

What we heard:

The consultation process
on our *Access to Information Policy*

April 2019



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About IDB Invest:
IDB Invest, the private sector institution of the Inter-American Development Bank (IDB) Group, is a multilateral development bank committed to supporting Latin America and the Caribbean businesses. It finances sustainable enterprises and projects to achieve financial results that maximize economic, social and environmental development for the region. With a current portfolio of US\$11.2 billion under management and 330 clients in 23 countries, IDB Invest works across sectors to provide innovative financial solutions and advisory services that meet the evolving demands of its clients. As of November 2017, IDB Invest is the trade name of the Inter-American Investment Corporation.

The opinions expressed in this publication are those of the authors and do not reflect the point of view of IDB Invest, its Executive Board, or the clients it represents.

IDB Invest, March 2019.

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Introduction

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WHO WE ARE

1. In November 2017, the Inter-American Investment Corporation – IIC – adopted a new brand and now refers to itself as IDB Invest (in English) and BID Invest (in Spanish, French and Portuguese).

3. Once approved, the new Access to Information Policy will operate in close conjunction with other important policies and guidelines of IDB Invest, including:

- » The Environmental and Social Sustainability Policy, and its associated Performance Standards;
- » The Policy of the Independent Consultation and Investigation Mechanism (ICIM);
- » The Operation Policy;
- » The Integrity Framework; and
- The Code of Ethics.

WHY ACCESS TO INFORMATION MATTERS

4. To date, 24 countries in the Americas have laws on access to information: Antigua and Barbuda, Argentina, Bahamas, Belize, Brazil, Canada, Chile, Colombia, Dominican Republic, Ecuador, El Salvador, Guatemala, Guyana, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, St. Vincent and the Grenadines, Trinidad and Tobago, United States and Uruguay. Furthermore, 23 countries in Latin America have regulatory frameworks for environmental impact assessments, all of which include some degree of citizen participation: Argentina, Belize, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay and Venezuela.

1. The Inter-American Investment Corporation (IIC or IDB Invest),¹ a member of the Inter-American Development Bank (IDB) Group, is an international organization that promotes the economic development of its regional developing member countries by encouraging the establishment, expansion and modernization of private enterprises. IDB Invest supports the private sector and state-owned enterprises that do not have a sovereign guarantee, providing loans, equity investments and guarantees, and partnering with clients and strategic partners to offer advisory and training services.

2. At IDB Invest, we encourage smart, sustainable business practices that produce economic growth and make a positive development impact. That commitment to sustainable development goes to the heart of our values as an organization.

3. In the past three years, since the IDB Group consolidated its private sector operations and gave us an expanded, more robust mandate, we have been strengthening our own practices to better serve our clients and more effectively support sustainable development. That includes updating and revamping policies to ensure sound governance.

4. It is in that context that we have been rethinking and updating our Access to Information Policy—part of a suite of policies that together lay a solid foundation for responsible, sustainable operations.³

5. The demand for greater access to information, on the rise for more than two decades, has accelerated exponentially in recent years, fueled in part by the rapid expansion of the internet and the growth of social media networks. Citizens have championed access to information as a fundamental human right and, as a result, have brought about more transparency and accountability from their governments. Most countries in Latin America and the Caribbean have adopted regulatory frameworks that ensure access to information and allow for more effective public participation.⁴

6. This same trend—the democratization of knowledge—has been at work in the private sector and the development community as well. Over the years, communities affected by

development projects in the region have demanded more information about the scope and potential impacts of projects in their countries and their communities. They want to keep abreast of what is happening, from pre-approval through implementation to completion, and to fully understand the costs and benefits.

7. International financial institutions have stepped up to respond to these demands, and for good reason. At IDB Invest, we recognize that providing timely, accessible information fosters accountability and good governance. It helps to build long-term trust. Moreover, it's good for business, providing a foundation for long-term investment and development results.

8. Greater transparency enables government, the private sector and civil society to engage in meaningful dialogue. It opens up opportunities to see different approaches, mitigate risks, build partnerships and devise sustainable solutions to potential problems.

9. Having clear policies in place about access to information benefits everyone involved: Governments can make more informed regulatory and fiscal decisions. Civil society groups can weigh in with their concerns, pointing out ways to enhance the local benefits of development projects and reduce negative impacts. Companies benefit too; by more effectively meeting their disclosure responsibilities to stakeholders and keeping project communities informed, they can build local support and thereby create a more reliable and positive operating environment.

RETHINKING OUR POLICY

10. As we began to take a fresh look at all our policies and procedures—part of the process of shaping IDB Invest's new role as the private sector arm of the IDB Group—we decided to update our approach to access to information.

11. We started the process by doing research on international trends and best practices and looking at the IDB's experience in this area. We also analyzed new standards that international financial institutions have adopted to address access to information as it pertains to the private sector. Building on our review of history and current context, we created a multidisciplinary working group to guide the process of drafting a new Access to Information Policy.

12. The resulting document reflects a shift in perspective from the existing Disclosure of Information Policy. Importantly, the draft Access to Information Policy establishes a presumption in favor of disclosure, subject to a list of clear and narrow exceptions.

13. Everyone understands that some business information must be kept confidential to protect privacy, safeguard intellectual property or maintain market competitiveness. The proposed new Access to Information Policy increases transparency by better defining and clarifying when such exceptions apply.

14. Other substantial improvements refer to the predictability of the information to be made available in the project cycle—both before and after approval—through an illustrative list of documents that should be disclosed proactively. The Project Summary and the Environmental and Social Review Summary (ESRS) will be updated as needed, and the Environmental and Social Action Plan (ESAP) will be updated annually during implementation of the project for category A. In addition, IDB Invest will disclose development impact information at the project level and institutional level and will report annually on greenhouse gas (GHG) emissions of its operations in aggregate form, in accordance with the emerging practices on GHG accounting.

15. The Policy also provides for a classification system of information and institutes a two-stage review mechanism to examine



cases in which access to information is denied. Disclosure of decision-making information will improve with greater disclosure of records of the Board of Governors and Board of Executive Directors, after decisions have been made.

16. Furthermore, under the revised Policy, IDB Invest will disclose client contact information, as well as certain public consultation materials produced by the client. IDB Invest will have a management group responsible for implementation of the Policy and will report on implementation activities through its Annual Report.

17. In February 2018, the IDB Invest Board of Directors approved the draft Policy for public consultation. As outlined below, IDB Invest then launched a broad consultation effort. We listened to a wide range of voices, including those of clients, private sector organizations, professional associations, civil society representatives, government officials, and national and international non-governmental organizations (NGOs).

18. Participants broadly agreed that IDB Invest had made progress with its new approach to the subject of access to information, and they offered ideas, opinions and recommendations about how to improve the draft Policy even further. Many organizations submitted briefs and other written documents, through a web-based portal set up for that purpose; in other cases, we heard from individuals and groups in person, through a series of face-to-face consultations we hosted throughout Latin America and the Caribbean. This report includes a description of how the consultation process was carried out, an overview of the main issues that emerged, a summary of changes to the draft that came out of the consultations, and a detailed table showing participants' comments and IDB Invest's responses.

19. Ultimately, the consultation process itself illustrated the importance and benefit of greater access to information. By submitting a draft to public airing, IDB Invest was able to hear from representatives of more than 300 organizations across the region and beyond. Their participation in the consultation process further enriched and improved the draft now being submitted to IDB Invest's Board of Directors for final approval.

The consultation process

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THE CONSULTATION PROCESS

(I) PRE-CONSULTATION PHASE

20. In April 2018, IDB Invest announced a proposed Access to Information Policy and invited stakeholders to review it. The objective during the 30-day pre-consultation phase was to gather opinions about the proposed changes to our existing policy and gauge interest in the consultation process.

21. The draft Policy was posted on a dedicated consultation website, along with a consultation calendar, in the IDB Group's four official languages. The posting was announced within the IDB Group through email and internal digital channels, as well as externally through a news release.⁵

22. During this phase, we worked with IDB Group country representatives, IDB civil society liaisons, the Independent Consultation and Investigation Mechanism (ICIM), and IDB Invest departments to identify key stakeholders and interest groups in sectors relevant to our operations. We also canvassed outside experts for suggestions on specific organizations and individuals to invite to the consultations. We cast a wide net to ensure that we were reaching a diverse, balanced sample of potential stakeholders and interest groups engaged in the issue of access to information regionally and globally.

5. See April 23, 2018, announcement: "IDB Invest launches the public consultation on its new Access to Information Policy" (<https://www.iadb.org/en/news/idb-invest-launches-public-consultation-its-new-access-information-policy>).

(II) CONSULTATION PHASE

23. In May 2018, we launched a 120-day consultation phase that included two key aspects:

- » **Digital consultation**, through a dedicated website (<https://consultation.idbinvest.org/en/main>) where people could view the draft Access to Information Policy and consultation plan, register and present their comments, and view the results of the consultations.
- » **Face-to-face consultations** with a wide range of invited stakeholders in selected countries and IDB Invest regional offices—Panama, Costa Rica, Jamaica, Colombia, Brazil and Argentina—as well as in Washington, D.C. These workshops, held from July through September, were run by outside consultants, led by a professional facilitator, recorded via multiple sources and summarized in country-specific website reports.



