i>The EBRD respects the right of people to provide input on the Bank's Operations and Activities and to seek and receive information relating to Operations and Activities which may affect them or their communities. <del>The EBRD is willing to listen and is open to</del> <u>seeks to obtain input from a variety of sources, listens to input from stakeholders and engages in dialogue.</u></i>
8	Policy (Section III Scope: Principles: Good governance)	Include as underlined "The EBRD monitors compliance with the Policy and its effectiveness and regularly reports <u>to the public</u> on the implementation of this Policy"	Yes	Thank you, this has been addressed by incorporating a reference to the public as underlined: <i>"The EBRD monitors compliance with this Policy and its effectiveness and regularly reports <u>to the public</u> on the implementation of this Policy"</i>
9	Policy (Section III Scope: Exceptions to Disclosure)	Majority of the draft Policy is dedicated to Exceptions to Disclosure listed in paragraphs 2.1-2.17. These are numerous, overly broad and vague, thereby undermining the presumption of disclosure. For example, in 2.2. "Financial Information and Information Provided in Confidence" is too broad and allows for subjectivity and discretion over disclosure of information, potentially withholding information such as negative project impacts or results. Furthermore, sections in the Directive also create added provisions to these exceptions. Exceptions should be narrowly defined and limited in scope, so as to avoid ambiguity in interpretation. It is recommended to amend this section to comply with internationally accepted best practice and adhere to the principle of "Limited Exceptions" in line with the GTI: Transparency Chapter for IFIs: " The	Yes	<p>Thank you, the exceptions have been revised to clarify the scope of their application, the number of exceptions has been reduced.</p> <p>The introductory part of this section has been revised as follows: <i>"The EBRD is committed to openness and transparency. However, there are instances where legitimate interests of the Bank, its clients, co-financiers, other counterparties <u>or the public including affected people</u> may need to be protected and therefore disclosure of information or documents is not possible. <u>The exceptions to disclosure are based on the EBRD's determination that disclosure of certain types of information would cause harm to specific parties or interests that would outweigh the public interest in disclosure.</u> To protect such legitimate interests, the following exceptions to disclosure shall apply"</i></p> <p>Furthermore, following a suggestion from the UN OHCHR, 2.2. "Financial Information and Information Provided in Confidence" has been revised to reflect the risk of harm to legitimate financial and</p>

No	Section of the Document	Comment	Changes made	Management Response
		regime of exceptions should be based on the principle that access to information may be refused only where the international financial institution can demonstrate (i) that disclosure would cause serious harm to one of a set of clearly and narrowly defined, and broadly accepted, interests, which are specifically listed; and ii) that the harm to this interest outweighs the public interest in disclosure. EBRD is advised to comply with the internationally endorsed three-part test to formulate a limited and reasonable hall of exceptions that should relate to a legitimate aim.		commercial interest of EBRD as follows: <i>“This category includes information that would, in the EBRD’s view, be detrimental to the <u>legitimate</u> financial or commercial interests of the EBRD or EBRD counterparties if disclosed”</i>
10	Policy (Section III Scope: Exceptions to disclosure, sections 2.1 vi) Studies, reports, assessments, memoranda, analyses and other information prepared to support internal decision-making and/or relating to audit matter	Under this exception, the EBRD would never have to disclose information that showed a client was in violation of the EBRD ESP, because presumably such information would be encompassed within “studies, reports, assessments, memoranda, analyses and information...”. To the extent that a client was seeking additional funding for an existing project, this exception would also shield the EBRD from disclosing if, as part of any existing project, the client had successfully met agreed upon plans for improving their practices to meet the EBRD ESP.	No	Thank you, please note the Bank does not disclose the internal information that, if disclosed, would or would likely compromise the integrity of EBRD’s deliberative and decision-making process, by inhibiting the candid exchange of ideas, views, and approaches, and thereby adversely affect the quality of decisions and outcomes for EBRD and its stakeholders.
11	Policy (Section III Scope: Exceptions to Disclosure, paragraph	Under this exception, the EBRD would never have to disclose information about a project simply because an	No	Thank you, please note this exception sets outs Bank’s duty of confidentiality towards the originator of information. Proprietary information or any information provided to EBRD by a party that, if

No	Section of the Document	Comment	Changes made	Management Response
	2.2 (ii) Information in the Bank's possession which was not created by the Bank and identified by its originator as sensitive or confidential	EBRD client identified information as "sensitive or confidential".		disclosed, would or would likely materially prejudice the commercial interests, financial interests, or competitive position of the party that was the source of the information or another party that may be affected by the disclosure of the information.
12	Policy (Section III Scope: Exceptions to Disclosure, paragraph 2.2 iii,) Information related to procurement policies	Unless qualified and with the governance documents disclosure clearly noted, item (iii) will be a powerful constraint on documents approved by the Board.	Yes	Thank you, this exception has been clarified by including as underlined: <i><u>"Financial, commercial or proprietary information related to procurement processes, including pre-qualification information submitted by prospective tenderers, tenders, proposals or price quotations (other than the total contract price) or records of deliberative processes"</u></i>
13	Policy (Section III Scope: Exceptions to Disclosure, paragraph 2.6 Security, Safety and Compliance	This exception should explicitly address and provide for risks and threats experienced by those seeking to access information, in addition to circumscribing the language to be less subjective, and a more reasonably defined and well delimited hall of exceptions.	Yes	<p>Thank you, in addition to the response provide for comment #3 above, this exception has been revised as follows: <i>"Information that, if disclosed, could violate the <u>applicable</u> law, or prove a threat to the national security of a member country.</i></p> <p>....</p> <p><i>iii. Information that might compromise the security of any individual <u>including individuals seeking access to information</u> or that would put the safety and security of any EBRD assets at risk as well as information about logistical or transport arrangements relating to the EBRD shipments of its assets and documents and the shipment of any personal property of any individual."</i></p>

No	Section of the Document	Comment	Changes made	Management Response
14	Policy (Section III Scope: 3 (ii) Negative Override)	EBRD should comply with the internationally endorsed three-part test to formulate a limited and reasonable hall of exceptions that should relate to the legitimate aim in line with Principle 4 "Limited Scope of Exceptions" of the Principles on Freedom of Information Legislation developed by Article 19 and endorsed by international courts and experts around the world.	No	Thank you, please note that harms arising from disclosure are already embedded in the exceptions. Determinations on the Negative Override are only made by the Board of Directorss, following a recommendation by the President.
15	Policy (Section III Scope: section 5.1 Making a Request for Information)	The Information Requests and Appeals section must be framed in such a way that it would acknowledge that access to information is the right of requesters - not a favour the Bank bestows upon stakeholders.	Yes	Thank you, section 5.1 has been revised to address this point. For example, paragraph (ii) has been revised as follows: <i>"Requests shall be as clear and precise as possible to enable the EBRD to identify and locate as to the specific information sought. Where a request is insufficiently clear or precise to identify the information required, <del>or is unreasonably broad,</del> the Bank reserves the right to ask the requester to provide clarifications <del>or to narrow down the scope of the request.</del> The Bank further reserves the right to reject requests that are unclear in what information is being sought or, in the Bank's view, unreasonably broad."</i>
16	Policy (Section III Scope: Information Requests and Appeals, Making a Request for Information section 5.1 iii) Possibility for anonymous and unsupported request	We have concerns about the threshold established in paragraph 5.1 (iii), which provides in part that: "The Bank shall not respond to anonymous or unsupported requests or to any request that requires the Bank to create, develop or collate information or data." This provision is unnecessary and runs counter to best practice. For example, the African Development Bank's Disclosure and Access to Information Policy (May 2012) , which states in paragraph 4.4.2 (Responding to	Yes	Thank you, paragraph (iii) has been revised in such a way in order to allow opportunities for anonymous and unsupported requests and narrowing down the cases when the Bank is not required to comply with requests as follows " <i>The Bank is not required to comply with <del>shall not respond to anonymous or unsupported requests or to any request that would require the Bank to create, or develop or collate</del> information or data <u>that does not already exist or is not available in the Bank's record keeping systems.</u> This also applies to <u>any requests for information on the same subject from the same person, group or</u></i>

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		<p>Information Requests): <i>"Bank Group staff shall not inquire into the identity or intent of a person requesting access to a Bank Group document, unless such an inquiry is necessary to allow the Bank Group to judge whether there is any obstacle as per the list of exceptions to release of the document"</i>. Moreover, this restriction fails to recognize the threats individuals and communities face in simply making requests for information. Given the context in which the EBRD operates, civil society space is already restricted and rapidly shrinking. Additionally, the use of the word "unsupported" is ambiguous and subjective, and may pose as a deterrent to those seeking to access information. We recommend that the policy explicitly allow for anonymous requests for information, referencing the shrinking space for civil society and human rights defenders as rationale. We also recommend that the language on "unsupported requests" be omitted.</p> <p>We are concerned that paragraph 5.1 gives the EBRD subjective and discretionary control over rejecting requests for information: "The Bank further reserves the right to reject requests that are unclear in what information is being sought or, in the Bank's view, unreasonably broad." Additionally, paragraph 5.1 (iii) states: "The Bank shall not respond to... requests for information on the same subject from the same person or organization if the Bank has previously provided such information or has given reasons why it cannot provide</p>		<p><i>organisation if the Bank has previously provided such information or has given reasons why it cannot provide the information."</i></p> <p>Please further note that paragraph (iv) has been revised as follows:  <i>"The Bank reserves the right to respond collectively on its website to petitions, e-mail chains and similar multiple requests rather than individually <u>in which case, the Bank shall inform the requester(s) accordingly."</u></i></p>

No	Section of the Document	Comment	Changes made	Management Response
		<p>the information.” As with our recommendations under the section on Exceptions, we strongly recommend that the EBRD thoroughly revise this section to excise any language that is vague, discretionary and subject to interpretation. Furthermore, the EBRD should not have discretionary control over rejecting requests for information - access to information is a right of the public, not the Bank’s right to give. Requests for information should only be denied in the situation where the information requested falls under a reasonable hall of exceptions, as determined by the aforementioned three-part test.</p> <p>We also recommend that the EBRD construct and utilize a publicly available database where information requests and responses are disclosed and maintained, as is practice at other development finance institutions (the Word Bank). Once disclosed to one person, information should be in the public domain for anyone to consult. Additionally, information requests dealing with the same topic previously denied by the Bank should not be precluded, and should be subject to the three-part test. The test is an objective analysis divorced from the requester, and determines whether the harm justifying secrecy outweighs the public interest in knowing information. While the objective of the additional request might be the same, the reasons might be different and legitimately influence the weightage of</p>		

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		public interest in the three-part test, which could change with time and circumstance.	No	Thank you, noted. The Bank already publishes data on the information request by area of interest, professional activity of a requestor and region within the annual implementation report of the Policy. We will look into the World Bank practice on this and assess its feasibility for the Bank.
17	Policy (Section III Scope: section 5.2 Appeals)	We welcome the proposal to establish an Information Appeal Panel. However, we express concerns about the independence of this mechanism due to potential conflict of interest. We recommend that the information appeals panel be independent and includes experts who are external to the EBRD, as is current international best practice. In addition, the panel should have sufficient resources to operate and its members should be chosen in an open and participatory manner based on clear criteria, such as expertise, proven record and independency. This would further ensure the independence and legitimacy of the appeals panel. Further, information on how and when to submit an appeal should be made available at the time of the request, and at the time the information is provided or denied. We recommend that information about filed appeals be tracked within the system of access to	No	<p>There will be no conflict of interest as the Information Appeal Panel will comprise not only the Secretary General, who is responsible for the policy implementation, but also the General Counsel and one other member of senior management. Establishment of an external appeal panel is not deemed as justified at this stage, as the Bank only had 3 appeals in the last 5 years. Information on how to make an appeal will always be available on the Bank's website and be tracked/ reported on within the annual report.</p> <p>Furthermore, please note that following feedback from other stakeholders regarding a need to alleviate potential improper proof of burden, paragraph (ii) of this section has been revised as follows:</p> <p><i><b><del>" The appellant shall be required to show</del> confirm that <del>on their</del> initial request for information was submitted in accordance with this Policy and/or the Directive on Access to Information, as applicable, and shall provide a reasonable argument <u>as to why, in their opinion, that the</u> EBRD has breached the Policy and/or the Directive on Access to</b></i></p>

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		information and reasons for denial be published, so as to increase transparency and predictability of the process.		<i>Information, as applicable, by failing to supply the requested information."</i>
18	Policy (Section III Scope: section 5.2 Appeals)	<p>Regarding the "Information Appeals Panel" (noted under the "5.2"), the Bank is committed to provide information on how to submit an appeal that will be available on the EBRD website. However, this procedure should also be translated into Local for the local people to understand the following issues need to be clarified as follows:</p> <ul style="list-style-type: none"> <li>- What does an appeal panel mean and how does it work in the Bank?</li> <li>- How can local people in Turkey use the mechanism?</li> <li>- Is there any Local version of the mechanism?</li> </ul> <p>In addition, access to a direct contact person is not easy for local people, who are willing to express their environmental and social concerns. Easier access to officials can lead to local population to address their input including grievances and appeals.</p>	No	<p>Requests for information and appeals should preferably be submitted to the Bank in one of the Bank's four working languages (English, Russian, German or French) in which case the response shall be in the language of the request. Alternatively, requests for information and appeals may be submitted in any of the official national languages of the Bank's recipient countries. In such cases, requests for information and appeals shall, in the first instance, be referred to the relevant Resident Office or Representative Office for the purpose of translation and the time required to obtain such translation shall be taken into account when processing the request or appeal. The response shall be in the language of the request or appeal. Requests and appeals made in languages other than those above shall be responded to in English.</p> <p>The Appeal Mechanism is centralised and based at EBRD HQ in London.</p>
19	Policy (Section III, section 5.3 Recourse in Accordance with Project Accountability Policy)	The draft Policy should not limit requests, appeals and complaints regarding disclosure of information to the policy which was in place at the time of the appeal, request, or complaint. It is not logical for the institution to acknowledge that its policy on the fulfilment of the human right to access information needs to be updated with a revised version, and at the same time apply it only <i>ex nunc</i> . The application of human rights should be <i>ex tunc</i> ,	No	<p>Thank you, noted. The Bank informs the public about projects through disclosure of Project Summary Documents (PSDs). Such disclosure is linked to the time when the project is approved and therefore in accordance with the policy in place at the time of the project's approval.</p> <p>Please also note that following feedback from other stakeholders, this section has been revised as follows (aligned with the Project Accountability Policy): "<u><i>In cases where a person or an Organisation who <del>an appellant</del> believes they are affected, or likely to be affected,</i></u></p>