24. Both the digital consultation process and the workshops yielded valuable input from organizations and individuals with expertise in the subject. **Through our consultation portal, we received substantive written submissions from the following organizations:**

- » Office of the United Nations High Commissioner for Human Rights (OHCHR) –Recommendations for IDB Invest’s “Access to Information Policy.”
- » Centre for Law and Democracy – Analysis of IDB Invest’s Draft Access to Information Policy.
- » Centro de Estudios en Libertad de Expresión y Acceso a la

Información (CELE), Universidad de Palermo – Análisis del Borrador de la Política de Acceso a la Información de BID Invest.

- » FinDev, Canada State-owned Enterprise – Comment to IDB Invest Draft Access to Information Policy.
- » Asociación Costarricense de Productores de Energía (Acope) – Propuesta de la nueva Política de Acceso a Información.
- » Centre for International Environmental Law (CIEL) – Recommendations for IDB Invest’s Access to Information Policy.
- » IAP, FUNDEPS and partners – Comments on IDB Invest’s Draft Access to Information Policy.
- » International Accountability Project (IAP) – In Practice: Information Disclosure at IDB Invest.
- » International Accountability Project (IAP) – We need to be consulted! Examining IDB Invest’s Proposed Access to Information Policy.
- » Grupo Regional sobre Financiamiento e Infraestructura (GREFI) – Comentarios en el marco de la consulta pública para la revisión de la Política de Acceso a la Información del BID Invest.
- » Fundación Directorio Legislativo – Access to Information Policy IDB Invest: Comments – Directorio Legislativo.

25. The face-to-face consultations held in the region were important to ensure broad geographic representation. IDB Invest representatives in each location compiled invitation lists that included a range of stakeholders drawn from two main groups:

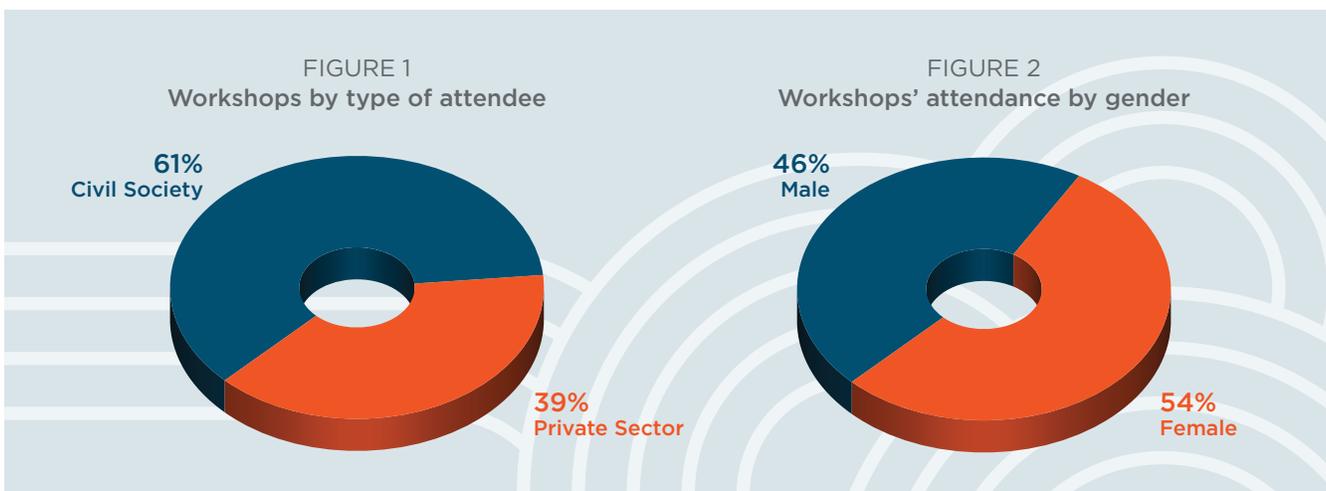
- » **Private sector interests** (including IDB Invest clients, private sector organizations and businesses, chambers of commerce, banks and other financial intermediaries)
- » **Civil society and public sector organizations** (including NGOs, community-based groups, indigenous organizations, government agencies and academics)

26. Overall, we invited around 1,200 organizations and individuals to the seven meetings. IDB Invest personnel in Washington and the host countries devoted considerable time in identifying and inviting possible attendees, sending out a summary of key aspects of the revised Policy and making follow-up phone calls.

27. The seven meetings attracted 167 attendees in all (14% of invitees), of whom 102 were from civil society and the public sector and 66 were from the private sector. **The following table and figures provide a snapshot of the attendance:**

Table 1: Summary of Invitations and Participants in Consultation Meetings						
Meeting Locale	Total Invited	From Civil Society /Public Sector/Academia	From Private Sector	Total Attendees	Civil Society /Public Sector	Private Sector
Argentina	139	45	94	26 (100%)	19 (73%)	7 (27%)
Brazil	183	76	107	39 (100%)	17 (44%)	22 (56%)
Colombia	150	73	77	10 (100%)	4 (40%)	6 (60%)
Costa Rica	199	78	121	16 (100%)	6 (38%)	11 (63%)
Jamaica	70	28	42	13 (100%)	6 (46%)	7 (54%)
Panama	261	106	155	47	37 (79%)	10 (21%)
Washington	210	120	90	16	13 (81%)	3 (19%)
TOTALS	1212	526	686	167 (100%)	102 (61%)	65 (39%)

In total, roughly 14% of those invited attended the workshops.



28. While we had hoped to see a higher percentage of participation, those who did attend were generally knowledgeable and actively engaged in the discussion. Importantly, in terms of the validity of the results, the consultation process revealed a high level of agreement about key issues—including confirmation that the draft Policy represented an important step forward for IDB Invest—and few areas of outright disagreement. Stakeholders across the region often voiced similar comments, an indication

that we were tapping into areas of broad consensus and reaching a critical mass of opinion.

29. Post-workshop questionnaires filled out by each attendee reflected a very high level of satisfaction with the presentation by IDB Invest staff, the facilitation exercises, and the quality and interest of the material discussed.

30. The focus group meetings were held at local venues and IDB Invest offices. Where attendance numbers warranted, separate meetings were held with civil society and private sector groups. Meetings were three hours in length. They began with a Power-Point presentation by IDB Invest representatives, who summarized the nature of the organization and its activities and outlined the main characteristics of the draft Access to Information Policy. **A third-party facilitator then conducted discussions focused on obtaining comments on a number of topics, namely:**

- » The importance of access to information;
- » The types of information/nature of disclosure desired *before project approval*;
- » The types of information/nature of disclosure desired *during project implementation*;
- » The *exceptions* outlined in the draft Policy;
- » Means to improve access to information;
- » The mechanisms for requesting information and the accompanying two-step review process;
- » Other issues.

(III) POST-CONSULTATION PHASE

31. Based on the consultation process, IDB Invest proposes that the Board of Executive Directors consider the proposed changes to the draft Access to Information Policy attached to this document and referenced in the Proposed Improvements section below. Should the Board approve the proposed Policy, IDB Invest will establish and execute an implementation plan being developed.

What we heard

The image features a dark blue background with a white vertical bar on the left. A large orange rectangle is positioned in the lower half, containing the text 'What we heard'. Below the text, there are several overlapping, curved lines in shades of blue and white, creating a sense of depth and movement. The overall design is modern and minimalist.

IMPORTANCE OF ACCESS TO INFORMATION

32. We received many comments from stakeholders during the public consultation process, both through written submissions and in-person workshops. Annex II of this document provides a detailed table showing the comments made, point by point, and our responses as an institution to each concern.

33. This section briefly recaps the five leading topics that emerged most frequently during the meetings:

34. Virtually all participants agreed that access to information is vitally important to allow people affected by projects to understand the implications and impacts and participate more fully in the benefits.

Private sector respondents also agreed that access to information is important, both for their own businesses and for people who live in the project areas.

35. **The main issue identified was the need for enhanced transparency.** Participants asked IDB Invest to clarify in its Access to Information Policy that greater transparency improves project performance, promotes good governance, minimizes corruption and strengthens the relationship with stakeholders.

36. Other key issues identified included **the need for information to be clear and accurate**, ensuring that it reaches those potentially affected by a project, particularly the most vulnerable, and the need to recognize access to information as a fundamental human right.

ACCESS TO INFORMATION BEFORE A PROJECT BEGINS

37. The types of information that need to be disclosed **prior to project development**, and how that information should be delivered, were topics of detailed discussions among both civil society and private sector representatives.

38. **Civil society participants stressed that:**

- » Timely and meaningful information must be provided before a project begins, and it should further explain projected environmental and social impacts, both positive and negative, and measures being enacted to mitigate risks and enhance benefits.
- » Information about the project must be delivered “on the ground,” in the languages and formats that will be clearest and most accessible to those most affected.
- » Environmental and Social Impact Assessments should be made public prior to Board approval of a project for a longer period of time than that provided in the draft Policy. Some suggested keeping the 120 days provided in the current Policy instead of the 60 days proposed in the new draft.

39. Throughout the consultation meetings with civil society, it was necessary to clarify that IIC Environmental and Social Sustainability Policy requires clients to undertake extensive stakeholder engagement, including information disclosure. And, as the consultation team explained during the meetings, in cases in which projects require environmental and social impact studies, such assessments are regulated by local laws and may be made public by local authorities before IDB Invest even becomes involved in the project.

40. Among the points raised by private sector representatives was the need for greater clarity on IDB Invest’s procedures and the approval process. They also talked about the importance of disclosing information about the entire project—not only the parts financed by IDB Invest—to avoid misunderstandings and conflicts.

ACCESS TO INFORMATION DURING AND AFTER PROJECT IMPLEMENTATION

41. In all the meetings, civil society representatives strongly stated that once a project has been approved, ongoing, updated information should be provided on how it is progressing. Both private and public sector representatives agreed on the need for monitoring and evaluation over the course of the project cycle.

42. **Among the suggestions:**

- » Private sector representatives stressed the importance of having clear disclosure requirements and procedures in place.
- » Civil society representatives called for disclosing impacts on local populations and tracking compliance with mitigation measures. They also noted that project impacts and outcomes should be disclosed, even when these are negative, for transparency's sake and to enable lessons to be learned.
- » Civil society also stressed the need to keep confidential the identity of stakeholders inquiring about projects, to protect them from reprisals.
- » Both civil society and government participants expressed the need for regular progress updates and alerts about major new risks or significant changes in timing or technical details.

EXCEPTIONS

43. Participants representing both civil society and the private sector generally agreed that some exceptions are appropriate with respect to information disclosure, and everyone called for more clarity in defining the exceptions included in the draft Policy.

44. Stakeholders emphasized the need for improved definitions and criteria regarding terms such as “commercially sensitive,” “financially sensitive” or “deliberative” information. Additionally, some civil society representatives suggested including a “harm-based” approach that would require disclosing information if the failure to disclose could potentially cause harm to an individual or impinge on human rights.

IMPROVING THE ACCESSIBILITY OF DISCLOSED INFORMATION

45. Participants agreed on the need to make already-available information more accessible. Civil society participants stressed that information should be disclosed proactively, in the local language, in a timely manner and to affected parties.

46. Private sector participants referred to the need for more information about IDB Invest to be made available, including on services provided, lending capacity, type of loans and repayment terms, institutional organization chart, as well as information on trends in different sectors, project location and main features, and sustainability analysis. They also suggested that information be made user-friendly and a simple search engine provided.



MECHANISM FOR REQUESTING INFORMATION AND REVIEWING REQUESTS

47. Both private sector and civil society groups liked the proposal of a two-stage review process—first before a management body and then before an independent external panel—to examine situations in which access to information has been denied. They also indicated that there should be clarification regarding the external panel’s structure, composition, qualifications and operations. All parties thought such a panel should be able to respond quickly, to address issues that demand urgent attention or to avoid unnecessary project delays.

Proposed Improvements

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48. IDB Invest Management is providing specific answers to all comments received from stakeholders in the public consultation process ([See Annex II](#)), as well as proposing a series of improvements and clarifications to be included in the draft Policy. These improvements mostly relate to disclosure of environmental and social information on projects and increased access to information by stakeholders. **The main improvements would include the following:**



49. IDB Invest proposes incorporating references to its Environmental and Social Sustainability Policy to explain how IDB Invest clients engage with affected communities and disclose information as part of that engagement process in a manner consistent with such policy. It also proposes mentioning the requirement established in the Environmental and Social Sustainability Policy to carry out meaningful stakeholder consultation (*paragraphs 9 and 31 of the draft Policy*).



50. With regard to post-approval disclosure of environmental and social information for Category A projects, and in addition to IDB Invest's commitment to disclose progress on the implementation of the **Environmental and Social Action Plans (ESAP)** on an annual basis, IDB Invest will disclose new or revised environmental and social documents that become available. To provide greater disclosure, with the consent of the corresponding private equity fund, IDB Invest will also disclose the names of the investee companies in which it made an indirect investment through a private equity fund, when such information becomes available (*paragraph 46*).



51. With regard to disclosure of environmental and social information concerning direct investments (Categories A, B and C), IDB Invest's Environmental and Social Review Summary (ESRS) will include a link to the website of the Independent Consultation and Investigation Mechanism (ICIM) (*paragraph 32*).



52. The requirement that the client disclose environmental and social information in one of the national languages of the country in which the project will be implemented—and communicate in formats and languages accessible to such communities—has been extended to cover not only high-risk projects but any project with affected communities (*paragraph 41*).



53. To make requests for information easier, especially considering the difficulty of internet access for some stakeholders in the region, those requesting information will also have an opportunity to make requests by telephone (*paragraph 69*). Additionally, the revised draft provides that IDB Invest will respond to requests as quickly as possible, keeping the maximum period of response to 30 calendar days following receipt of the request (*paragraph 71*).



54. An important new element of the revised draft provides that IDB Invest will maintain the identity of the requester confidential when he or she so requests (*paragraph 69*), in order to protect the person from possible reprisals. This is in keeping with discussions among international financial institutions about how to contribute to the protection of vulnerable groups such as human rights defenders.

55. Beyond these main changes, IDB Invest included several clarifications and adjustments in response to stakeholders' specific comments and concerns. Some of the comments received had to do with issues already being addressed by means of other IDB Invest policies and regulations. When a comment was not considered viable, an explanation was provided with the rationale not to include the suggested change in the Policy.

56. Overall, the consultation process allowed for constructive, effective and productive dialogue. It improved the draft Access to Information Policy by ensuring greater openness and transparency.

RECOMMENDATIONS

a. Management recommends that the Board of Executive Directors approve the revised draft of the Access to Information Policy so that it can be adopted and implemented by IDB Invest and disclosed to the public. The Policy shall go into effect by January 1, 2020, in line with the implementation action plan.

b. Management also recommends that the Board take note of the attached table with stakeholders' comments and corresponding answers from the institution, which would be disclosed to the public along with the Access to Information Policy.

Annexes

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ANNEX I:
Country Reports



PANAMA



INVITES

106 Civil society and 156 private sector



TOTAL NUMBER OF PARTICIPANTS

47



PRIVATE SECTOR

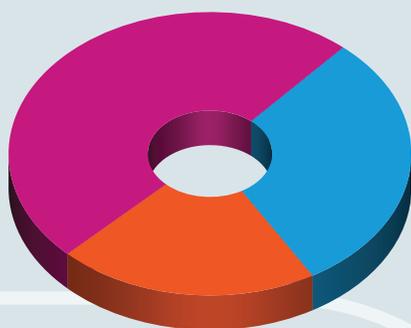
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CIVIL SOCIETY

37

TYPE OF ATTENDEE

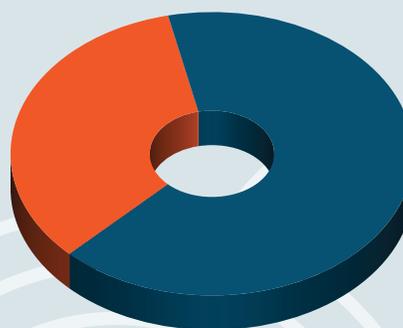


49% Civil Society

30% Public Sector

21% Private Sector

% MALE/FEMALE



66% Female

34% Male

Post-meeting surveys completed 42: 67% of respondents were “very satisfied” with the results of the meeting, starting that they were useful and fulfilled their expectations.

CONSULTATION REPORT PANAMA



ARGENTINA



INVITES

45 Civil society and 94 private sector



TOTAL NUMBER OF PARTICIPANTS

26



PRIVATE SECTOR

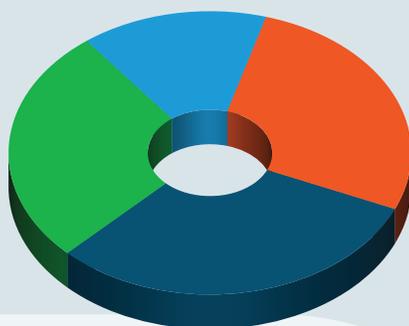
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CIVIL SOCIETY

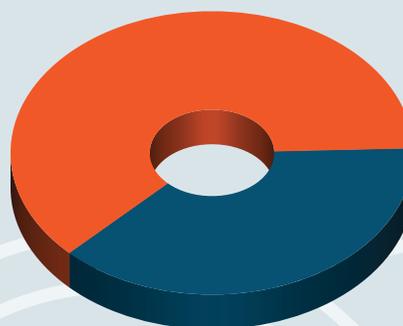
19

TYPE OF ATTENDEE



31% Public Sector
27% Private Sector
27% NGOs
15% Academics

% MALE/FEMALE



62%  Male
38%  Female

Post-meeting surveys completed 21: Over 90% of respondents left the meetings feeling “very satisfied” that the meetings were useful and fulfilled their expectations. The other were “partially satisfied”.

CONSULTATION REPORT ARGENTINA



BRAZIL



INVITES

76 Civil society and 107 private sector



TOTAL NUMBER OF PARTICIPANTS

41



PRIVATE SECTOR

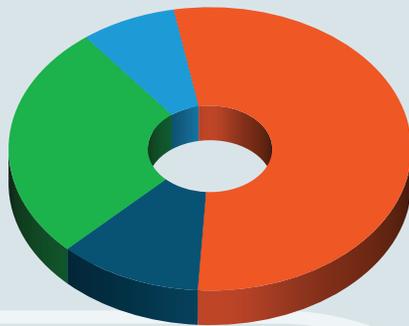
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CIVIL SOCIETY

19

TYPE OF ATTENDEE



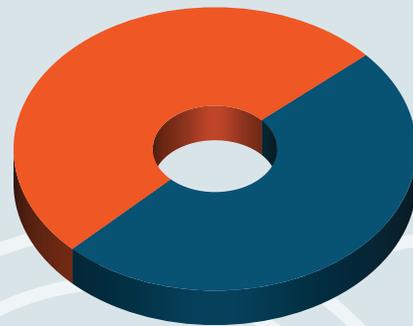
56% Private Sector

28% NGOs

12% Public Sector

8% Academics

% MALE/FEMALE



51% Male

49% Female

Post-meeting surveys completed 30: Two-thirds of the respondents left the meetings feeling “very satisfied” that the meetings were useful and fulfilled their expectations. **The other third** were “partially satisfied”.