No	Section of the Document	Comment	Changes made	Management Response
		that is, retroactively. This commentary is also applicable to the second paragraph of Section V - Transitional Provisions of the Policy.		<i>by a Project allege that the Bank has failed to disclose Project specific information in accordance with this Policy and/or the Directive on Access to Information, as applicable, <del>the</del> <u>such person or Organisation appellant</u> may submit a request to the Independent Project Accountability Mechanism. Information on how to submit such a request shall be provided on the EBRD website"</i>
20	Policy (Section III, section 5.3 Recourse in Accordance with Project Accountability Policy)	We recommend that the Policy clearly articulate that complaints by project affected people alleging EBRD's violation of the Access to Information Policy and Directive, in the course of the formulation, processing, or implementation of a project, can also be filed under the EBRD's independent accountability mechanism, in addition to the appeals process articulated in paragraph 5.2. For example, the Asian Development Bank Access to Information Policy, Section E, paragraph 23, which states: E. Compliance Review 23. "The AIP is subject to the appeals process (paras. 14–21). The AIP is an "operational policy" within the meaning of the ADB Accountability Mechanism Policy. As such, complaints by project-affected people alleging ADB's violation of this policy in the course of the formulation, processing, or implementation of a project can also be filed under ADB's Accountability Mechanism Policy."	No	Thank you, please see above.
21	Policy (Section III 6, Policy Monitoring)	We welcome the foresight of this section in ensuring adequate monitoring of the implementation of this	No	Thank you, noted. EBRD will be increasing its capacity to ensure proper monitoring and implementation of the Policy and Directive.

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		<p>Policy. However, given the shift from a Public Information Policy to an Access to Information Policy, we are concerned about the capacity granted to effectively implement and monitor the changes made. We recommend that the Policy Monitoring section be amended to include provisions for training and resources to properly implement the new Policy. We advise the EBRD to consider establishing an administrative body independent of the Bank's administration, which would be in charge of activities such as:</p> <ul style="list-style-type: none"> <li>● Developing an implementation document for the Policy containing the procedures and steps to be followed for instituting the regime of access to information encoded in the new Policy;</li> <li>● Coordinating the performance and ensuring correct implementation of the Policy;</li> <li>● Organizing, classifying and systematizing the information owned by the Bank;</li> <li>● Advising and training staff on the new regime of access to information;</li> <li>● Monitoring requests for information, denials to requests, and the general responsiveness of staff to requests for information;</li> <li>● Carrying out and publishing yearly assessments of the Policy's implementation; and</li> </ul>		

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		<ul style="list-style-type: none"> <li>Carrying out a periodic review of policy implementation, with public consultation.</li> </ul>		
22	Policy (Section IV - Waivers, Exceptions and Disclosure)	As currently worded, the Waivers section simply states that “the Board of Directors may grant a deviation from a requirement of this Policy.” We are concerned about the broad discretionary power granted in this section, which effectively gives the Board carte blanche to circumvent the application of this Policy, without any justification. This is unreasonable and undermines the principles of maximum disclosure and limited hall of exceptions. Similarly, specific paragraphs of the Directive reinforce this unacceptable provision. We recommend omitting the section pertaining to waivers entirely from this Policy. Any exceptions to disclosure should already be outlined and provided for by the three-part test within the Policy.	No	Pursuant to the Article 27 of the Agreement Establishing the EBRD (AEB), the powers of the Board of Directors include, among others, establishing and taking decisions on policies concerning activities and operations of the Bank (including the Access to Information Policy). The power to grant any deviation from a Policy established by the Board of Directors rests with the Board of Directors unless the Board has specifically delegated such power. This Section reflects such power of the Board of Directors set out in the AEB.
23	General: new structure of the revised Policy & further revisions	The split into a Policy and Directive might lead to deterioration of the Directive over time as it will be outside the Board approval. Furthermore, it is unclear whether there will be public consultation in case of further changes to the Directive.	No	Any prospective changes to the Directive on Access to Information will be set out in the annual implementation report, which is presented to the Board for discussion before publication on the Bank’s website. Any changes will need to be consistent with the Access to Information Policy, namely, there will be no substantial or material alteration in the Directive so as to reduce or limit the level of disclosure required in accordance with the Policy or to substantially or materially change the process for dealing with requests for information or appeals in a manner inconsistent with the Policy. The summary of prospective changes to the Directive on Access to Information, if any, shall be

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				disclosed on the EBRD website at the time when the annual implementation report is submitted to the Board of Directors. Subsequent to the discussion by the Board of Directors, the annual implementation report shall be disclosed on the EBRD website, together with any updated version of the Directive on Access to Information (as approved by the President).
24	Directive, section IV, 1.1.3 Institutional and Governance Information (i)	<p>“Annual Review on the impact of the Bank’s Operations and Activities during each year including highlights of innovation in key sectors and initiatives” (1.1.3 (i) “Corporate reports”):</p> <p>Regarding the corporate reports, the term “key sectors” mentioned under the 1.1.3 (i) should be clarified in line with transition towards low carbon economies. For instance, which sectors are crucial in the next five years; how will the Bank eliminate transition gaps by country.</p>	No	Thank you, noted.
25	Directive, section IV, 1.1.3 Institutional and Governance Information (i)	<p>The commitments regarding “climate finance data” in the Sustainability Reports is very important to keep projects in line with global mitigation and adaptation targets. Project Summary Documents under the 1.4.1 (ix) should be revised by adding the following information:</p> <ul style="list-style-type: none"> <li>- a summary of “cumulative” environmental and social impacts associated with the project and agreed mitigation and adaptation measures.</li> <li>- In addition, information related to clients’ or project company’s long-term climate and sustainability action</li> </ul>	Yes	<p>Thank you, noted. Directive, section 1.4.6 (iii (d)) as revised provides for inclusion of the climate finance data into the PSD as follows:</p> <p><i>“(iii) For such Category A and Category B Projects, the PSD disclosed by the Bank shall summarise include:</i></p> <p><i>...(d) the expected GHG emissions for Projects that either have (1) have, or are expected to have, gross emissions in excess of 100,000 tonnes CO2-equivalent annually, or (2) are expected to result in a net change in emissions, positive or negative, of more than 25,000 tonnes of CO2-equivalent annually post-investment the expected GHG emissions of the Project; The scope of GHG assessment shall include all direct emissions from the facilities, activities and</i></p>

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		plans should be added in the Project Summary Documents.		<u>operations that are part of the Project, as well as indirect emissions associated with the production of energy used by the project--</u>
26	Directive, section IV, 1.1.9	What does enhanced ESG disclosure mean?	No	As set out in this section, the Bank will start publishing information on EBRD's carbon footprint, the Diversity and Inclusion Policy and related reporting, etc. The list is expected to expand when we are able to disclose more information on the ESG issues at the institutional level.
27	Directive, section 1.2.2 (iv)	Reduction of the consultation timeline on the Country Strategies and Sector Strategies from 45 days to 30 days goes against the intended greater transparency and disclosure. We strongly recommend that the country strategy and sector strategy consultations remain at 45 days, and not be shortened to 30 days. Country and sector strategies should be aligned with communities' priorities so as to pursue real development. Therefore, we also recommend that the Bank incorporates access to information and participation methods that allow communities, especially vulnerable ones, to meaningfully engage in those strategies.	Yes	The length of the consultation timeframe has been revised back to 45 calendar days.
28	Directive (section 1.2.3 iv)) Translation of Governance Policies/Accessibility of information	In order to improve the accessibility of information, the Bank should translate its documents into national languages and make it easier to find information on its website.	Yes	This section has been revised to reflect that the Bank will also endeavour to translate the governance policies into official national languages of recipient countries on a demand-driven basis. Please also note that PSDs will continue to be translated into official national languages. ESIs are made available in official national languages.  The work on improvement of the Bank's website is on-going.

No	Section of the Document	Comment	Changes made	Management Response
29	Directive, section IV.1.4.1 Project Summary Documents	We welcome the provision mandating Project Summary Documents (PSDs) to also be disclosed for projects which are delegated to management from approval in paragraph 1.4.1. In addition to financial intermediary investments, the EBRD operates a number of facilities where sub-projects are approved by management after the facility as a whole has been approved by the Board of Directors. Since these sub-projects were previously only added to existing PSDs for facilities, the information was not easily accessible early-on in the project cycle, precluding the opportunity for communities to raise concerns and recommendations that would mitigate risk and better outcomes. This new provision improves the consistency and accessibility of EBRD's disclosure practice.	No	Thank you for your comment, we are glad this revision is welcomed by you.
30	Directive, section IV.1.4.1 Project Summary Documents	We note with concern that PSDs are "not provided for individual guarantees issued by the Bank within the framework of the Bank's Trade Facilitation Programme or other guarantee facilities for which a PSD shall only be provided for the programme or facility as a whole." This omission is not justified within the Directive. Recommendation: To remain consistent with the reasoning and approach adopted for projects with delegated approval, separate PSDs should be created and disclosed for individual guarantees under the EBRD's	No	<p>Thank you, noted. There are several reasons for this carve-out as follows:</p> <ul style="list-style-type: none"> <li>• TFP limits are uncommitted and can therefore be cancelled or suspended at a moment's notice at the sole discretion of the EBRD</li> <li>• Limit levels or are commercially sensitive, as changes to limits for EBRD's own exposure management purposes may inadvertently provide unhelpful or mixed signals to the market</li> </ul> <p>In relation to individual guarantees or disbursements, these have never been disclosed as:</p>

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		Trade Facilitation Programme and other guarantee facilities.		<ul style="list-style-type: none"> <li>• Typical lead times for TFP to function effectively are 2 days or less from application from partner bank to issue/disbursement, making pre-approval disclosure impossible</li> <li>• With an average tenor of less than one year, and transaction size of around EUR 1million, there would be a rapid turnover of largely immaterial information</li> <li>• As there are almost two thousand instruments issued per annum the level of information disclosure would be rather excessive</li> </ul>
31	Directive, section IV.1.4.1 Project Summary Document	<p>Given the importance of the PSD in sharing information about proposed and ongoing projects for communities affected by EBRD activities, we welcome the codification of specific information to be disclosed in the Directive. However, in a recent analysis of the EBRD's actual disclosure practices which assessed the adequacy of the information provided, including within PSDs, we found that the EBRD falls considerably short in fulfilling communities' right to access information. Since policy dictates practice, the Directive should pay specific attention in detailing the requirements of PSDs in disclosing information. In order to ensure that communities have timely and accessible information early in the lifecycle of a project, the list of information to be disclosed for each PSD should also include:</p> <ul style="list-style-type: none"> <li>• Current and updated status of a project;</li> <li>• Complete list of Performance Requirements deemed both applicable and inapplicable;</li> </ul>	Yes	<p>The scope of PSD information has been expanded to include in (i) disclosure, subject to the client's consent and/or market practice, of information about the Project Sponsor and/or shareholders of the Project Company (); (ix) environmental and social information in accordance with Section IV paragraph 1.4.6 of the Directive; (xi) guidance how to obtain information at the EBRD and locally in the relevant country, including contact information (address, telephone number, fax, email address) for the contact point at the Project company and (xii) information on how to submit a request to the Independent Project Accountability Mechanism.</p>

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		<ul style="list-style-type: none"> <li>• All material environmental and social documents, including, but not limited to, nontechnical summaries and full texts of environmental and social impact assessments, greenhouse gas emissions assessments, monitoring reports, environmental and social action plans, and stakeholder engagement plans;</li> <li>• Information on consultation dates and locations;</li> <li>• Contact information for the client;</li> <li>• Contact information for project-specific leads at the EBRD;</li> <li>• Information about and link to the Independent Accountability Mechanism</li> </ul> <p>We also strongly recommend that the PSD explicitly state when specific assessments, safeguards and documents have been deemed inapplicable or not required. Only a few EBRD financed projects generate environmental and social impact assessments, however this does not mean that other projects do not have noteworthy environmental and social impacts. In particular, communities possess legitimacy and local expertise that can better the design of potential projects, including identifying and recommending alternatives for often overlooked impacts. Early, consistent and proactive disclosure of such information</p>		

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		will only serve to further mitigate risk and improve project outcomes. The EBRD must promote the application of international standards, such as the Aarhus Convention, leading by example.		Thank you, noted.
32	Directive section IV, 1.4.2. Timelines for Disclosure of PSDs	We strongly urge the EBRD to institute and codify disclosure timeframes based on project risk categorization, and not on the actors involved. Moreover, communities should be afforded at least 120 days to be able to have access to information and meaningfully participate in decision making processes. The same is valid for environmental and social information disclosed under the provisions in paragraph 1.4.6 (ii). Based on the aforementioned analysis of the Bank's disclosure practices, projects categorized as B and FI are in fact regularly disclosed after the Board date, comprising the majority of EBRD's projects. This is unacceptable, and specific timeframes for disclosure must be codified within the Directive for all risk categories, to ensure that information is disclosed and accessible to communities well before a project can be considered for approval. In addition to barriers in accessing technical documents, a community has little less than two months to translate and understand the information disclosed, organize themselves, evaluate the project's impacts and propose recommendations based	No	<p>It is not possible from the operational point of view to link the timeline for PSD disclosure to the environmental categories as the Bank will not always have all the PSD related information at hand and verified at the time of disclosure of the ESIA's (especially for the state sector projects).</p> <p>Furthermore, it should be noted that the Bank has a mechanism for authorised deferred issuance of PSDs as set out in the Directive .1.4.4 for capital market transactions, in case of legitimate sponsor concerns and likelihood of substantial changes before the final review of a project.</p>

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		on their expertise to decision-makers — all assuming they are able to access the website immediately on the date of disclosure. Access to information must ensure those who need the information most are able to receive and understand it. This Directive must also recognize that it is unrealistic for local communities to recommend that communities be given as much time as possible, ideally at least 120 days, to meaningfully engage in the proposal stage of a project, and that the information be proactively made as accessible as possible to better enable their participation.		
33	Directive section IV, 1.4.3 PSDs for Technical Assistance Activities	This provision states that PSDs for technical assistance activities “shall be disclosed following internal approval by the Bank of the relevant technical assistance activity.” Recommendation: For the reasons stated above, we recommend that disclosure for technical assistance activities be treated with the same rigor as those for other types of Projects, and should, at minimum, be disclosed before approval.	No	<p>There is distinction between transactional TA (supporting a specific investment) and non-transactional TA (policy reform etc.).</p> <p>1. Transactional TA is an integral part of the investment and therefore is published via the same PSD (prior to the Board approving the investment project consisting of financing and TA).</p> <p>2. The approval process for non-transactional TA is a one stage process. There is no ‘concept’, ‘structure’ or ‘final’ review that proceeds the actual ‘grant-approval’. And no Board approval (the Board may only have to approve SSF funding exceeding 500,000). Therefore it does not make sense to publish anything prior to grant-approval. Otherwise an OL would even have to publish vague ideas, early concepts etc.</p>

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34	Directive section IV, 1.4.4 PSD Deferred Disclosure	<p>We are concerned about the broad and ambiguous language used in this paragraph, which lists the circumstances in which deferred disclosure of PSDs is warranted. The current provisions prioritize market conditions over communities' public interest to receive information and meaningfully participate, contradicting the very reason for the existence of the Policy. Additionally, as currently worded, this paragraph states that disclosure of PSD may be deferred in "likelihood of substantial changes in Project design at "Final Review" stage by the Bank's management" raising the same concerns stated under paragraph 1.4.2 regarding adequate disclosure periods.</p> <p>Recommendation: We recommend amending the text of this paragraph to read, "Disclosure of PSDs may be deferred in accordance with the Exceptions laid out in the Access to Information Policy." The three points currently listed in the draft Directive are subjective and open to discretionary interpretation, and constitute further exceptions to those laid out in the draft Policy. As previously stated, exceptions to an access to information policy must be limited and well-defined, and have no place in a Directive that is not subject to wider revisionary approval.</p>	No	<p>Thank you, please note that deferred disclosure is not the same as an exception. Under the deferred disclosure provisions, disclosure of deferred PSDs takes place upon certain milestones, such as for example Board approval or project signing. For capital markets deals, it will be after the arrangers/issuer make public the information about issuance, which may be several days after bidding (equivalent of signing), but obviously we could not do that before they do. However, it is impossible to specify the exact conditions or timing as they vary. Other IFI's policies (IFC, IDB Invest) do not specify the timing or conditions either.</p>
35	Directive, section IV, 1.4.6. Environmental	Other public financial institutions provide more information about environmental and social impacts of projects than the EBRD does. The European Investment	Yes	Thank you, this section has been revised as follows:

No	Section of the Document	Comment	Changes made	Management Response
	and Social Information Relating to Projects	<p>Bank, for example, produces – and makes publicly available – documents that confirm whether or not a client met the agreed upon improvements.</p> <p>The International Finance Corporation’s (“IFC’s”) publicly available Environmental and Social Review Summaries (“ESRS”) have numerous sections, including, but not limited to: “Identified Applicable Performance Standards”, “Environmental and Social Categorization and Rationale”, “Environmental and Social Mitigation Measures” which are broken down into each specific Performance Standard, and “Environmental and Social Action Plan”.</p> <p>The International Development Association, one of the World Bank Group’s public financing arms, publicizes very detailed Environmental Assessments. As an example, the “Final Report: Environmental and Social Management Framework, Small Ethnic Communities Development Framework and Resettlement Policy Framework” for Project P161246, Livestock and Dairy Development Project (Bangladesh) is 224 pages long.<sup>3</sup></p>		<p><i>“As noted in paragraph 1.4.1 (i) and (ii)-(ix) above, <del>summary information on environmental and social issues associated with information on the Project and the associated mitigation measures</del> shall be included as part of the PSD as set out in sub-paragraphs (iii)-(v) respectively below. In addition, the Bank may, at its discretion, disclose other environmental and social information from time to time for public <del>comment</del> information or for public <del>information</del> comment.</i></p> <p><u><i>The requirements for disclosure of Project information by EBRD clients are contained in the Environmental and Social Policy (ESP).</i></u></p> <p><u><i>Category A Projects – Environmental and Social Impact Assessments</i></u></p> <p><i>(i) With respect to Category A projects, in addition to the client disclosure required in accordance with the Environmental and Social Policy, the Bank shall disclose Environmental and Social Impact Assessments on its website, in its Headquarters in</i></p> <p><i>London and in the relevant Resident Office <del>a minimum of</del> as soon as the Bank deems them fit for purpose of public disclosure and consultation, and at least 60 calendar days prior to consideration of the Project by the Board of Directors for private sector Projects and at least 120 calendar days prior to consideration of the Project by the Board of Directors for State Sector Projects. For Projects located in countries where the EBRD does not have a Resident Office, alternative means of disclosure are identified on the ESIA webpage for the Project. ESIAs are made available in a local <del>language and may</del> national language or other languages accessible to the stakeholders, particularly people affected by the Project, and one of the four official</i></p>

No	Section of the Document	Comment	Changes made	Management Response
				<p><u>EBRD languages: English, French, German or Russian. ESIA's may also be made available in whole or in part in other languages, where appropriate. The Bank makes ESIA's available without the Bank's comment or endorsement.</u></p> <p><u>(ii) Notification of the availability of the ESIA documents is posted on the EBRD website. A notification on the EBRD ESIA web page also lists, including a list of locations of full availability of ESIA documents locally and links to the client's website or other website as appropriate. Relevant documents for Category A Projects that are directly financed by the EBRD are found on the ESIA web pages. websites where the ESIA documents are available, as appropriate.</u></p> <p><u>Project Summary Documents – Environmental and Social Information</u></p> <p><u>(iii) For such Category A and Category B Projects, the PSD disclosed by the Bank shall summarise include:</u></p> <p><u>(a) the categorisation of a Project and the rationale for that categorisation;</u></p> <p><u>(b) a description of the main environmental and social issues benefits, risks and impacts associated with the Project;</u></p> <p><u>(c) a summary of key measures agreed to mitigate the risks and impacts identified, including a summary of any agreed action plan or supplemental measures necessary to meet the ESP performance requirements;</u></p>

No	Section of the Document	Comment	Changes made	Management Response
				<p><i><u>(d) <del>the expected GHG emissions for Projects that either have</del> (1) have, or are expected to have, gross emissions in excess of 100,000 tonnes CO2-equivalent annually, or (2) <u>are expected</u> to result in a net change in emissions, positive or negative, of more than 25,000 tonnes of CO2-equivalent annually post-investment, <del>the expected GHG emissions of the Project.</del> The scope of GHG assessment shall include all direct emissions from the facilities, activities and operations that are part of the Project, as well as indirect emissions associated with the production of energy used by the project;</u></i></p> <p><i><u>(e) a summary of any disclosure or consultation activities</u></i></p> <p><i><u>(f) a link to the ESIA web page for Category A Projects; and</u></i></p> <p><i><u>(g) a description of the status of the free, prior and informed consent (FPIC) process for those Projects where the verification of the FPIC of indigenous peoples is required.</u></i></p> <p><i><u>(iv) For Category C Projects, the PSD disclosed by the Bank shall include the categorisation of a Project and the rationale for that categorisation.</u></i></p> <p><i><u>(v) For financial intermediary (Category FI) Projects, the PSD disclosed by the Bank shall include:</u></i></p> <p><i><u>a) the categorisation of a Project and a summary of whether the sub-projects (overall and in the aggregate) supported by EBRD will likely be of low, medium or high environmental and social risk;</u></i></p>

No	Section of the Document	Comment	Changes made	Management Response
				<p><u><i>b) a description of the main expected environmental and social risks and impacts associated with EBRD's investment in the financial intermediary;</i></u></p> <p><u><i>c) a confirmation whether the environmental and social management system (ESMS) to be utilised by the financial intermediary is commensurate with the level of environmental and social risks associated with the financial intermediary's portfolio of sub-projects supported by EBRD;</i></u></p> <p><u><i>d) key measures identified to establish or strengthen the financial intermediary's ESMS, as needed and as articulated in an environmental and social management plan."</i></u></p>
36	Directive, Section IV,1.4.6 Environmental and Social Information Relating to Projects	Disclosure of information on FIs' subprojects, especially those in the extractive industries and the hydropower sector. In addition, separate PSDs should be created and disclosed for sub-projects in financial intermediary investments, especially those with higher environmental and social risks.	Yes	<p>As per the response to comment # 35 above, section 1.4.6. (v) has been introduced to set out the scope of environmental and social information disclosure on FI projects, including a summary of whether the sub-projects (overall and in the aggregate) supported by EBRD will likely be of low, medium or high environmental and social risk.</p> <p>This is further supplemented by the introduction in section 1.4.7 (iii) of PSD updates on FI projects, when "<u><i>For financial intermediary (Category FI) Projects, the environmental and social sections of the PSD will be reviewed and updated as appropriate, including by way of hyperlinks to the information disclosed by the financial intermediary on its website on sub-projects referred to the EBRD in accordance with the ESP</i></u>"</p>

No	Section of the Document	Comment	Changes made	Management Response
37	Directive, Section IV, 1.4.6 Environmental and Social Information Relating to Projects	Why EBRD does not disclose information on subprojects of its equity funds, similarly to the IFC, for example?	No	<p>With regard to the Bank's own disclosure on subprojects of equity funds:</p> <p>EBRD consistently discloses information about the funds, in which the Bank invests, through PSDs. Taken together with the disclosure of these funds themselves (which to a large extent includes the investees in which these funds are invested), the level of disclosure is comparable to that of IFC.</p> <p>With regard to the FI's disclosure on subprojects, please see response to comment # 36 above.</p>
38	Directive section IV, 1.4.6. Environmental and Social Information Relating to Projects	<p>Currently worded, section (i) under this paragraph provides that the "Bank may, at its discretion, disclose other environmental and social information from time to time for public comment or for public information." In line with the presumption of disclosure, all information - including environmental and social information - should be disclosed unless it falls under the narrow and clearly delimited hall of exceptions. The language used here is concerning as access to information is not the Bank's right to give "at its discretion", but rather a human right. Recommendation: To comply with the principle of maximum disclosure, the EBRD should clearly commit to publicizing all information not falling under a narrow hall of exceptions set out in the Policy. As above, creating further grounds for exceptions within the Directive is problematic unless the provision seeks to clarify exceptions already outlined</p>	Yes	This section has been revised as per the response to comment # 35 above.

No	Section of the Document	Comment	Changes made	Management Response
		<p>in the Policy.</p> <p>Additionally, we were very disappointed to find a complete lack of commitment to disclose environmental and social information for Category B projects. Over half of the Bank's projects are considered Category B, with many having significant environmental and social impacts, including mine expansions and changes in industrial facilities, but still do not require a full environmental impact assessment or public consultation according to the EBRD's Environmental and Social Policy. While we remain concerned about a clear tendency to under-categorize projects with the potential to pose significant risks to the environment and people, we are focused here on the lack of adequate justification for failing to disclose information on other documentation produced for Category B projects, including but not limited to, environmental and social action plans, and monitoring reports. Recommendation: The EBRD should commit to disclosing all environmental and social information produced and in possession of the Bank for all risk categories, including Category B, unless falling within a narrow and well delimited hall of exceptions determined by the three part test. Withholding environmental information on projects is in clear conflict with the principles of the Aarhus Convention, does not adhere to a presumption for</p>		

No	Section of the Document	Comment	Changes made	Management Response
		disclosure and is not international best practice - even among other peer international financial institutions.		
39	Directive, Section IV,1.4.6 Environmental and Social Information Relating to Projects	Disclosure of information on EIAs - Full EIAs of projects should be made available on the EBRD website. With heightened use of digital storage and mediums, we believe all full EIAs should be made available on the EBRD website, including category B projects, and this should be done in a timeframe that allows adequate comment on projects.	No	Thank you, a link to the ESIA web page for category A project is included within the PSDs. Please note there are no ESIA on category B projects.
40	Directive, Section IV,1.4.6 Environmental and Social Information Relating to Projects	Biodiversity data - we would also like to see more transparency and disclosure by the bank on the results of its operations throughout the project lifetime, including the disclosure of monitoring data. Any environmental and ecological data, which is generated as part of the EIA, SEA or other monitoring including post-construction monitoring where available, should be made freely and publically available and fed into relevant databases. This is true for both category A and category B projects.	Yes	This section has been revised as per the response to comment # 35 above.
41	Directive, Section IV,1.4.6 Environmental and Social Information Relating to Projects	We urge the EBRD to disclose disaggregated data subproject information. The EBRD needs to update Performance Requirement (PR) 9 so that it is clear that the Financial Intermediary is obliged to disclose timely environmental and social information for high risk projects, including those which would be classed as Categories A and B if directly financed, and all projects	Yes	This section has been revised as per the response to comment # 35 above.