CONSULTATION REPORT BRAZIL



COSTA RICA



INVITES

78 Civil society and 121 private sector



TOTAL NUMBER OF PARTICIPANTS

17



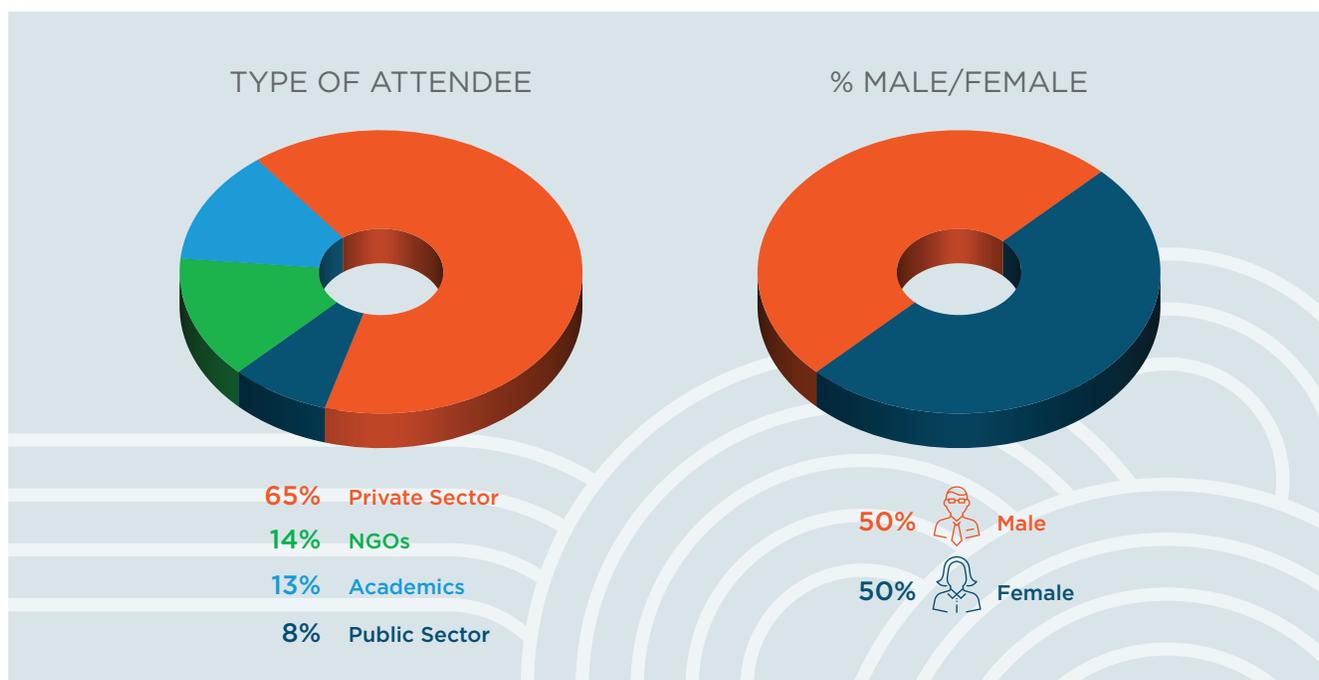
PRIVATE SECTOR

11



CIVIL SOCIETY

6



Post-meeting surveys completed 30: Two-thirds of the respondents left the meetings feeling “very satisfied” that the meetings were useful and fulfilled their expectations. **The other third** were “partially satisfied”.

CONSULTATION REPORT COSTA RICA



JAMAICA



INVITES

28 Civil society and 42 private sector



TOTAL NUMBER OF PARTICIPANTS

13



PRIVATE SECTOR

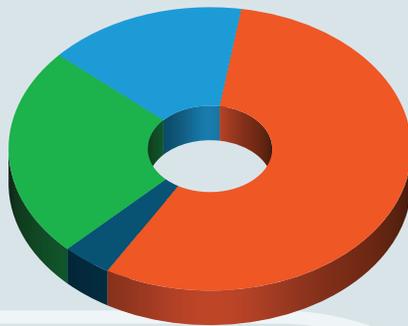
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CIVIL SOCIETY

6

TYPE OF ATTENDEE



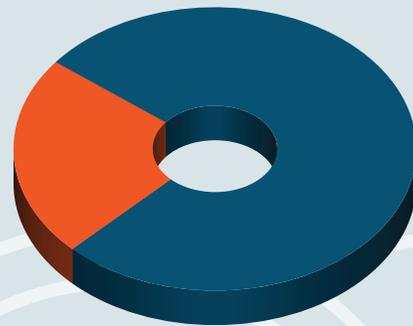
56% Private Sector

24% NGOs

16% Academics

4% Public Sector

% MALE/FEMALE



77% Female

23% Male

Post-meeting surveys completed 30: Two-thirds of the respondents left the meetings feeling “very satisfied” that the meetings were useful and fulfilled their expectations. The other third were “partially satisfied”.

CONSULTATION REPORT JAMAICA



COLOMBIA



INVITES

73 Civil society and 77 private sector



TOTAL NUMBER OF PARTICIPANTS

10



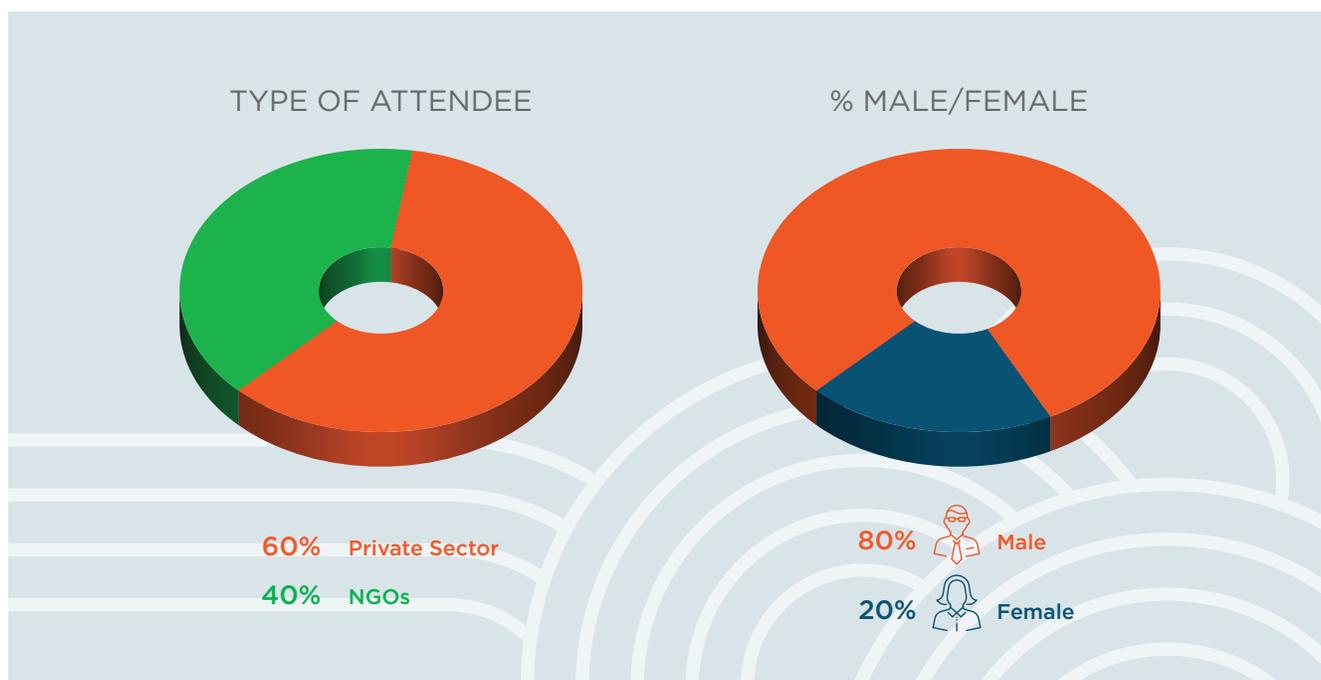
PRIVATE SECTOR

6



CIVIL SOCIETY

4



Post-meeting surveys completed 30: Two-thirds of the respondents left the meetings feeling “very satisfied” that the meetings were useful and fulfilled their expectations. **The other third** were “partially satisfied”.