No	Section of the Document	Comment	Changes made	Management Response
		<p>falling under the FI referral list. In addition to the current requirement for the FI to disclose environmental impact assessments for FI sub-projects that are equivalent to Category A, extending information disclosure requirements to Category B sub-projects and sub-projects on the FI Referral List is also a logical step since these projects are already defined by the EBRD as potentially risky. Such disclosure must happen prior to the financing decision and appropriate to the type and level of environmental and social information available. The policy and contracts need to stipulate that disclosure should include the name, sector and location of FI high risk projects as well as “environmental information” as defined by the Aarhus Convention.</p>		
42	Directive, section IV, section 1.4.6 Environmental and Social Information Relating to Projects	<p>A description of Category A projects is available to examine the environmental and social information, but information on Category B projects still provides little information about their serious environmental and social concerns. Majority of projects are categorised as B and local people need to have information regarding their potential impacts. More information on Category B projects and their social and environmental impact need to be included in the Bank’s policy.</p>	Yes	<p>This section has been revised as per the response to comment # 35 above.</p>
43	Directive, section IV, 1.4.7 Updates to PSDs	<p>This paragraph details when updates to the PSD are mandated by the Directive, including “as appropriate for</p>	Yes	<p>This has been revised as follows:</p>

No	Section of the Document	Comment	Changes made	Management Response
		environmental and social sections of PSDs of Category A projects following an annual review.” The language used in this section is again vague and discretionary, and is not directly tied to time-bound markers in a project cycle. The EBRD should commit to updating PSDs for all projects regularly, including the status of the project, throughout the lifecycle of a project. At minimum, the Directive should note when updates to a project should be expected, based on the project lifecycle. The date of said update should also be disclosed for transparency and accountability.		<p><del>(ii) As appropriate for environmental and social sections of PSDs of Category A Projects following an annual review.</del></p> <p><u>“(iii) For Category A Projects and Category B Projects associated with significant environmental and social risks and impacts, the environmental and social sections of the PSD will be reviewed annually and updated as appropriate. For financial intermediary (Category FI) Projects, the environmental and social sections of the PSD will be reviewed and updated as appropriate, including by way of hyperlinks to the information disclosed by financial intermediary on its website on sub-projects referred to the EBRD in accordance with the ESP.”</u></p>
44	Directive section IV, 1.4.8 Board Reports for State Sector Projects	We welcome the commitment to proactively disclose public sector board reports. However, there is no justification given for why private sector board reports should not also be disclosed. In order to align with international best practice, the EBRD should commit to disclosing all information in its possession, unless it falls within a reasonably delimited hall of exceptions determined by the three-part test. Any commercially sensitive information that falls under the scope of these exceptions can be redacted, as is currently the case with public sector board reports.	No	The proposed disclosure of Board reports is currently limited to state sector projects, due to higher confidentiality concerns from private sector clients. However, it does not preclude the Bank from looking into more private sector disclosure in the future. Please note, two out of four project-related revisions include both state and private sector (introduction of PSDs for projects approved by the Bank’s Management and updates of PSDs).
45	Directive, section IV, 1.4.9 State Sector Project Assessment	We welcome the commitment to proactively disclose state sector project assessments. However, there is no justification given for why private sector project assessments should not also be disclosed. In order to	No	The proposed disclosure of Project Assessments is currently limited to the state sector, due to higher confidentiality concerns from private sector clients. However, it does not preclude the Bank from looking into more private sector disclosure in the future. As indicated above,

No	Section of the Document	Comment	Changes made	Management Response
		align with international best practice, the EBRD should commit to disclosing all information in its possession, unless it falls within a reasonably delimited hall of exceptions. Any commercially sensitive information that falls under the scope of these exceptions can be redacted, as is currently the case with other documents disclosed.		two out of four project-related revisions include both state and private sector (introduction of PSDs for projects approved by the Bank's Management and updates of PSDs).
46	Directive, section IV, 2.1-2.2	<p>Response timelines should be clarified to ensure 40 days are used only in exceptional cases.</p> <p>Comments above on the language and provisions used in Section III.5 Information Requests and Appeals of the draft Policy apply wholly to this section of the Directive as well. A few illustrative points include: Paragraph 2.1 relies heavily on computer-based or cost-intensive means of communication for submitting requests for information, disregarding easier means that might be preferable for communities, such as social media, telephone calls and others.</p>	Yes	There are no changes on the response timeline. Each request will be acknowledged within 5 days and responded to within 20 days (if timely justification of a delay provided, usually for complex cases, 40 days). The language of this section has been clarified to this extent. Personal data of a requestor will be protected and not disclosed within the Bank. There is now no prohibition on submitting anonymous requests. The Bank already publishes data on the information requested by area of interest, professional activity of a requestor and region within the annual implementation report of the Policy. It should however be noted that other IFIs provide for information requests to be in written form too (not social media or phone calls, as much as ROs will be encouraged to assist with the latter).
47	Directive, Section IV.2 - Request for Information and Appeals, section 2.2 EBRD response to	We recommend that the Directive provide means and alternatives for people seeking to submit a request for information, for whom electronic access and mailing costs may pose a barrier in fulfilling their right to access information. Paragraph 2.2 (ii) uses the same problematic language deployed in the draft Policy that	Yes	<p>This section has been revised as follows:</p> <p>" ....</p> <p>(ii) <i>Where a request for information is not sufficiently precise so as to identify the information sought <del>or is unreasonably broad</del>, the Bank may ask the applicant to provide clarifications <del>including by narrowing</del></i></p>

No	Section of the Document	Comment	Changes made	Management Response
	requests for information	allows for discretionary and subjective barriers to access to information. For example, the first provision states that “where a request for information is not sufficiently precise so as to identify the information sought or is unreasonably broad, the Bank may ask the applicant to provide clarifications including by narrowing down the scope of the request within 20 working days after receiving the request or clarification.” Additionally, paragraph 2.2 (ii) states that “the EBRD may, if and when appropriate, consult with the client, co-financier or other counterparty before disclosing the requested information.” As above, we strongly recommend that the language used in these complementary sections of the Policy and Directive should not be ambiguous and allow for subjectivity in interpretation. For example, the text in paragraph 2.2 (i) could be amended to clarify that the Bank may follow-up with requesters for additional detail and specificity in the request. Again, if the information does not fall within the hall of exceptions identified by the three-part test, the information should be disclosed - regardless of the opinion of a client or cofinancier. The language used in paragraph 2.2 (ii) should also clarify that this does not give the client or co-financier the right to veto disclosure.		<p><del>down the scope of the request within 20 working days after receiving the request or clarification. In cases involving:</del></p> <p>(iii) <u>The Bank shall respond to requests for the provision of extensive information, the Bank shall respond within 4020 working days after receiving the request or clarification, as applicable, and in such instances the Bank shall provide an or if a timely explanation for such longer timeframe, a further delay is provided (within 10 working days following the receipt of the request or clarification, as applicable), no later than 40 working days.</u> The Bank’s response shall either provide the requested information with appropriate redactions of Confidential Information, if applicable, in accordance with the Access to Information Policy or shall deny the request, in whole or in part. In the case of a denial, the reasons for the denial shall be given.</p> <p><del>(iii) Upon receiving a request for information, the EBRD shall determine if or the extent to which the requested information can be disclosed or falls under the exceptions to disclosure in accordance with the Access to Information Policy. If part of the information contained in a document requested is Confidential Information, the information shall be removed or redacted from the document and the requester shall be informed of the reason for the removal or redaction. The EBRD may, if and when appropriate, consult with the client, co-financier or other counterparty before disclosing the requested information.</del></p>

No	Section of the Document	Comment	Changes made	Management Response
				<i>(iv) The Bank's response to (iv) a request for information under paragraph 2.2 shall be provided to the applicant only. If the Bank determines that <u>there is broader public interest in disclosure of the information covered by the request</u> <del>should become part of the information routinely disclosed in accordance with the Access to Information Policy</del>, the Bank shall also disclose such information on the Bank's website.</i>
48	Directive, general	Clarifications sought in respect of the Bank's project-related disclosure at various stages of the project	No	Disclosure of PSDs and Board documents will be disclosed at a pre-signing stage; Update of PSDs and publication of disclosable versions of Operation Performance Assessments at a post-signing stage (at early operating maturity). Two out of four project-related revisions include both state and private sector (introduction of PSDs for the DA projects and updates of PSDs).
49	Directive, general	What are the changes on the Climate change-related reporting?	No	The Sustainability Report will now include a climate finance date breakdown not only by country and sector, but also by project; proportion of EBRD financed earmarked as climate finance for each project and an indication whether such climate finance is under the mitigation or adaptation measures. The threshold for reporting the expected GHG emissions within PSD has been made more granular.
50	Directive, general	Disclosure of information on decision-making processes – In order to pre-screen projects for Performance Requirements various tools could be used. With the adoption of ecosystem service assessments as well as other assessments such as critical habitats and biodiversity features in PR6, the outcome of the decision will be dependent on the approaches and tools that are	No	Thank you, noted.

No	Section of the Document	Comment	Changes made	Management Response
		utilised. Different tools have their strengths and weaknesses and therefore we are suggesting to have more transparency also on the approaches and tools that EBRD is taking while pre-screening projects. This includes disclosure of the tools that are being used to assess critical habitats and propriety biodiversity features, climate risk, ecosystem services assessments, supply chains analysis amongst others. While the pre-screening process is not open to public scrutiny, the tools and processes that are being utilised should be made available.		
51	Directive, general	For public projects what information will be disclosed under the projects, considering large companies has complex organizational/governance structure?	No	Project Summary Documents, inter alia containing information on Project Sponsor and shareholders of the Project Company (subject to client consent), and Board Report, containing information inter alia on the client, project, strategic fit, transition impact, E&S risks and impacts, integrity, etc but exclude sensitive and commercial information.
52	Directive, general	What will be the frequency of reports subject to disclosure under new PIP/AIP? After the project is approved, it may be too late to disclose the project documents. Would it be possible to disclose the information prior to its approval, so there still opportunities for stakeholders to provide input? What will be the format, mechanisms, procedures for disclosing project documents as per new PIP/AIP, under	No	EBRD commits to disclose PSD for all projects. PSD will be disclosed prior to the project approval. PSDs will be updated on a more regular basis set out in the Directive, section 1.4.7.

No	Section of the Document	Comment	Changes made	Management Response
		para 1.7, 5.7, 5.8 (mechanism for disclosing information on human rights, gender analysis etc)		
53	Directive, general	<p>PSD needs to be updated for category B projects too.</p> <p>The absence of translated draft policy and directive prior to the consultation meeting limits the meaningful discussion of the new documents. The availability of translated documents prior to the consultations should be noted as the lesson learned for the next revision.</p>	Yes	<p>Updates of PSDs for category B projects have now been included in the Directive section 1.4.7.</p> <p>During the previous public consultations, EBRD translated draft policies into other languages, but experience was mixed. The draft policies had to be re-translated several times, which caused confusion and delays. This time all policies will be translated after approval by the Board. The concern about translation of policies is heard by us and will be given serious consideration.</p>
54	Directive, general	What will be the reporting mechanism under PIP/AIP for human rights, gender, meaningful participation? If they are not ready, then when it will be presented and how it will look like?	No	EBRD already has mechanisms in place to report on its projects/investments, which will be utilised in future too. Bank measures transition impact at project and country level and within these reporting mechanisms, issues on human rights, gender, meaningful consultations etc can be accessed by various stakeholders.
55	Directive, general	How does PIP/AIP address the need for the public participation to be carried out throughout the entire project cycle? In its current version, PIP/AIP does not seem to have adequate coverage of this matter. Existing practices cannot be described as sufficient to meaningfully engage with stakeholders and provide adequate and timely information on projects.	No	In fact, it is addressed in PIP/AIP. Pre-project stage involves disclosure of project information. Also, new ESP and PIP/AIP are closely interlinked. Project documents are disclosed and consultations are carried out through various forms of engagement. EBRD also requests clients to be more responsive and pro-active in terms of engaging and disclosing information on projects.
56	Directive, general	We would welcome the inclusion of a policy on what project information and EBRD decision-making	No	The list of information the Bank will disclose on a routine basis is set out in the Directive, Section IV, 1 Information Disclosed. Information

No	Section of the Document	Comment	Changes made	Management Response
		documents the bank will make available online as a matter of course (and not subject to specific information requests). We would welcome disclosure on information on decision-making processes – eg: the process that EBRD uses in pre-screening projects, and the tools used to assess critical habitat climate risk, ecosystem services assessment, supply chains analysis etc.		associated with deliberation and decision-making is subject to the exceptions to disclosure as set out in the Policy.
57	General	How does awareness of local people and governments reflected in public consultation principles address conflicts in projects?	No	EBRD has mechanisms to address local awareness and local conflicts, including SEP, GRM etc. Feedback received is analysed and it is then decided if further action is required under the project. Any concerns or complaints are reviewed by relevant departments and units and then actions are taken. If actions taken are not sufficient, the public can raise the issue with PCM.
58	General	Access to information and disclosure. Access and disclosure is passive process; meaningful consultations - more active process. Suggestion to EBRD: introduce more channels to actively inform stakeholders.	No	PCM works via CSOs and community organisations to reach out to affected people, who cannot raise their concerns with EBRD themselves. Regarding reprisal and retribution, new guidelines issued on how to handle such cases.
59	General	Regarding energy sector and mining sector policy, EBRD needs to use more social networks to reach out to all stakeholders. EBRD can do better to reach out to stakeholders via social networks/other means.	No	EBRD does use all social network media. All resources and information on projects are available via various social networks - readily accessible to people and stakeholders.
60	General	Why are we taking other IFIs as a model?	No	The Bank's IATI rating was "Fair" last year. We hope to move up the scale under the new policy. Whilst EBRD is looking to align its transparency and disclosure practices with the IFIs that are leaders on

No	Section of the Document	Comment	Changes made	Management Response
				disclosure, EBRD's private sector focus also needs to be taken into account.
61	General	EBRD needs to take into account that disclosure regulations are not the same country by country.	No	Noted. EBRD is not subject to local national regulations. The EBRD's Access to Information Policy applies to all EBRD information.

### ANNEX 3 – OTHER STAKEHOLDER COMMENTS

This annex summarises comments received from international organisations and international financial institutions in bilateral meetings and in writing. Please note that revisions to the documents have been included as underlined/deleted as shown in the Management Response box.

No	Section of Document	Comment	Change made	Management Response
<b>STAKEHOLDER # 1</b>				
1	Policy (Section 1 Policy Purpose)	Insert as underlined: <i>"The purpose of the Access to Information Policy is to increase awareness and understanding of the EBRD's role and its Operations and</i>	Yes	The Purpose of the Policy has been revised to include the following paragraph: <i>"The EBRD recognises that, in order to fulfil the aforementioned commitment, it has to disclose information</i>

No	Section of Document	Comment	Change made	Management Response
		<i>Activities, to enable the public to know and understand what is happening, including in the environment around them, as well as the public's ability to participate in an informed manner "</i> to reflect the international standards and good practices regarding the role of access to information, which is not only an end in and of itself, but enables the exercise of further rights, which can support inter alia good governance, such as through public participation.		<i>and consult with the public so as to increase knowledge and continuously promote awareness and understanding of the Bank's Operations and Activities and improve the public's ability to participate in an informed manner in consultations on its strategies and policies"</i>
2	Policy (Section III, Policy Principles)	Revise as shown: <i>The EBRD is committed to principles of transparency, <del>a business-sensitive approach</del>, accountability and good governance in all its Operations and Activities, whilst maintaining a business-sensitive approach "</i> . This revision would acknowledge transparency, accountability and good governance as a cluster, and yet acknowledged the nature of business-sensitive approach in logical manner. This would also allow to track the structure and meaning of the purpose.	Yes	Following suggestions from other internal and external stakeholders, the Business - Sensitive Approach principle has been deleted, as it is already safeguarded by the Exceptions to Disclosure, which is in line with the approach of other IFIs.
3	Policy (Section III, Principles 1.1. Transparency)	Revised as shown: <i>"This Policy sets out clear and well-defined exceptions to disclosure which take into account, in a balanced manner, the legitimate interests of the Bank, its clients, shareholders, <del>counterparties</del> the public and other stakeholders"</i> . The term "counterparties" is rather a vague and undefined term. It appears moreover narrow considering that international standards governing access to information establish duties to "the	Yes	The Transparency principle has been revised to include a reference to the public as follows:  <i>"This Policy sets out clear and well-defined exceptions to disclosure which take into account, in a balanced manner, the legitimate interests of the Bank, clients, shareholders, <u>the public including affected people</u>, counterparties and other stakeholders.</i>

No	Section of Document	Comment	Change made	Management Response
		public”, not the affected public, stakeholders, nor counterparties which sounds as if it is meant to cover those in an oppositional, perhaps litigation context.		Counterparties include other contractual counterparties that are not the Bank’s clients (for example, Treasury’s counterparts).
4	Policy (Section III, Principles 1.3 Accountability)	<p>In "<i>The EBRD shares information on its Operations and Activities, in a timely and appropriate manner</i>" it is not entirely clear whether the form of providing the information is meant to encompass an “appropriate manner” or whether this is meant to impose another sort of limitation of the provision of information, such as due to the identity of the requester or the way in which the request was formulated.</p> <p>In this regard, we would refer to article 4(1) of the Aarhus Convention, which can serve as a useful benchmark. In particular, this provision stipulates that information should be provided without the requester having to state an interest, and that the information should be provided in the form requested unless certain exceptions apply.</p>	No	“An appropriate manner” refers to the ways that the Bank transmits the information (for example the language used or mode of transmittal). It does not refer to the identity of the requester or the way in which the request was formulated.
5	Policy (Section III, Principles 1.3 Accountability)	Insert as underlined: " <i>The EBRD endeavours to identify, raise awareness and engage with a broad range of stakeholders including affected people and communities, civil society groups and members of the public, taking into account the diverse nature and significance of specific interests, as well as those who may be marginalized otherwise face barriers in access to information</i> ". This	Yes	<p>The Accountability principle has been revised to incorporate “including the interests of those who may face barriers in access to information”.</p> <p>The Policy has been revised to delete a reference to the Bank not responding to anonymous or unsupported requests (previously in section 5.1 (iii)), which safeguards against retaliation.</p>

No	Section of Document	Comment	Change made	Management Response
		<p>proposed insertion is meant to reflect that certain measures may be needed to indeed ensure access to information to certain vulnerable groups. See in this regard article 3(2) of the Aarhus Convention. This provision supports the other operative provisions of the Convention by establishing that Parties shall endeavour to provide assistance and guidance to the public with respect to the other Aarhus rights, including access to information.</p>		<p>In January 2019 The Bank published an external statement on Retaliation Against Civil Society and Project Stakeholders: <a href="https://www.ebrd.com/who-we-are/civil-society-overview.html">https://www.ebrd.com/who-we-are/civil-society-overview.html</a>. This statement says: <i>“The impairing or harming (or threatening to impair or harm) any party, or the property of any party, directly or indirectly, with the intent to improperly influence the actions of that party in connection with a Bank project, constitutes a Coercive Practice under the Bank’s Enforcement Policy and Procedures (EPPs) (<a href="http://www.ebrd.com/news/publications/policies/enforcement-policy-and-procedures.html">http://www.ebrd.com/news/publications/policies/enforcement-policy-and-procedures.html</a>).</i> A Bank counterparty that is suspected to have engaged in a Coercive Practice is subject to Enforcement Proceedings under the EPPs.”</p> <p>In addition to this statement, The Bank has also developed internal Guidelines for EBRD personnel on handling allegations of retaliation for criticism and complaints related to EBRD projects.</p> <p>Furthermore, Exceptions to disclosure under 2.6. “Security, Safety and Compliance” (iii) have been revised to say that the Bank will not disclose information that would compromise security of individuals seeking access to information.</p> <p>Environmental and Social Policy, Performance Requirement 10 also contain provisions prohibiting clients to retaliate against affected communities.</p>

No	Section of Document	Comment	Change made	Management Response
6	Policy (Section III, Principles 1.3 Accountability)	Delete as shown: " <i>The EBRD respects the right of people to provide input on the Bank's Operations and Activities and to seek and receive information relating to Operations and Activities <del>which may affect them or their communities.</del></i> " This deletion is proposed because the rights to seek and receive access to environmental information is not dependent upon any affectedness according to international obligations, as reflected in the Aarhus Convention. We note in this regard that environmental information is broadly defined in article 2(3) of the Convention. The obligation to the public to provide environmental information, irrespective of whether or not the public is or may be affected or has an interest in the matter is binding on the 47 Parties to the Aarhus Convention, and can be seen as an international standard.	Yes	This reference is kept in the interest of CSOs, but we have included the following sentence " <i>The EBRD seeks to obtain input from a <u>variety of sources</u>, listens to input from stakeholders and engages</i> " to emphasise that this is not limited only to affected communities.
7	Policy (Section III, Principles 1.3 Accountability)	Insert as underlined/delete as shown: " <i>The EBRD is willing to listen and is open to dialogue. The EBRD works closely with its clients to provide appropriate information.</i> "	Yes	This sentence has been deleted and replaced with a principle on Client Responsibility to Affected Stakeholders.

No	Section of Document	Comment	Change made	Management Response
		<p><del>in a suitable manner, related to in a suitable manner, to people affected by its Operations and Activities ."</del> As noted regarding "appropriate manner", this term "suitable manner" appears rather vague. It is not clear whether this refers to the form of information provided, a requirement concerning the requester, or some other requirement. Moreover, lacking these details, it is not possible to ascertain the extent to which any such requirement is consistent with international standards. Again, a deletion of an affectedness requirement is proposed, as this is not consistent with international standards governing access to information, as outlined above. We propose inserting information concerning the need to actively disseminate environmental information. See in this regard article 5 of the Aarhus Convention, which set out obligation of the Parties to that Convention and public authorities to collect and disseminate environmental information.</p>		
8	Policy (Section III Scope: Principles: Good governance)	<p>"The EBRD monitors compliance with the Policy and its effectiveness and regularly reports on the implementation of this Policy" This could be expanded to include information as to whom these reports are directed at, how the public can access and comment on these reports, etc. That would be a welcome and in our experience very useful way to enhance any reporting mechanism. In this regard, we would point to article 10(2)</p>	Yes	<p>This has been addressed by incorporating a reference to public as follows: The EBRD monitors compliance with this Policy and its effectiveness and regularly reports <u>to the public</u> on the implementation of this Policy"</p>

No	Section of Document	Comment	Change made	Management Response
		of the Aarhus Convention, which establishes a regular reporting mechanism for this instrument.		
9	Policy (Section III Scope: Exceptions to Disclosure)	The term "other counterparties" appears rather vague. We propose "the public" or simply "others"	Yes	This has been addressed by adding " <i>Public including affected people</i> " into the introductory section
10	Policy (Section III Scope: Exceptions to Disclosure, paragraph 2.1 ((i)) Information intended for internal purposes or protected under the Bank's internal classification regime	<p>This appears to be a very broad exception. In particular the "intent" aspect of internal purposes would seem to exclude a great deal of information. Also does not seem to be entirely transparent as to what the Bank's internal classification regimes are and how this relates to or supplements the further exemptions (ii)-(vii) below.</p> <p>According to the Aarhus Convention, which is legally binding on its Parties and serves as a vital instrument for international standards and good practice, internal communications may be protected, but only when this is provided for by national law or customary practice, and the requirement to take into account the public interest served by disclosure. This aspect is indeed mentioned as a positive override in 3 below. Nonetheless, in our view, it should be integrated by reference directly into these exceptions themselves, i.e., not merely via a separate provision.</p>	Yes	This exception has been revised and clarified as follows: " <u>Information intended for internal <del>purposes</del> deliberations as well as studies, reports, assessments, memoranda, analyses and other information prepared to support internal decision-making or information relating to audit matters.</u> <del>or protected under the Bank's internal classification regimes.</del> "
11	Policy (Section III Scope:	"Information related" appears quite broad indeed. Under the Aarhus Convention, while the internal deliberations	No	The Bank discloses agendas and minutes of Board of Directors' meetings. In addition, documents expressly approved for

No	Section of Document	Comment	Change made	Management Response
	Exceptions to disclosure, sections 2.1 (iv) Information related to the Board of Governors)	<p>of such bodies may be withheld under some circumstances, there could be information relevant to the qualifications of this board or Committees that could be important yet not justifiably be withheld.</p> <p>See article 4(3)(c) of the Aarhus Convention, which stipulates that information may be withheld where the request concerns “materials in the course in completion or concerns internal communications of public authorities where such an exemption is provided for in national law or customary practice, taking into account the public interest in disclosure.</p>		disclosure by the Board of Directors, such as Board Reports for State Sector projects, are also disclosed. Other information is not disclosed.
12	Policy (Section III Scope: Exceptions to disclosure, sections 2.1 (v) Information related to deliberation, advice and decision-making between EBRD and donors and other parties the	This similarly seems quite broad; it would not cover merely internal communications as described directly above, and does not inherently and directly make clear that it gives rise to commercial/confidentiality interests that may legitimately be protected in accordance with international standards and best practice.	No	The Bank does not disclose this information in order not to compromise the integrity of the deliberative and decision-making process among EBRD and its donors, or other entities with which EBRD cooperates by inhibiting the candid exchange of ideas, views and approaches.

No	Section of Document	Comment	Change made	Management Response
	EBRD co-operates with)			
13	Policy (Section III Scope: Exceptions to disclosure, sections 2.1 (vi)) Studies, reports, assessments, memoranda, analyses and other information prepared to support internal decision-making and/or relating to audit matter)	<p>This exception appears to us to again be quite broad. In this regard we refer to our comments concerning (iv) directly above. Article 4(3)(c) of the Aarhus Convention provides a basis for refusing to disclose information, provided that either it constitutes in fact internal communications, or constitutes “materials in the course of completion”. The latter exception only covers materials which themselves have not yet been completed. Studies, reports, etc., which have themselves been completed should be disclosed, even if the decision-making for which they were created to support is itself not completed.</p> <p>And again, under the Aarhus Convention there must be a basis for this exemption in national law or practice and the public interest in disclosure must be taken into account.</p> <p>The foregoing can provide useful guidance of direct relevance to these draft provisions.</p>	No	The Bank does not disclose the internal information in order not to compromise the integrity of EBRD’s deliberative and decision-making process, by inhibiting the candid exchange of ideas, views, and approaches, and thereby adversely affecting the quality of decisions and outcomes for EBRD and its stakeholders.
14	Policy (Section III Scope: Exceptions to disclosure, sections 2.1 (vii))	Based on our experience with the Aarhus Convention, provided this is based in national law or customary practice, and the public interest in disclosure is taken into account, this would seem to provide legitimate grounds for refusing disclosure.	No	As stated above, the Bank does not disclose the internal information in order not to compromise the integrity of EBRD’s deliberative and decision-making process, by inhibiting the candid exchange of ideas, views, and approaches, and thereby adversely affecting the quality of decisions and outcomes for EBRD and its

No	Section of Document	Comment	Change made	Management Response
	Communications issued between BoD and BoG, advisers and staff employed in the offices of the Board of Directors' members, members of the EBRD management, its staff, or its consultants, legal advisers, or agents)			stakeholders. Whilst EBRD typically discloses the results of its decision-making processes, it may not disclose all the ideas, views, and approaches that led to such decisions because stakeholders need to be able to freely present and debate such ideas, views, and approaches.
15	Policy (Section III Scope: Exceptions to Disclosure, paragraph 2.2 (i) Financial, commercial and proprietary information	We recommend a more precise term than "counterparties"	No	These are typically contractual counterparties that are not the Bank's clients, such as Treasury counterparties.