CONSULTATION REPORT **COLOMBIA**



UNITED STATES



INVITES

120 Civil society and 90 private sector



TOTAL NUMBER OF PARTICIPANTS

16



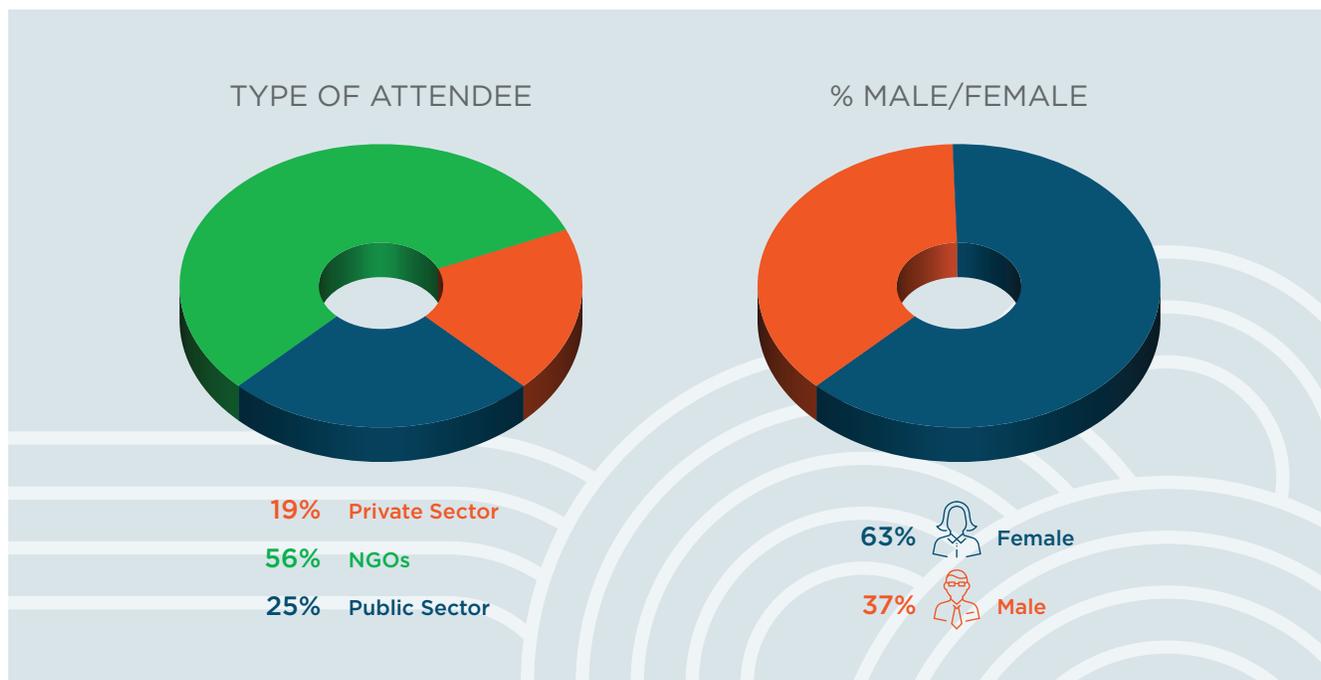
PRIVATE SECTOR

3



CIVIL SOCIETY

13



Post-meeting surveys completed 30: Two-thirds of the respondents left the meetings feeling “very satisfied” that the meetings were useful and fulfilled their expectations. **The other third** were “partially satisfied”.

CONSULTATION REPORT UNITED STATES



ANNEX II:

Specific comments received by stakeholders and IDB Invest responses

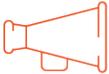


ANNEX II: SPECIFIC COMMENTS RECEIVED BY STAKEHOLDERS AND IDB INVEST RESPONSES

TABLE 2: SPECIFIC COMMENTS RECEIVED BY STAKEHOLDERS AND IDB INVEST RESPONSES

I. OVER-ARCHING ISSUES		
Issue by Type	Issues Raised by Stakeholders	IDB Invest Response to Stakeholder Comments
1. Definitions		
<p>A. CONFIDENTIALITY</p> 	<p>The term “confidential” is confusing, as it seems to make confidentiality applicable to a wide range of situations beyond exceptions. The paragraphs where this confusion arises need to be better defined. (See paragraphs 15, 64, 65, 50, and 73.)</p>	<p>The definition of “confidential information” throughout the Access to Information Policy (the “Policy”) refers to the information that will not be disclosed under the seven exceptions specified in the Policy. This type of information is excluded from disclosure with the understanding that its disclosure is more prejudicial than beneficial to legitimate rights and interests.</p> <p>Clarifications have been included in the draft Policy to make sure the use of confidential information is tailored to Policy exceptions.</p>
<p>B. CLIENT</p> 	<p>The term “client” used in the Policy refers to different categories of client relationships, i.e., directly funded clients, intermediaries, clients of intermediaries, and third parties. Clarification of how the Policy applies to these different client categories is required. (See paragraphs 34 and 52.)</p>	<p>To clarify the meaning of “client,” IDB Invest has modified language in paragraphs 34 and 52 of the Policy, as follows:</p> <p>Para 34: <u>When IDB Invest invests in a financial intermediary such as a bank, an investment fund, or another specialized institution such as a factoring company, a leasing company, or microfinance institutions, such investment is categorized as an FI Investment.</u> For investments made through financial intermediaries (categories FI-1, FI-2, and FI-3), IDB Invest discloses the following environmental and social information through the <i>Investment Summary</i>...</p> <p>In paragraph 34 (i), (ii) and (iii), the word “project” has been replaced with “FI Investment.”</p> <p>Para 52: Consistent with the practice of commercial banks and of most public sector financial institutions with respect to their investments in the private sector, the <i>IDB Invest</i> does not disclose to the public commercial, proprietary, financial, privileged, intellectual property, or other non-public</p>

ANNEX II: SPECIFIC COMMENTS RECEIVED BY STAKEHOLDERS AND IDB INVEST RESPONSES

		information about IDB Invest , its clients, co-financiers and investors, or third parties.
<p>C. DISCLOSURE/ACCESS</p> 	<p>The term “disclosure” requires clarification as to whether it connotes simply the publishing of information or whether it means the delivery of information to the people who need it.</p> <p>The term “access” requires clarification as to whether or not it infers two-way exchanges/collaboration.</p>	<p>IDB Invest will provide information to the public through its Access to Information Policy with the aim of strengthening engagement with stakeholders. However, stakeholder engagement is not done by IDB Invest directly but by the client, following the standards and provisions established in the IIC Environmental and Social Sustainability Policy, which includes the IFC Performance Standards on Environmental and Social Sustainability (PS) and other relevant regulations and standards followed by multilateral development banks. The IIC Environmental and Social Sustainability Policy is informed by the IDB Invest Environmental and Social Guidance Document (the “E&S Guidance Document”), also available on IDB Invest’s website.</p> <p>Paragraph 2.9 of the IDB Invest E&S Guidance Document states: <i>A key requirement for the client’s management of its environmental and social performance is its engagement with affected communities and stakeholders through the disclosure of relevant project information, consultation, and informed, effective participation. Stakeholder engagement must be commensurate to project risks and impacts and enable them to express their concerns in a timely manner as to the scope and effectiveness of environmental and social assessments, management plans and compensation schemes.</i></p> <p>PS 1 states: <i>Stakeholder engagement is an ongoing process that may involve, in varying degrees, the following elements: stakeholder analysis and planning, disclosure and dissemination of information, consultation and participation, grievance mechanism, and ongoing reporting to Affected Communities.</i> [See PS 1, section 25]</p>
<p>D. STANDARD DEVELOPMENT IMPACT INDICATORS</p>	<p>The term “standard development impact indicators” requires clarification. (See paragraph 47.)</p>	<p>Under paragraph 47 of the Policy, with the client’s consent and protecting confidential information in accordance with the exceptions established in this Policy, IDB Invest discloses information for each investment on the key standard development impact indicators tracked through IDB Invest’s</p>

ANNEX II: SPECIFIC COMMENTS RECEIVED BY STAKEHOLDERS AND IDB INVEST RESPONSES

		<p>Development Effectiveness Learning, Tracking and Assessment tool (DELTA) <u>tool</u> for each investment; this information will be updated in the Investment Summary as the results become available. IDB Invest also discloses information on the results of development impact studies and ex-post evaluations that may be conducted relating to each investment or IDB Invest area of business.</p> <p>The implementation guidelines for the Access to Information Policy will provide that these indicators should follow common quality standards and indicators and be specific, measurable, achievable, relevant, and time-bound (SMART).</p>
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ANNEX II: SPECIFIC COMMENTS RECEIVED BY STAKEHOLDERS AND IDB INVEST RESPONSES

<p>E. FREE, PRIOR, AND INFORMED CONSENT</p> 	<p>The term “free, prior, and informed consent” requires clarification. (See paragraph 32 (v).)</p>	<p>IDB Invest addresses free, prior, and informed consent in its Environmental and Social Sustainability Framework. Specifically, IDB Invest requires the client to engage with indigenous peoples and in certain circumstances obtain their free, prior, and informed consent, under the IFC Performance Standards (PS).</p> <p>PS 1, section 32, states: <i>For projects with adverse impacts to Indigenous Peoples, the client is required to engage them in a process of ICP [Informed Consultation and Participation] and in certain circumstances the client is required to obtain their Free, Prior, and Informed Consent (FPIC).</i></p> <p>Under PS 7, sections 13-17 indicate the circumstances under which the client must obtain FPIC:</p> <ol style="list-style-type: none"> 1. For relocation of indigenous peoples from lands and natural resources subject to traditional ownership or under customary use when such relocation is unavoidable. 2. Where significant project impacts on critical cultural heritage are unavoidable. 3. Where a project proposes to use the cultural heritage including knowledge, innovations, or practices of indigenous peoples for commercial purposes.
<p>F. ENVIRONMENTAL AND SOCIAL SUSTAINABILITY POLICY (ESSP)/IFC PERFORMANCE STANDARDS</p> 	<p>The Policy refers to the ESSP. (See paragraph 17 (i).) The relationship between the ESSP and the AIP needs to be clarified.</p> <p>The term “performance standard(s)” frequently appears in the IDB Invest response to stakeholder comments within this table. It needs to be defined.</p>	<p>Language has been added to paragraph 9 and footnote 4 of the Policy to address this concern:</p> <p>Para 9: Based on a business approach, IDB Invest seeks to preserve the trust of its clients and third parties. In addition, in accordance with the Policy, IDB Invest respects and protects the confidentiality of the information it receives from its clients and third parties to enable the assessment of business opportunities or to supervise and evaluate existing investments or advisory services. This business approach also requires that, as part of the process of managing the risks and impacts of their investment projects, IDB Invest’s clients engage with communities affected by the projects, including through the disclosure of information, in a manner that is</p>