No	Section of Document	Comment	Change made	Management Response
16	Policy (Section III Scope: Exceptions to Disclosure, paragraph 2.2 (ii) Information in the Bank's possession not created by the Bank and (iii); Information related to procurement processes	<p>In line with international standards, this may be used as a grounds for refusing to disclose where such confidentiality is expressly protected by law in order to protect a legitimate economic interest. See, e.g. article 4(4)(d) of the Aarhus Convention. Yet this provision as formulated appears too broad.</p> <p>Note also information on pollutant emissions which is relevant for the protection of the environment should not be claimed as confidential commercial information.</p> <p>In line with international standards, some of this information may under some circumstances be withheld. See in this respect article 4(4)(e)-(g) of the Aarhus Convention (roughly, these provisions cover intellectual property rights, certain confidentiality of personal data and files relating to a natural person, and the interests of a third party supplying the information requested).</p> <p>However, we urge that the exceptions listed here be more precisely defined.</p>	<p>2.2. (ii) – No</p> <p>2.2.(iii) – Yes</p>	<p>Exception 2.2. (ii) sets out the Bank's duty of confidentiality towards the originator of information. Proprietary information or any information provided to EBRD by a party that, if disclosed, would or would likely materially prejudice the commercial interests, financial interests, or competitive position of the party that was the source of the information or another party that may be affected by the disclosure of the information.</p> <p>Exception 2.2. (iii) has been clarified by including as underlined: <i><u>"Financial, commercial or proprietary information related to procurement processes, including pre-qualification information submitted by prospective tenderers, tenders, proposals or price quotations (other than the total contract price) or records of deliberative processes"</u></i></p>
17	Policy (Section III Scope: Exceptions to Disclosure, paragraph 2.3 Information related Policy Engagement	<p>International relations is recognized as a basis for refusing disclosure according to international standards (see in this regard article 4(4)(b) of the Aarhus Convention, which provides that a request for environmental information may be refused if the disclosure would adversely affect "international relations, national defence or public security." However, an exclusion based on undermining</p>	Yes	<p>This stand-alone exception has been deleted, the text is shortened and moved to section 2.1 Information associated with Deliberation and Decision-making (iv) as follows: <i><u>"Information in connection with deliberation, advice and decision-making between the EBRD, <u>EBRD members</u> and/or <u>donors</u> or other parties the EBRD co-operates with and any other information which, if disclosed, in the Bank's view would seriously undermine policy engagement and dialogue with a member country."</u></i></p>

No	Section of Document	Comment	Change made	Management Response
		policy engagement and dialogue with a member country as such appears to us to be broad and not clearly defined.		
18	Policy (Section III Scope: Exceptions to Disclosure, paragraph 2.4 (i) Information related Policy Engagement	The phrase "an investigation or any legal or regulatory proceedings" is not clear to us that this is not too broad, considering international standards. Article 4(4)(a) of the Aarhus Convention allows an exception from disclosure to protect the confidentiality of the proceedings of public authorities, where such confidentiality is provided for under national law, or under 4(4)(c), namely the ability of a person to receive a fair trial or the ability of a public authority to conduct an enquiry of a criminal or disciplinary nature.	Yes	Should the Bank think that the disclosure of information might <u>legitimately</u> prejudice an investigation or any legal or regulatory proceedings, the Bank will not disclose such information.
19	Policy (Section III Scope: Exceptions to Disclosure, paragraph 2.6 "Security, Safety and Compliance")	In this provision "could violate the law" seems to be vague and broad. It is not clear what laws are provided for and a number of countries may indeed have domestic laws which are in violation of binding international requirements.	Yes	Clarified to point out that it in relation to <u>applicable</u> law.
20	Policy (Section III 3. 3. Override to Exceptions to Disclosure and of Disclosure Requirements)	Delete as shown/insert as underlined: "In order to ensure that competing legitimate interests of the Bank, its clients, shareholders, <del>counterparties</del> <u>the public</u> and other stakeholders may be reconciled within the terms of this Policy, overrides of exceptions to disclosure and of disclosure requirements <del>shall be established</del> are as follows" The term counterparties is not clear, and	Yes	This has been addressed through the following revisions: " In order to ensure that competing legitimate interests of the Bank, its clients, shareholders, counterparties, the <u>public including affected people</u> and other stakeholders may be reconciled within the terms of this Policy, overrides of exceptions to disclosure and of disclosure requirements <del>shall be</del> are established as follows:

No	Section of Document	Comment	Change made	Management Response
		international standards and practice cover the public as such. The proposed amendment reflects our view that the phrase “shall be established” states an obligation to establish something, i.e., in a further mechanism or instrument. This provision should rather itself create the clear and direct obligation to consider the public interest in disclosure in each case in which an exception listed above is invoked to reject a request for information.		i. <b>Positive Override:</b> Information shall be disclosed by the Bank if a legitimate public interest served by disclosure of information covered by an exception to disclosure outweighs the harm arising from the disclosure of such information. “
21	Policy (Section III 3. 3. Override to Exceptions to Disclosure and of Disclosure Requirements (i) Positive Override)	Delete as shown/insert as underlined: "Information shall be disclosed by the Bank if <del>a legitimate interest</del> <u>the public interest</u> ". As stated above, in line with international obligations and standards reflected in the Aarhus Convention, there need not be a legitimate interest stated. Rather the question hinges on the public interest in disclosure itself.	Yes	Addressed as shown above.
22	Policy (Section III 3. 3. Override to Exceptions to Disclosure and of Disclosure Requirements (ii) Negative Override)	Delete completely. The above exceptions to disclosure are quite broad and it appears there is no further justification for an additional “negative override”. Any harms arising from disclosure should rather be, and already are, incorporated into the exceptions themselves above. Accordingly, we propose to delete the “negative override”, as it appears to create yet another mechanism on top of the exceptions which is unnecessary and unduly restrictive.	No	Whilst not all other IFIs’ equivalent policies contain a negative override, there are a number of IFIs, including those which recently revised their equivalent policies (for example, the Asian Development Bank), which contain both the Positive and Negative override. Determinations on Negative Override are only made by the Board of Directors.

No	Section of Document	Comment	Change made	Management Response
23	Policy (Section III 4. Redaction of Information)	<p>Rename as "Separation and provision of information not subject to an exception". The proposed changes and deletions reflect our the understanding according to international standards and practice reflected in the Aarhus Convention that the presumption is disclosure. Refusals are rather subject to the enumerated exceptions as listed above. Accordingly, we submit this provision should be rewritten in a manner opposite to the direction taken here – the focus should not be on redaction, but on separation and provision of information that can be disclosed.</p> <p>Delete completely and replace with: "The EBRD shall ensure that, if information excepted from disclosure pursuant to an exception under this Policy can be separated out without prejudice to the confidentiality of the information exempted, the EBRD makes available the remainder of the information that has been requested . "Since the presumption is one of disclosure, subject to the enumerated exceptions, this provision should be rewritten in a manner opposite to the direction taken here – thus the focus should not be on redaction, but on separation and provision of information that can be disclosed.</p>	Yes	<p>This has been addressed by updating the title and revising the text as follows:</p> <p><u><i>"Separation of Information not Subject to an Exception"</i></u></p> <p><u><i>A document containing information which is requested for disclosure may be redacted by the Bank to remove Confidential Information so that the remainder of the document, excluding such Confidential Information, can be disclosed in accordance with this Policy."</i></u> <del>Where the EBRD discloses any information pursuant to this Policy, the relevant document containing such information may be redacted to comply with the exceptions set out in Section III, paragraph 2 of this Policy, as determined by the EBRD"</del></p>
24	Policy (Section III Scope: section 5.1 Making a	In respect of "The Bank further reserves the right to reject requests that are unclear in what information is being sought or, in the Bank's view, unreasonably broad": according to international provisions and practice,	Yes	<p>This has been addressed as follows: <i>"Requests shall be as clear and precise as possible to enable the EBRD to identify and locate as to the specific information sought. Where a request is insufficiently clear or precise to identify the information required,</i></p>

No	Section of Document	Comment	Change made	Management Response
	Request for Information (ii)	requests may be refused where “manifestly unreasonable” or formulated in “too general a manner.” See in this regard article 4(3)(b) of the Convention, but this formulation, including the term “in the Bank’s view” seems broad. We are concerned that this is not, as framed, sufficiently transparent and will not ensure that this will not be applied in an arbitrary manner.		<del>or is unreasonably broad, the Bank reserves the right to ask the requester to provide clarifications or to narrow down the scope of the request. The Bank further reserves the right to reject requests that are unclear in what information is being sought or, in the Bank’s view, unreasonably broad.”</del>
25	Policy (Section III Scope: section 5.1 Making a Request for Information (iii)	Revised as deleted: "The Bank shall not respond to may refuse anonymous or unsupported requests or to any request that requires the Bank to create, develop or collate information or data for information that the Bank does not hold . This also applies to requests for information on the same subject from the same person or organisation if the Bank has previously provided such information or has given reasons why it cannot provide the information."We urge that the draft be amended to clarify that a response should be made, including reasons. The listed features are at best reasons for a refusal, not a lack of a response. See article 4(1), (2) and (7).Our proposed changes reflect these provisions. It is not clear to us what is meant by “unsupported requests”. It is not clear from the foregoing what would be required for requests to be “supported”. It is also not clear to us the extent to which any such requirements would be in line with international standards and best practices. We also propose deletion of the last sentence because the	Yes	This has been addressed in such a way in order to allow opportunities for anonymous and unsupported requests and narrowing down the cases when the Bank is not required to comply with requests as follows: “ <u>The Bank is not required to comply with shall not respond to anonymous or unsupported requests or to any request that would require the Bank to create, or develop or collate information or data that does not already exist or is not available in the Bank’s record keeping systems. This also applies to any requests for information on the same subject from the same person, group or organisation if the Bank has previously provided such information or has given reasons why it cannot provide the information.</u> ”

No	Section of Document	Comment	Change made	Management Response
		requests may concern the same subject, but be different in nature, whether broader or narrower, e.g.		
26	Policy (Section III Scope: section 5.1 Making a Request for Information (iv))	On "the Bank's right to respond collectively on its website to petitions, email chains and similar multiple request rather than individually". The content of the response and disclosure could be facilitated through its website, yet requesters must somehow be notified that this information is provided in this manner at the very least. Otherwise, it is not at all clear to the requester whether the request has been responded to and is satisfactory, in its view. This also implicates the possibilities for review.	Yes	This has been addressed through the following revision: <i>"The Bank reserves the right to respond collectively on its website to petitions, e-mail chains and similar multiple requests rather than individually <u>in which case, the Bank shall inform the requester(s) accordingly.</u>"</i>
27	Policy (Section III Scope: section 5.2 Appeals (ii))	We are concerned that this may improperly place the burden of proof on the requester of the information, whereas according to the Aarhus Convention and international practice, the presumption should be for disclosure. This is not entirely clear and may suggest too stringent a requirement. See comments above concerning the right of the public to submit requests.	Yes	This has been addressed through the following revision: <i>" The appellant shall <del>be required to show</del> <u>confirm</u> that <del>an</del> <u>their</u> initial request for information was submitted in accordance with this Policy and/or the Directive on Access to Information, as applicable, and shall provide a reasonable argument <u>as to why, in their opinion,</u> <del>that</del> the EBRD has breached the Policy and/or the Directive on Access to Information, as applicable, by failing to supply the requested information."</i>
28	Policy (Section III, section 5.3 Recourse in Accordance with Project	Although granting that details can be revised in the Directive as appropriate, it would be helpful if the timeframe could be spelled out here. Otherwise, the policy itself is not a clear and transparent framework. The basis for application of the policy version is not clear to us	Yes	This has been addressed through the following revision (aligned with the Project Accountability Policy): <i>"In cases where <u>a person or an Organisation who an appellant believes they are affected, or likely to be affected, by a Project allege that the Bank has failed to disclose Project specific information in accordance with this Policy and/or the Directive on Access to Information, as applicable, the such person or Organisation appellant</u> may submit a request to</i>

No	Section of Document	Comment	Change made	Management Response
	Accountability Policy)	– should it not rather be the version as applicable, that was in force at the time of the request for information		<i>the Independent Project Accountability Mechanism. Information on how to submit such a request shall be provided on the EBRD website”</i>
29	Policy Section IX Related Document	The Directive on Access to Information should be referred to in this section	No	The Policy refers only to the documents that are either in the same hierarchy or above.
<b>STAKEHOLDER # 2</b>				
30	Policy (Section III, Policy Purpose)	With these factors in mind, we would recommend that the right of access to information under international law explicitly be referenced in the EBRD policy, as the public information policies of the IFC, EIB and ADB have done, 6 and that the recognition in PIP (Section B) of the importance of the UNECE Aarhus Convention be restored. Article 19 of the Universal Declaration on Human Rights provides: “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.” Article 19 of the International Covenant on Civil and Political Rights, which has been ratified by 171 countries, Article 10 of the European Convention on Human Rights (47 member States of the Council of Europe), Article 13(1) of the American Convention on Human Rights (23 states parties) and Article 13(1) of the UN Convention on the Rights of	Yes	This has been addressed by incorporating the following paragraph into this section: “ <i>The EBRD recognises the developments made to advance the recognition and exercise of the right to access information as a human right and the importance of the principles, purposes and ultimate goals on access to information of the UNECE Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters</i> ”

No	Section of Document	Comment	Change made	Management Response
		the Child (194 states parties) contain similar provisions. International organizations, including the EBRD, are subjects of international law and are bound by general rules of international law, 7 including with respect to human rights.		
31	Policy (Section III, Policy Principles: Business-sensitive approach)	OHCHR notes that the need to safeguard a “business-sensitive approach” as been elevated in the list of Policy Principles, from the PIP to the draft Policy, and that and breadth of proposed exceptions to disclosure (Section III.2) may privilege business sensitivity over the more fundamental goal of transparency. OHCHR recommends that the EBRD spell out further in Section III the functional importance of transparency for better project performance, promotion of good governance, minimisation of corruption, and improved stakeholder relations, and that the reference in the PIP (C.1.) to promoting “adherence to internationally-recognised standards” be retained. <sup>3</sup> OHCHR would also recommend that the EBRD retain the important qualification in the final sentence of PIP Section C.4., specifying that the “business approach” principle is governed by the exceptions regime, in order to set clearer boundaries for interpretation.	Yes	Following suggestions from other internal and external stakeholders, the Business - Sensitive Approach principle has been deleted, as it is already safeguarded by the Exceptions to Disclosure, which is in line with the approach of other IFIs. Other principles have been clarified further and a new principle of the Client Responsibility to Affected Stakeholders has been introduced.
32	Policy (Section III, Policy, Exceptions	OHCHR welcomes the fact that the draft Directive retains the PIP’s listing of documentation routinely disclosed, and recommends that it includes: (a) a timeframe for	No	Implementation arrangements are set out in the Directive on Access to Information as appropriate (for example, as per section 1.4.8 of the Directive: “ The Bank shall disclose Board reports for

No	Section of Document	Comment	Change made	Management Response
	to Disclosure 2.1 (i) and (ii)	disclosure of Board meeting minutes (e.g. ADB Public Communications Policy, 60 days); and (b) documents circulated to the Board (e.g. World Bank s.III.B.4.d, AfDB Disclosure and Access to Information Policy 2012, s.4.10.1) including reports to the Board from its Committees (e.g. IFC s.III.E.18.d and e). Should the Bank agree to the latter recommendation, OHCHR notes that Section III.2.1.i and ii of the draft Policy would also need to be amended.		State Sector Projects within 30 calendar days of approval of the relevant Project by the Board of Directors”).
33	Policy (Section III, Policy, Exceptions to Disclosure)	OHCHR notes that the draft Policy reflects a presumption of disclosure subject to defined exceptions intended to protect legitimate interests from harm, and that the list of exceptions is similar to those of other MDBs. However, the substance of the draft list of exceptions could be strengthened in certain respects, as outlined further below, taking into account comparative practice and Indicator 29 of the Access Info Europe and Center for Law and Democracy’s Global Right to Information Rating (an authoritative source in this field). <sup>9</sup> In certain instances, the harm that may result from disclosure is not evident and should be further specified. In other cases, such as Sections III.2.2, III.2.3 and III.2.5, proposed exceptions are defined in an open-ended way (with the descriptor “includes”), the effect of which is to create potentially open categories and administrative discretions de-linked from the “harm” criterion.	Yes	The introductory part of this section has been revised to address this point as follows: <i>“The EBRD is committed to openness and transparency. However, there are instances where legitimate interests of the Bank, its clients, co-financiers, other counterparties or the public including affected people may need to be protected and therefore disclosure of information or documents is not possible. The exceptions to disclosure are based on the EBRD’s determination that disclosure of certain types of information would cause harm to specific parties or interests that would outweigh the public interest in disclosure. To protect such legitimate interests, the following exceptions to disclosure shall apply”</i>

No	Section of Document	Comment	Change made	Management Response
34	Policy (Section III, Policy, Exceptions to Disclosure, Section 2.1 “Information associated with Deliberation and Decision-Making”	In OHCHR’s view, the “harm” criterion (which is functionally related to, but not the same as, “legitimate interests”) should be mentioned explicitly in Section III.2 along with the objective of ensuring maximum transparency. In OHCHR’s view, the harm underpinning the protected interest in Section III.2.1 (“Information associated with Deliberation and Decision-Making”) is not specified sufficiently clearly, and should refer to the need to protect the integrity of the Bank’s deliberative processes. The proposed carve-out for information “intended for internal purposes” seems unduly broad, absent a clear risk of harm to the legitimate interest of protecting the integrity of decision-making processes.	Yes	The exceptions in this section have been revised in order to clarify the scope of their application.
35	Policy (Section III, Policy, Exceptions to Disclosure, Section 2.2 “Financial Information and Information provided in Confidence”)	In OHCHR’s view, the proposed exceptions in Section III.2.2 (“financial information” and “legal information”) appear unduly broad and open-ended. OHCHR would recommend a formulation more closely tied to the risk of harms to legitimate interests, such as that in the ADB policy (para 94.viii): “Financial information that, if disclosed, would or would be likely to prejudice the legitimate financial or commercial interests of ADB and its activities ..”	Yes	This section has been revised as follows: “ This category includes information that would, in the EBRD’s view, be detrimental to the <u>legitimate</u> financial or commercial interests of the EBRD or EBRD counterparties if disclosed”.
36	Policy (Section III, Policy, Exceptions to Disclosure, Section 2.3	We note that the proposed exception in Section III.2.3 (“Policy Engagement”) is a carry-over from the PIP (E.1.4) but appears not to have a parallel in other IFI information policies. Given the breadth and generality of this	Yes	This stand-alone exception has been deleted, the text is shortened and moved to section 2.1 Information associated with Deliberation and Decision-making (iv) as follows: “ <i>Information in connection with deliberation, advice and decision-making</i>

No	Section of Document	Comment	Change made	Management Response
	"Information relating to Policy Engagement")	exception (which on its face might apply to any information that a member country deems sensitive), and the fact that better defined and more widely recognised interests are already included within the "Deliberation and Decision-making" exception, OHCHR would recommend that it be deleted.		<i>between the EBRD, <u>EBRD members and/or donors or other parties the EBRD co-operates with</u> and any other information which, if disclosed, in the Bank's view would seriously undermine policy engagement and dialogue with a member country."</i>
37	Policy (Section III, Policy, Exceptions to Disclosure, Section 2.4 "Legal, Investigative and Integrity Information")	In OHCHR's view, the proposed exception in Section III.2.4 ("Legal, Investigative and Integrity Information") is similarly problematic. OHCHR recognises that the desire to minimise exposure to litigation is included among the justifications for exceptions in certain other MDB information policies (e.g. IFC, Section II.C.I). However we would respectfully contend that this is not a sufficiently well recognised basis for an exception. In any case, the EBRD's proposed formulation ("subject the Bank to an undue risk in any contested matter such as any litigation or arbitration") appears to be unjustifiably broad, contrary to the objectives of transparency and accountability.	Yes	This section has been revised as follows: "Privileged information such as legal advice and correspondence with legal advisers or other information subject to professional secrecy including any information the disclosure of which might <u>legitimately</u> prejudice an investigation or any legal or regulatory proceedings, or <u>legitimately</u> subject the Bank to an undue risk in any contested matter such as any litigation or arbitration."
38	Policy (Section III.3 "Override to Exceptions to Disclosure and of Disclosure Requirements")	OHCHR recommends that the draft Policy restore Section E.3 of the PIP (disclosure to avoid "imminent and serious harm to public health or safety, and/or imminent and significant impacts on the environment"). We note that other MDBs have similar provisions (e.g. IFC Access to Information Policy 2012, Section II.C.12). In a similar vein, OHCHR recommends that the public interest override	Yes	This section has been revised to introduce the public interest test , which is even broader than harm to public health or safety, and/or imminent and significant impacts on the environment.

No	Section of Document	Comment	Change made	Management Response
		should apply in cases of serious violations of human rights. <sup>10</sup> This is not an academic matter: human rights violations (such as forced resettlement, killings, torture, labour rights violations, gender-based violence, and so forth) are frequently associated with infrastructure investment, extractives, agribusiness and other business ventures, directly or through equity stakes, supply chains or financial intermediaries.		
39	Policy (Section III Scope: section 5.1 Making a Request for Information (iii))	In relation to Section III.5.1.iii, given the increasing personal risks faced by many individuals in connection with development projects and business activity, OHCHR would strongly recommend against the proposal to exclude anonymous requests. The public information policy of the AfDB (para 54) provides a potential model: “Bank Group staff shall not inquire into the identity or intent of a person requesting access to a Bank Group document, unless such an inquiry is necessary to allow the Bank Group to judge whether there is any obstacle as per the list of exceptions to the release of the document.”	Yes	This has been addressed in such a way in order to allow opportunities for anonymous and unsupported requests and narrowing down the cases when the Bank is not required to comply with requests as follows: “ <i>The Bank <u>is not required to comply with</u> <del>shall not respond to anonymous or unsupported requests or to</del> any request that <u>would require the Bank to create, or develop or collate</u> information or data <u>that does not already exist or is not available in the Bank’s record keeping systems</u>. This also applies to <u>any</u> requests for information on the same subject from the same person, <u>group</u> or organisation if the Bank has previously provided such information or has given reasons why it cannot provide the information.</i> ”
40	Policy (Section III Scope: section 5.1 Making a Request for	In relation to Section III.5.1.ii, OHCHR notes that – as proposed – requests may be refused if they are deemed “unreasonably broad.” In line with other MDBs’ information policies, and for the sake of transparency, we would respectfully encourage the EBRD to set a higher	Yes	This has been addressed by deleting as follows: (ii) “ <i>Requests shall be as clear and precise as possible <u>to enable the EBRD to identify and locate</u> <del>as to</del> the specific information sought. Where a request is insufficiently clear or precise to identify the information required, <del>or is unreasonably broad</del>, the Bank reserves the right to</i> ”

No	Section of Document	Comment	Change made	Management Response
	Information (ii) and (iv)	bar and only refuse “blanket requests”. In relation to Section III.5.1.iv, where a request is denied, OHCHR recommends that requesters be advised of avenues for appeal, in addition to the reasons for the decision given. The same considerations apply to Section IV.2.2.ii of the draft Directive.		<p><del>ask the requester to provide clarifications or to narrow down the scope of the request. The Bank further reserves the right to reject requests that are unclear in what information is being sought or, in the Bank’s view, unreasonably broad.”</del></p> <p>And</p> <p><i>iv. “ The Bank shall acknowledge receipt of a request for information pursuant to this Policy promptly. The timeframe for responses to requests made in accordance with this Policy shall be set out in the Directive on Access to Information. The Bank reserves the right to respond collectively on its website to petitions, e-mail chains and similar multiple requests rather than individually in which case, the Bank shall inform the requester(s) accordingly.”</i></p>
41	Policy (Section III Scope: section 5.1 Making a Request for Information (iv)	On the question of costs (which do not appear to be dealt with in either the draft Policy or Directive), OHCHR recommends that the requester should only pay for the costs of reproduction of the information requested, and, if applicable, costs of delivery, and that information provided electronically should be free of charge. No costs should be levied against requesters below a specified income level.	Yes	This has been addressed by incorporating the following sentence into this section: <u>“The Bank shall not impose fees or charges for responding to requests for information in accordance with this Policy.”</u>
42	Policy ( Section III, general comment)	Given that the sensitivity of almost all kinds of information diminishes over time, OHCHR recommends the inclusion of a de-classification schedule. The AfDB, for example, provides that non-public information will be	No	We are aware of and looking into the issue of declassification as practiced by some other IFIs, albeit not all.

No	Section of Document	Comment	Change made	Management Response
		made available after 5, 10 or 20 years or more, depending upon its sensitivity and harmful effects (AfDB Policy on Disclosure and Access to Information (2013), paras 4.8.1 and 4.8.2). The World Bank, EIB, ADB and IDB public information policies contain similar provisions. The World Bank policy (s.B.6) lists specific categories of information that will be made publicly available after 5, 10 and 20 years, respectively, as well as documents that are not eligible for declassification.		
STAKEHOLDER # 3				
43	Policy (Section III Scope: section 5.1 Making a Request for Information (iii)	How would the Bank manage third party personal information.	Yes	The Policy has been revised to provide an opportunity for anonymous and unsupported requests and narrowing down the cases when the Bank is not required to comply with requests as follows): “ <i>The Bank is not required to comply with <del>shall not respond to anonymous or unsupported requests or to any request that would require the Bank to create, or develop or collate</del> information or data that does not already exist or is not available in the Bank’s record keeping systems. This also applies to any requests for information on the same subject from the same person, group or organisation if the Bank has previously provided such information or has given reasons why it cannot provide the information.</i> ”

No	Section of Document	Comment	Change made	Management Response
44	Directive, section 1.2.2 (iv) Consultation timeframe on Country Strategies and Sector Strategies	The length of the consultation period should be longer than 30 days for sector strategies.	Yes	The length of this consultation timeframe has been revised back to 45 calendar days.
45	Directive, section 1.2.2 (iv) Consultation on Sector Strategies	There needs to be an opportunity for ESAC to participate in the consultation process on sector strategies.	No	This section sets out that the ESAC shall be given the opportunity to comment on the draft Sector Strategy document.
46	Directive, Section IV Scope Information Disclosed	How does this amount of disclosure as set out in the Directive aligned with other IFIs.	No	The Directive sets out a number of disclosure items, that have not been disclosed by the Bank previously (for example, proactive disclosure of Board Reports for State Sector Projects, introduction of Project Summary Documents (PSDs) for projects approved by the Bank's Management, updates of PSDs based on the Operation Performance Assessment (OPA) summaries, disclosure of information contained in the OPA for State Sector Projects), all of which should bring the Bank towards greater alignment with the best practice on transparency and disclosure amongst the IFIs.
<b>STAKEHOLDER # 4</b>				
47	Policy Purpose, general comment	Consider including a reference to the International Aid Transparency Initiative (IATI)	No	Thank you, noted.

No	Section of Document	Comment	Change made	Management Response
48	Directive, section IV Scope, Information Disclosed, general comments	Consider including the following positions into this section: information on geo-localisation of projects, information on disbursements, legal agreements and more information on results and evaluation.	No	Thank you, noted. The list of Information Disclosed, as part of the Directive, can be amended as and when needed. The Bank will strive towards expanding the list of Information Disclosed in the future.
STAKEHOLDER # 5				
49	Policy (Section III Policy Principles, 1.1 Transparency)	This provision refers to the principle of Transparency (openness). Notwithstanding, the paragraph number two is unclear about how EBRD will analyse and outweigh the different interests. In this regard, following international standards, the exceptions should be based on the clear and well-defined possibility that the potential harm to interests, entities, or affected parties arising from disclosure of information would outweigh the benefits.	Yes	This has been addressed by including the following wording in the section 2. Exceptions to Disclosure: “ <u>The exceptions to disclosure are based on the EBRD’s determination that disclosure of certain types of information would cause harm to specific parties or interests that would outweigh the public interest in disclosure.</u> ”
50	Policy (Section III, Policy Principles 1.2. Business-sensitive approach)	Based on the nature of the information, the IFC and the IDB Invest’s draft policy state similar provisions: “Consistent with the practice of commercial banks and of most public sector financial institutions with respect to their investments in the private sector, the IIC does not disclose to the public commercial, proprietary, financial, privileged, intellectual property, or other non-public information about the IIC, its clients, or third parties. To	Yes	Following suggestions from other internal and external stakeholders, the Business - Sensitive Approach principle has been deleted, as it is already safeguarded by the Exceptions to Disclosure, which is in line with the approach of other IFIs.