ANNEX II: SPECIFIC COMMENTS RECEIVED BY STAKEHOLDERS AND IDB INVEST RESPONSES

		<p>consistent with the IIC Environmental and Social Sustainability Policy.[3]</p> <p>Footnote 4: The IIC Environmental and Social Sustainability Policy incorporates the International Finance Corporation (IFC) Performance Standards.</p>
<p>G. INTERESTED PARTY</p> 	<p>The term “interested party” is used frequently in the Policy. (See paragraphs 6, 39 and 66.) The term needs to be clarified or changed to ensure that the Policy is not interpreted as limited only to “interested” parties.</p>	<p>References to “interested parties” have been removed and replaced by the term “stakeholders.”</p>
<p>H. INFORMATION</p> 	<p>The term “information” should be clarified as encompassing the widest range of formats (videos, emails, documents, etc.).</p>	<p>A definition of information will be included in the implementation guidelines.</p>
<p>2. Transparency</p>	<p>Criteria used to approve a project should be disclosed.</p>	<p>IDB Invest discloses the criteria used to approve projects as part of its Operating Policy, its Business Plan, the Integrity Framework and the IIC Environmental and Social Sustainability Policy, among other documents that are included in the list of routinely disclosed documents under this Access to Information Policy.</p>
	<p>Contact information for IDB Invest and its client(s), including intermediaries, should be disclosed. (See paragraphs 30 (ii) and 34.)</p>	<p>The Policy addresses disclosure of contact information in paragraph 30. IDB Invest contact information will be included in all investment summaries, as well as client contact information for investments where there may be affected communities.</p>
	<p>Borrowers, and the amount financed and still owed, should be disclosed. (See paragraph 30.)</p>	<p>IDB Invest discloses the identity of the project or investee company and the amount and nature of IDB Invest investment, as detailed in paragraph 30 of the draft Policy. Based on a business-sensitive approach, IDB Invest does not disclose outstanding or disbursed amounts.</p>
	<p>Proposed measures to mitigate risk of harm should be disclosed.</p>	<p>IDB Invest discloses proposed measures to mitigate a project’s risks in its Environmental and Social Review Summary (ESRS).</p>

ANNEX II: SPECIFIC COMMENTS RECEIVED BY STAKEHOLDERS AND IDB INVEST RESPONSES

		This requirement is addressed in paragraph 32 (iii) of the draft Policy.
	Information on the Independent Consultation and Investigation Mechanism (ICIM) should be disclosed so that stakeholders are aware of their options.	Under the draft Policy, IDB Invest will disclose general information on the Independent Consultation and Investigation Mechanism (ICIM) in the Environmental and Social Review Summary (ESRS) posted on the IDB Invest website. This includes a link to the ICIM webpage and the ICIM contact information.
	Information should be disclosed not just on IDB Invest-funded portion of a large project, but the EIA/ESAP, etc., for the entire project should also be included under paragraph 30 as one of the items disclosed.	Environmental Impact Assessments (EIAs) and the Environmental and Social Review Summary (ESRS) encompass any investment facility associated with the project, not just the part financed by IDB Invest. Under IFC Performance Standards (see PS 1, section 8), a project's environmental and social assessment includes associated facilities that are not funded as part of the project and that would not have been constructed or expanded if the project did not exist and without which the project would not be viable.
3. Protection of requesters of information	IDB Invest and its clients should commit to protect requests for information made by the media, individuals and communities, whether such requests are anonymous or not, as an important aspect of human rights protection.	When requested, IDB Invest will keep the requester's identity confidential. Language has been added in the Policy to address this concern. Para 69: <i><u>"Anonymous requests will not be considered. However, IDB Invest will maintain the identity of the requester confidential when the requester so requests."</u></i>
4. Harmonization with national and international laws and treaties	National and international laws and treaties applying to countries or regions in which IDB Invest operates, and which may conflict with IDB Invest Policy, need to be taken into consideration.	IDB Invest assesses potential environmental and social risks and impacts of all proposed investments for compliance with host country laws and regulations, under the IIC Environmental and Social Sustainability Policy and associated standards and guidelines, prior to final approval. According to the IIC Environmental and Social Sustainability Policy (section III. 1) "the IIC considers [...] host country's institutional and regulatory framework."

ANNEX II: SPECIFIC COMMENTS RECEIVED BY STAKEHOLDERS AND IDB INVEST RESPONSES

		<p>IDB Invest also asks its clients to comply with national and international standards based on the IFC Performance Standards (PS). PS 1, section 6, indicates that the client will establish a policy which “specifies that the project (or business activities, as appropriate) will comply with the applicable laws and regulations of the jurisdictions in which it is being undertaken, including those laws implementing host country obligations under international law.”</p>
	<p>The Policy should be harmonized with inter-American standards such as the OAS Model Law on Access to Information.</p>	<p>The Model Inter-American Law on Access to Information is designed to guide public authorities’ disclosure.</p> <p>Nevertheless, just as with the Model law, the Access to Information Policy is grounded in the principle of maximum access to information, subject to a list of limited exceptions. It includes both proactive disclosure obligations as well as information requests, responsibilities, and procedures, providing a two-stage review process for denial of information.</p>

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<p>5. Accessibility of information</p>	<p>Many aspects of disclosure come into play in ensuring that information is accessible to the spectrum of stakeholders. The information should be:</p> <ul style="list-style-type: none"> • Timely; • Provided in an open format; • Presented along a spectrum from highly technical to very simple, as appropriate; • Not only posted on IDB Invest’s website but provided through other means to improve access; • Designed to promote a two-way dialogue and a participatory approach; • Provided in the language(s) that best communicates with those affected; • Shared using a variety of means—including but not limited to written reports, face-to-face communication, email, message streams, social media, mobile phones, graphics, blogs, videos, radio, workshops, local project offices, and assistive communication such as Braille. 	<p>IDB Invest asks its clients to engage in meaningful consultations, in line with the IIC Environmental and Social Sustainability Policy, which includes IFC Performance Standards (PS).</p> <p>PS 1, section 30, states: <i>When Affected Communities are subject to identified risks and adverse impacts from a project, the client will undertake a process of consultation in a manner that provides the Affected Communities with opportunities to express their views on project risks, impacts and mitigation measures, and allows the client to consider and respond to them.</i></p> <p>IDB Invest supports public consultation by providing access to relevant and timely information (paragraphs 30-42 of the Policy).</p> <p>Furthermore, under the new Policy (paragraph 44), IDB Invest will disclose explanatory, non-technical materials produced by the client in the context of public consultation on the projects, when such materials are available. The term “non-technical” has been included in paragraph 44.</p>
<p>II. COMMENTS RECEIVED ON THE POLICY</p>		
<p>I. INTRODUCTION</p>		
<p>PARAS. 1& 2: PURPOSE OF THE IDB INVEST</p>	<p>Paragraphs 1 & 2 should articulate IDB Invest mission to improve the development of people and communities affected by its funding.</p>	<p>To address this concern, IDB Invest modified paragraph 2 of the draft policy as follows:</p> <p>Para 2: <i>This Access to Information Policy (the “Policy”) reflects IDB Invest’s commitment to enhancing transparency and accountability in its activities, aspects that the institution considers necessary and fundamental to fulfill its sustainable development purpose.</i></p>
<p>PARA. 3: HUMAN RIGHTS</p>	<p>There is confusion in relation to the Policy and its human rights position, arising in particular from paragraphs 3 and 51. Human rights must be articulated as an important principle of the Policy.</p>	<p><i>IDB Invest</i> has a serious commitment to respect the fundamental right to access information. As a result, the Policy incorporates many of the standards developed both nationally and internationally on access to information.</p>

ANNEX II: SPECIFIC COMMENTS RECEIVED BY STAKEHOLDERS AND IDB INVEST RESPONSES

		<p>Paragraphs 51 and 11 of the Policy has been redrafted to clarify this issue: Para 51: The IIC commits to disclosing as much information as possible. However, access to information is not an absolute right and its exercise may be limited to protect other legitimate rights or interests that must be safeguarded. Based on the premise that the disclosure of information could be more prejudicial than beneficial to such legitimate rights or interests, the IIC does not provide access to the following categories of information: IDB Invest considers the following categories of information to be confidential since their disclosure will imply more harm than benefit to legitimate rights or interests of affected parties:</p> <p>b) Clear and Well-Defined Exceptions Para 11: The exceptions to disclosure contained in this Policy are 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. Following international standards and the practice of other multilateral development banks that work with the private sector, the exceptions to disclosure are based on the premise that the disclosure of information covered by such exceptions would result in more harm than benefit to legitimate rights or interests of affected parties.</p>
<p>PARA. 5: DISCLOSURE OF DOCUMENTS CREATED PRIOR TO THE POLICY'S RATIFICATION - HISTORICAL INFORMATION</p>	<p>The Policy should apply to all documents possessed and produced by IDB Invest regardless of the date of their creation. The implication of paragraphs 5 and 66 is that documents created prior to the Policy's ratification would not be subject to disclosure.</p> <p>There is a contradiction between paragraphs 3, 4, and 10, on the one hand, which are positive in regard to rights, and paragraph 5, which states that the Policy does not create rights.</p>	<p>IDB Invest will respect the framework that applied to the information produced or received prior to when the new Policy takes effect, in a way that can ensure certainty. As with most national laws, there will be no retroactive application of the Policy, to respect the commitments made previously.</p> <p>Paragraph 5 of the Policy contains standard language regarding privileges and immunities of international financial institutions. This is an institutional safeguard that does not limit the obligations assumed by IDB Invest under the Policy.</p>