No	Section of Document	Comment	Change made	Management Response
		do so would be contrary to the legitimate expectations of such parties, who need to be able to communicate detailed information to the IIC without fear of compromising confidential information.” This language provides a more comprehensive understanding of this specific type of information and its nature vis-à-vis the business approach.		
51	Policy (Section III, Policy Principles 1.3. Accountability)	<p>This paragraph offers the opportunity to recognize access to information as a human right. For example, the IDB Invest’s new policy has included the following provision:</p> <p>“The IIC is aware that with the consolidation of the Internet and the increasing use of social media, citizens demand more information and greater transparency from public and private institutions. In addition, the IIC recognizes the solid developments made in recent years to advance the recognition and exercise of the right to access information as a fundamental human right, including that most countries in Latin America and the Caribbean (LAC) have adopted regulatory frameworks on transparency and access to information. Similarly, in recent years, most International Financial Institutions (IFIs) have revised their information policies to adapt them to current international standards on this topic.”</p>	Yes	<p>This has been addressed by incorporating the following paragraph into this section: <u>“The EBRD recognises the developments made to advance the recognition and exercise of the right to access information as a human right and the importance of the principles, purposes and ultimate goals of the UNECE Aarhus Convention regarding access to information, public participation in decision-making and access to justice in environmental matters.”</u></p>

No	Section of Document	Comment	Change made	Management Response
52	Policy (Section III, Exceptions to Disclosure section 2)	The current article could raise consistency problems, protecting legitimate interests without the probability to demonstrate that the disclosure would cause harm. Particularly, this provision could be interpreted as restrictive to the extent that is not focused in to avoid a potential harm. Based on international standards, the regime of exceptions should be based on the principle that access to information may be refused only where the international financial institution can demonstrate (i) that disclosure would cause serious harm to one of a set of clearly and narrowly defined, and broadly accepted, interests, which are specifically listed; and (ii) that the harm to this interest outweighs the public interest in disclosure.	Yes	This has been addressed by including the following wording in the section 2. Exceptions to Disclosure: “ <u>The exceptions to disclosure are based on the EBRD’s determination that disclosure of certain types of information would cause harm to specific parties or interests that would outweigh the public interest in disclosure</u> ”
53	Policy (Section III, Policy, Exceptions to Disclosure, Section 2.1 “Information associated with Deliberation and Decision-Making” )	<p>a) The current proposal fails to recognize that much deliberative information should become subject to disclosure after decisions are made. In this regard, it is important to restrict the scope of the exception, incorporate a language designed to establish that, when the deliberative process has ended, and the decision has been made in Management or the Board of Executive Directors, as applicable, the Bank will make public the final decisions, results, and agreements that come out of the processes.</p> <p>b) The specific examples provided are not harm tested. In this regard, it is necessary to establish that this list is for</p>	Yes	The exceptions in this section have been revised in order to clarify the scope of their application. The introductory part of section 2. Exceptions for Disclosure has been revised as noted above. In terms of declassification of historical information, we are looking into the issue of declassification as practiced by some other IFIs, albeit not all.

No	Section of Document	Comment	Change made	Management Response
		<p>illustrative purposes, based on the regular practices. In this respect, it is important to take into consideration that:</p> <p>i) The current list is based on categories of information (types/classes of documents), instead of the nature and content of the information.</p> <p>ii) The provision does not recognize that the sensitivity of information declines over time. Based on this approach, different MDBs have a regime for the historical disclosure of information that creates a presumption that certain types of information could be eligible to be disclosed after set periods of time.</p>		
54	Policy (Section III, Policy, Exceptions to Disclosure, Section 2.2 “Financial Information and Information provided in Confidence” and 2.3 “Legal, Investigative and	The proposal uses a broad language, protecting specific and different classes of information instead of defining a legitimate interest and then protecting it against harm. In this regard, the combination of different categories of information (Bank’s financial information, information provided by third parties, procurement and legal information, among others) is unclear and could generate interpretation issues. Particularly, based on international practices and other MDBs policies, it is important to take into account that:	No	The exceptions in the draft AIP are broadly consistent with the exceptions in the policies of other IFIs. As clarified in the opening paragraph 2, “The exceptions to disclosure are based on the EBRD’s determination that disclosure of certain types of information would cause harm to specific parties or interests that would outweigh the public interest in disclosure” and EBRD applies the exceptions “to protect such legitimate interests”. We have also clarified that the exception in 2.2. (iii) covers “financial, commercial and proprietary information relating to procurement processes”. In 2.3. (i), this refers to “privileged information” or “other information subject to professional secrecy”.

No	Section of Document	Comment	Change made	Management Response
	Integrity Information”	<ul style="list-style-type: none"> <li>• The Financial Information exception seeks to protect information that would be detrimental to the financial or commercial interests of the Institution, including information that may be sensitive in capital and financial markets or that may affect its competitiveness.</li> <li>• The exception of Information provided in Confidence seeks to prevent adverse effects on the institution’s relations with third parties and to avoid damage to market competitiveness, among other consequences that could have a negative impact on the commercial interests of clients or third parties. In this regard, experts in access to information have indicated that allowing third parties to decide whether or not the information can be disclosed, without assessing whether a clearly defined interest or could be harmed, excessively restricts access to information. In general terms, it has been indicated that this restriction operates like a third-party veto that makes it more difficult to assess a case-by-case analysis.</li> <li>• The exception of Legal, Disciplinary, or Investigative Matters seeks to protect professional secrecy between client and attorney, and other applicable legal privileges. In this respect, contractual documentation relating to a Bank Operations, among</li> </ul>		

No	Section of Document	Comment	Change made	Management Response
		<p>other information described in the proposed paragraph, could be protected by this exception.</p> <ul style="list-style-type: none"> <li>In general, other MDBs protect the procurement processes information under the deliberative exception until the bidding process has being completed and awarded.</li> </ul>		
55	Policy, Section III, 2.7 Deferred Disclosure	The proposal does not provide details about how it will be implemented. In addition, the broad and general language used can generate different doubts among civil society, particularly for communities (disadvantage and vulnerable) affected by projects.	No	Implementation arrangements, including such relating to the Deferred Disclosure, are set out in the Directive on Access to Information (for example, section 1.4.4. PSD Deferred Disclosure)
56	Policy, Section III, 3 (ii) Negative Override	Experts in access to information have indicated that the implementation of this type of institution can offer broad discretion, but have not provided more specific parameters on how it would be applied. They have warned that all the legitimate reasons for refusing to disclose information should be described as specific exceptions in the access to information policy. In this regard, other MDBs, including IDB Invest, have not included this institution in its Access to Information Policy.	No	Whilst not all other IFIs' equivalent policies contain a negative override, there are a number of IFIs , including those which recently revised their equivalent policies (for example, the Asian Development Bank), which contain both the Positive and Negative override. Determinations on Negative Override are only made by the Board of Directions, following a recommendation from the President.
57	Policy (Section III 4. Redaction of Information)	Based on the transparency principle (openness – maximize access to information), this provision could be interpreted as more restrictive. Particularly, it is necessary to take into account the possible interpretation	Yes	This has been addressed by updating the title and revising as follows:

No	Section of Document	Comment	Change made	Management Response
		of the language “may be redacted.” The IDB Invest’s new policy “Information identified as “confidential” under the Policy’s exceptions will be subjected to the principle of divisibility. Pursuant to this principle, the IIC may create public versions of documents that exclude the “confidential” information. When the confidential information is so extensive that it is not practical to make the document available to the public, the IIC may disclose a summary of such document.”		<p><u>“Separation of Information not Subject to an Exception</u></p> <p><u>A document containing information which is requested for disclosure may be redacted by the Bank to remove Confidential Information so that the remainder of the document, excluding such Confidential Information, can be disclosed in accordance with this Policy.”</u></p> <p><del>Where the EBRD discloses any information pursuant to this Policy, the relevant document containing such information may be redacted to comply with the exceptions set out in Section III, paragraph 2 of this Policy, as determined by the EBRD”</del></p>
58	Policy (Section III 5. Information Requests and Appeals)	It is important to take into consideration the possibility to incorporate time limits for processing request and appeals. Experts on access to information and civil society have recognized this commitment as a good practice.	No	Following an example of some IFIs, the Bank has adopted a two tier structure of the Access to Information Policy and Directive on Access to Information, with the former document setting out the principle of making information requests and appeals, with the latter setting out corresponding implementation arrangements.
59	Policy (Section III 5.1 Making a request for information (iii))	This provision should include the possibility to keep confidential the requester’s identity, when the requester so request. This is an important aspect for human rights defenders, among other stakeholders, to prevent possible reprisals.	Yes	<p>This has been addressed in such a way in order to allow opportunities for anonymous and unsupported requests and narrowing down the cases when the Bank is not required to comply with requests as follows: “ <u>The Bank is not required to comply with</u> <del>shall not respond to anonymous or unsupported requests or to</del> <u>any request that would require the Bank to create, or develop or collate information or data that does not already exist or is not available in the Bank’s record keeping systems. This also applies to any requests for information on the same subject from the same person, group or organisation if the Bank has</u></p>

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				<i>previously provided such information or has given reasons why it cannot provide the information."</i>
60	Policy (Section III, section 5.3 Recourse in Accordance with Project Accountability Policy)	In order to avoid confusion, it is important to incorporate specific details about the Policy's governance, including differences and specific characteristics between the duties and functions of the Information Appeals Panel and the Independent Project Accountability Mechanism.	Yes	This section has been clarified through the following revision (aligned with the Project Accountability Policy): <i>"In cases where <u>a person or an Organisation who <del>an appellant</del> believes they are affected, or likely to be affected, by a Project allege that the Bank has failed to disclose Project specific information in accordance with this Policy and/or the Directive on Access to Information, as applicable, <del>the</del> such person or Organisation <del>appellant</del></u> may submit a request to the Independent Project Accountability Mechanism. Information on how to submit such a request shall be provided on the EBRD website".</i>
61	Policy (Section III, section 6 Policy monitoring)	Different MDBs include specific timelines for revising their access to information policies. Particularly, to identify areas for improvement based on lessons learned and to update the regulations in light of international practices and trends. Experts on access to information and civil society have recognized this commitment as a good practice.	No	Section VIII Review and Reporting sets out that:  <i>"The Policy shall be subject to review by the Board of Directors, with a public consultation process, by the end of 2024. "</i>
<b>STAKEHOLDER # 6</b>				
62	Policy (Section III, Policy Principles)	In chapter 1 Policy Principles, it is stated that the EBRD is committed to principles of transparency. You may wish to reference this statement to where this is recorded.	No	It is recorded under the Transparency principle in this section: <i>"The EBRD is guided by the presumption that information relating to the Bank's Operations and Activities shall be disclosed in a clear, timely</i>

No	Section of Document	Comment	Change made	Management Response
				<p><i>and appropriate manner unless such information falls under the exceptions to disclosure specified in this Policy.</i></p> <p><i>This Policy sets out clear and well-defined exceptions to disclosure which take into account, in a balanced manner, the legitimate interests of the Bank, clients, shareholders, the public including affected people, counterparties and other stakeholders. “</i></p>
63	Policy (Section III, Policy Principles	Business sensitive approach: Private Sector as point of attention to maintain trust etc. provides the reader the impression that public financed operations matters less.	Yes	Following suggestions from other internal and external stakeholders, the Business - Sensitive Approach principle have been deleted, as it is already safeguarded by the Exceptions to Disclosure, which is in line with the approach of other IFIs. Other principles have been clarified further and a new principle of the Client Responsibility to Affected Stakeholders has been introduced.
64	Policy (Section III, Principles 1.3 Accountability)	Accountability principle needs to be clarified	Yes	<p>It has been clarified as follows</p> <p><i>“The EBRD shares information on its Operations and Activities, in a timely and appropriate manner in order to support its <u>commitment to accountability to stakeholders</u>, facilitate dialogue and understanding, support policy design and strategic decision-making, and with a view to creating a wider impact beneficial to the fostering of transition of its recipient countries or economies of operations towards sustainable market economies.</i></p>

No	Section of Document	Comment	Change made	Management Response
				<p><i>The EBRD endeavours to identify, raise awareness and engage with a broad range of stakeholders including affected people and communities, civil society groups and members of the public, taking into account the diverse nature and significance of specific interests, <u>including the interests of those who may face barriers in access to information.</u></i></p> <p><i>The EBRD respects the right of people to provide input on the Bank's Operations and Activities and to seek and receive information relating to Operations and Activities which may affect them or their communities. The EBRD <u>seeks to obtain input from a variety of sources, listens to input from stakeholders and engages in dialogue.</u>" <del>is willing to listen and is open to in dialogue. The EBRD works closely with its clients to provide appropriate information, in a suitable manner, to people affected by its Operations and Activities.</del></i></p>
65	Policy, Section III, 2 Exceptions to disclosure.	It is suggested to use 'restricted' as it sounds less offensive than not possible. Furthermore, it provides a better link to the section on policy override considerations chapter.	No	Thank you, noted.
66	Policy, Section III, general comment	There needs to be a structural possibility to declassify restricted information after a number of years. Certain Information may be confidential at creation (and for a specific length of time) but becomes less confidential after a number of years and as such should qualify for declassification to public status.	No	We are aware of and looking into the issue of declassification as practiced by some other IFIs, albeit not all.