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II. THE POLICY		
<p>PARA. 6: “PROACTIVE”</p>	<p>Through its reference to “proactively...” (paragraph 6), the Policy should require that IDB Invest not only disclose information but also take any measures necessary to ensure that the information reaches the stakeholders who need it.</p>	<p>As required in the IIC Environmental and Social Sustainability Policy, IDB Invest asks its clients to engage in meaningful consultations in line with the IFC Performance Standards (PS).</p> <p>PS 1, section 30, states: <i>When Affected Communities are subject to identified risks and adverse impacts from a project, the client will undertake a process of consultation in a manner that provides the Affected Communities with opportunities to express their views on project risks, impacts and mitigation measures, and allows the client to consider and respond to them.</i></p> <p>IDB Invest supports public consultation by providing access to relevant and timely information (paragraphs 30-42 of the Policy).</p> <p>Furthermore, under the new Policy (paragraph 44), IDB Invest will disclose explanatory, non-technical materials produced by the client in the context of public consultation on the projects, when such materials are available. The term “non-technical” has been included in paragraph 44.</p>
<p>PARAS. 8 AND 9: VETO AND RIGHTS</p>	<p>Paragraph 8 does not refer to such other external benefits of transparency as participation and the combating of corruption.</p>	<p>IDB Invest is a party to the Uniform Framework for Preventing and Combating Fraud and Corruption, a standard reached by several international financial institutions—including the entities of the Inter-American Development Bank Group—as a harmonized strategy to combat corruption in the activities and operations of the member institutions. IDB Invest adopted the Integrity Framework to reiterate its firm commitment to integrity in all its operations and activities and to strengthen the mechanisms through which it carries out this commitment. IDB Invest acknowledges that access to information is an important tool to combat corruption and protects whistleblowers under its Integrity Framework.</p>

ANNEX II: SPECIFIC COMMENTS RECEIVED BY STAKEHOLDERS AND IDB INVEST RESPONSES

	Paragraphs 8 and 9 appear to grant veto powers to third parties rather than simply protecting their legitimate interests.	IDB Invest balances the right to access information against other legitimate rights and interests by establishing the exceptions to disclosure included in the draft Policy. Therefore, in conducting business, IDB Invest protects commercial, proprietary, financial, privileged, intellectual property, or other non-public information it receives in confidence, in a way that provides certainty to clients, partners, stakeholders, and third parties who share information belonging to them with IDB Invest.
PARA. 10: CLARITY OF PRINCIPLES	Wording in paragraphs 10 and 51 refers to disclosure of “as much information as possible,” a phrase that is vague and could be seen as inconsistent with the principle of maximum disclosure.	Disclosing “as much information as possible” refers to IDB Invest’s commitment under the Policy to disclose its public information proactively. It does not constitute a restriction to disclosure or to the principle of maximum access to information.
PARA. 10: ADDITIONAL PRINCIPLES	Paragraphs 10 and 11 should include principles related to informality, openness, and good faith, including a commitment to ensure that the rules governing the submission and processing of applications are easy to use.	The Policy is based on the principles of “maximum access to information” (paragraph 10) and “simple and broad access to information” (paragraph 12). In line with these principles, IDB Invest will use all practical means to facilitate access to information, including establishing procedures to ensure that it is easy to submit and process applications. IDB Invest will take appropriate measures to incorporate these suggestions in the implementation guidelines of the draft Policy.
PARA. 11: CLARIFICATION OF “POSSIBILITY”	The use of wording that refers to potential harm based on a “clear and well-defined possibility” requires clarification regarding how such a possibility would be determined.	<p>A harm test underlies all the policy exceptions (ex-ante). Paragraph 11 is a general provision, which notes that the exceptions are based on a determination that certain categories of information will not be accessible because IDB Invest has determined that the potential harm caused by such disclosure outweighs the benefits deriving from accessibility.</p> <p>IDB Invest has redrafted paragraph 11 to include the following clarification:</p> <p>b) Clear and Well-Defined Exceptions Para 11: The exceptions to disclosure contained in this Policy are 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 <u>Following international standards and the practice of other</u></p>

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		<u>multilateral development banks that work with the private sector, the exceptions to disclosure are based on the premise that the disclosure of information covered by such exceptions would result in more harm than benefit to legitimate rights or interests of affected parties.</u>
PARA. 12: INFORMATION MANAGEMENT	Clarify what is meant by an information management and classification system.	Following IDB experience (see <u>IDB Implementation Guidelines</u>), IDB Invest will create a system to classify the information into two categories: 1. Public (information that does not fall under one of the disclosure exceptions included in the Policy); or 2. Confidential (information that falls under one of the disclosure exceptions). IDB Invest will take appropriate measures to incorporate specific details of this system in the Policy's implementation guidelines.
PARA. 13: CLIENT-IDB INVEST PROCESS	Clarification is needed if there is disagreement between a client and IDB Invest regarding exceptions.	IDB Invest commits to disclosing as much information as possible. The draft policy recognizes that IDB Invest will have access to information that does not belong to it. For example, paragraph 4 explains that IDB Invest will receive information from its clients in the course of its business. IDB Invest requests its clients to identify any confidential information it receives from them and commits to maintaining such confidentiality, pursuant to the draft Access to Information Policy and any agreements that are signed between IDB Invest and its clients. Therefore, IDB Invest will not challenge a client's confidentiality assessment of information that belongs to it.
III. INFORMATION ROUTINELY MADE AVAILABLE		
PARA. 14: TIMING FOR ROUTINE DISCLOSURE	The timeline for routine disclosure or delayed disclosure should be specified, thereby eliminating any need for reference to implementation guidelines.	The Policy indicates that IDB Invest commits to providing information in a timely manner and to establishing a specific timeframe for disclosure in the Policy's implementation guidelines. This will give IDB Invest the necessary flexibility if such timeframe requires adjustment during implementation.
A. INSTITUTIONAL INFORMATION		

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PARA. 18: CONSULTATION ON POLICIES BEFORE THE BOARD	IDB Invest should require a two-round consultation process for particularly impactful policies that are under consideration by IDB Invest Board.	The Policy does not regulate how IDB Invest policies will be consulted with the public. IDB Invest will follow best practices to develop this procedure, taking into consideration the level of impact of the policy being updated.
	IDB Invest should clarify how it will regulate the public consultation process, including definition of rules and procedures.	
PARA. 19: DOCUMENTS CIRCULATED TO THE BOARD	A provision should be added for disclosing environmental social and governance (ESG) impact results for non-project business.	Pursuant to paragraph 19 of the Policy, IDB Invest discloses Board records, such as agendas, minutes, and resolutions of meetings of the Governors and of the Executive Directors, excluding any confidential information under Policy exceptions. Documents circulated to the Board are disclosed based on the public nature of the information, taking into account the seven exceptions.
PARA. 20 DECLASSIFICATION	Greater clarity is required regarding what information disclosure will occur after project completion, addressing declassification.	IDB Invest will disclose its public information proactively or upon request by applying the Policy exceptions. Therefore, all IDB Invest public information will be disclosed.
PARA. 25: LESSONS LEARNED	Internal reports regarding analyses of project performance after completion should be disclosed, as well as project implementation and completion reports, draft operational policies, and sector strategies, among other items.	As per the new Policy, IDB Invest will disclose information on the results of development impact studies and ex-post evaluations that may be conducted relating to each investment or IDB Invest area of business. In addition, updates on compliance with IDB Invest environmental and social requirements for Category A will be disclosed, as well as compliance with key development objectives for each investment.
PARA. 26: DEVELOPMENT IMPACTS AND OUTCOMES	Impacts and outcomes should be disclosed, even when they may be negative, for transparency's sake and to enable lessons to be learned.	Effective communication and exchange of information and ideas with stakeholders is a vital component of effective and sustainable development. For this reason, among other information, IDB Invest will disclose development outcomes (paragraph 26) and information on development impact results (paragraph 50).
B. INVESTMENT-RELATED INFORMATION		
B.1 PRE-APPROVAL DISCLOSURE		

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<p>PARA. 29: PERIODIC UPDATES</p>	<p>Periodic updates on the investment should be required.</p>	<p>This issue is already addressed in paragraph 45 of the Policy: <i>IDB Invest will update the Investment Summary as necessary to ensure the accuracy of the previously disclosed information.</i></p>
<p>PARA. 30: INVESTMENT SUMMARY</p>	<p>The dates when project information was disclosed and updated and the current status of the project in the project cycle should be added to paragraph 30.</p>	<p>Language has been added to paragraph 30 of the Policy to reflect this suggestion:</p> <p>Para. 30: <i>IDB Invest produces and discloses a summary for each investment (the “Investment Summary”) synthesizing the most important elements of the potential investment, including the following information:</i></p> <ul style="list-style-type: none"> <i>i) the identity of the project or investee company;</i> <i>ii) information about the project shareholders, sponsors, or investee company, as applicable;</i> <i>iii) the total project cost, where applicable;</i> <i>iv) the location of the project or investee company;</i> <i>v) a description of the project or investment;</i> <i>vi) the amount and nature of IDB Invest’s investment;</i> <i><u>vii) the date of the Investment Summary disclosure;</u></i> <i><u>viii) the status of the project in the project cycle;</u></i> <i>ix) the expected date for a decision on the investment by IDB Invest’s Board (or other relevant internal authority);</i> <i>x) the expected development impact of the project or investment;</i> <i>xi) IDB Invest’s expected role and additionality;</i> <i>xii) IDB Invest’s categorization^[4] of the project or investment for environmental and social purposes and a description of the rationale for such categorization; and</i> <i>xiii) contact details for the Investment Operations Department.</i> <p><i>In view of the potential risks and impact of investments where there may be affected communities, the Investment Summary will also include:</i></p> <ul style="list-style-type: none"> <i>xiv) guidance on how and where information about the proposed project can be obtained locally; and</i> <i>xv) in addition to the contact information indicated in item xiii, contact information for the client’s offices, including post office address, telephone number, and email address.</i>

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		<p><u>[4] As part of IDB Invest's review of a project's expected environmental and social risks and impacts and in view of its Environmental and Social Sustainability Policy, IDB Invest provides an environmental and social category (A, B or C or FI-1, FI-2, or FI-3) to the project. The IIC Environmental and Social Sustainability Policy and the environmental and social review procedures, which are posted on its website, contain details on such review and categorization process.</u></p>
<p>PARA. 31: ENVIRONMENTAL AND SOCIAL INFORMATION</p>	<p>Paragraph 31 should require its clients to consult with and incorporate the input of affected communities before the project comes to the Board. The results of the consultations should be disclosed.</p> <p>Stakeholder mapping and engagement plans should be disclosed prior to consultations being held, including times and locations, or it should be specified why consultations are not required.</p>	<p>The results of public consultation are typically included in the Environmental Impact Assessment (EIA). For more information on informed consultation and participation requirements that IDB Invest clients are required to comply with, see the IFC Performance Standards (PS), sections 30 and 31 of PS 1 included in the IIC Environmental and Social Sustainability Policy.</p> <p>To clarify this point, language has been added to paragraph 31 of the Policy, as follows: Para 31: In accordance with the IIC Environmental and Social Sustainability Policy and as part of the projects' risks and impacts management process, the client produces and discloses key environmental and social information throughout the investment cycle consistent with the project's environmental and social risk category. In line with the referenced policy, IDB Invest requires its clients to engage and communicate with the affected communities, including through the disclosure of information according to the project's environmental and social risk level carry out stakeholder consultation in a manner that is consistent with the IIC Environmental and Social Sustainability Policy.</p> <p>According to the IFC Performance Standards (see PS 1, footnote 26), depending on the scale of the project and significance of the risks and impacts, clients could be required to disclose to affected communities the stakeholder engagement plan, which would include stakeholder mapping.</p>

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	As part of the ESRS, those safeguards likely to be triggered should be indicated, or the rationale for why they are not deemed applicable should be provided.	As part of IDB Invest Environmental and Social Review Summary (ESRS), which is publicly disclosed, the IFC Performance Standards that are triggered for each project are included in the section on environmental and social categorization.
	The ESAP and EIAs should be published prior to the Board meeting date, or, the rationale for why such documents are not required should be provided.	The Environmental and Social Review Summary (ESRS) and the Environmental and Social Action Plan (ESAP) will continue to be published 30 days before the Board or Management meeting approving the investment. In addition, EIAs are published prior to the Board meeting for higher risk projects, and for medium risk projects where an EIA is required if there is an exception and the EIA is unavailable prior to Board, an explanation will be included in the ESRS.
	Trade union and collective agreements and other labor-related legal processes should be disclosed.	An assessment of working and labor conditions is part of the Environmental and Social Review Summary. The evaluation is performed under the scope of IFC Performance Standard 2, including the topic of workers' organizations.
	The Policy should have a paragraph related to a requirement for the disclosure and updating of risk assessments.	For Category A high-risk projects, the Environmental and Social Action Plan will be updated annually.
PARA 31: IDB INVEST POLICY CONFLICTS	Paragraph 31 should be amended to assert that where there is a conflict between the Access to Information and the Environmental and Social Sustainability Policies, the former should prevail.	<p>The Access to information Policy and the Environmental and Social Sustainability Policy are complementary and designed to work together. Language has been added to Paragraph 31 to clarify this issue.</p> <p>Para 31: In accordance with the IIC Environmental and Social Sustainability Policy and as part of the projects' risks and impacts management process, the client produces and discloses key environmental and social information throughout the investment cycle consistent with the project's environmental and social risk category. In line with the referenced policy, IDB Invest requires its clients to engage and communicate with the affected communities, including through the disclosure of information according to the project's environmental and social risk level carry out</p>

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		<p>stakeholder consultation in a manner that is consistent with the IIC Environmental and Social Sustainability Policy.</p>
<p>PARA. 32: ENVIRONMENTAL AND SOCIAL REVIEW SUMMARIES (ESRS)</p>	<p>IDB Invest should require its clients to undertake site visits where affected populations are unknown.</p>	<p>As per the IIC Environmental and Social Sustainability Policy, a site visit is part of the due diligence for medium- and high-risk projects, where interviews with affected communities are conducted.</p> <p>During this process, IDB Invest verifies whether the client has identified affected populations, which is a requirement as per the IIC Environmental and Social Sustainability Policy.</p>
	<p>Prior to a vote by the Board on potential approval of a project, IDB Invest should disclose a report outlining how it has determined if there was broad community support.</p>	<p>IDB Invest will disclose a robust description of the consultation process and the reasoning behind how it determined broad community support, where applicable, for the project.</p>
	<p>For Category A projects, the ESRS should include a description of the client's efforts to involve the affected community in project design.</p>	<p>For Category A projects, IDB Invest will include a description of the client's efforts to involve the affected community in the project design in the ESRS. Under IFC Performance Standards, PS 1, section 30, states: <i>When Affected Communities are subject to identified risks and adverse impacts from a project, the client will undertake a process of consultation in a manner that provides the Affected Communities with opportunities to express their views on project risks, impacts and mitigation measures, and allows the client to consider and respond to them. The extent and degree of engagement required by the consultation process should be commensurate with the project's risks and adverse impacts and with the concerns raised by the Affected Communities.</i></p>
	<p>At the project level, clients should be required to disseminate a description of the grievance mechanism in place, including a way for affected individuals to lodge anonymous comments and complaints.</p>	<p>This issue is addressed by the institution under IFC Performance Standards (PS 1, section 35): <i>Where there are Affected Communities, the client will establish a grievance mechanism to receive and facilitate resolution of Affected Communities' concerns and grievances about the client's environmental and social performance. The grievance mechanism should be scaled to the risks and adverse impacts of the project and have Affected Communities as its primary user. It should seek to resolve concerns promptly, using an understandable and transparent consultative process that is culturally appropriate and readily accessible, and at no cost</i></p>

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		<p><i>and without retribution to the party that originated the issue or concern. The mechanism should not impede access to judicial or administrative remedies. The client will inform the Affected Communities about the mechanism in the course of the stakeholder engagement process.”</i></p> <p>Furthermore, as a good practice, Guidance Note GN110 to PS 1 indicates the following: <i>Where the project involves specifically identified physical elements, aspects and facilities that are likely to generate adverse environmental and social impacts on Affected Communities, the client must establish, in addition to the requirements under paragraph 35 of Performance Standard 1 above on External Communications, a procedure at the project level that is readily accessible to the Affected Communities, and that allows for receiving, addressing, and recording/documenting complaints and communications from external stakeholders. Confidentiality of the persons raising the complaint must be protected. The client shall ensure that the procedure is easily accessible, understandable and its availability communicated to Affected Communities.</i></p> <p>Finally, paragraph 33, footnote 6, of the draft Access to Information Policy clarifies that grievance mechanisms are examples of other environmental and social evaluations produced or updated by the client that IDB Invest will disclose whenever relevant and available.</p>
<p>PARA. 33: TREATMENT OF CATEGORY B, C AND OTHER PROJECTS</p>	<p>There should be longer periods of review for Category B and C projects (and other aspects of the Policy pertaining currently to Category A projects only), as projects classified below A can also have significant impacts.</p>	<p>The Environmental and Social Review Summary (ESRS) for projects, including those categorized as B and C, are posted no later than 30 calendar days prior to Board or Management approval, which is in line with best practices of other multilateral financial institutions. That said, the data suggest that the ESRS is often posted for much longer prior to Board approval.</p>
<p>PARA. 34: DISCLOSURE REGARDING</p>	<p>Contact information should be disclosed for financial intermediaries involved in a project.</p>	<p>All Investment Summaries will include contact details for the Investment Operations Department. Requests for information on these projects are to be channeled through such contact</p>

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<p>FINANCIAL INTERMEDIARIES</p>		<p>information, who can provide further information as appropriate.</p>
	<p>Investment Summaries should require disclosure of a summary and description of the main environmental and social risks of subprojects of financial intermediaries as they become available.</p>	<p>IDB Invest recognizes the importance of managing environmental and social risks and has established a robust review system, based mainly on the IFC Performance Standards. For investments made through financial intermediaries, and to address this concern, IDB Invest proposes to incorporate the following obligation in paragraph 46:</p> <p>Para 46: (i) For Category A Projects approved after the entry into force of this Policy, IDB Invest will disclose progress on the implementation of the ESAPs on an annual basis. In addition, whenever new or revised relevant environmental or social documents for these projects are made available, such documents will be disclosed; (ii) With the consent of the corresponding private equity fund and protecting confidential information in accordance with the Policy exceptions in Section IV, IDB Invest will disclose the names of the investee companies in which IDB Invest made an indirect investment through a private equity fund, when such information becomes available.</p>
<p>PARAS. 31-34 AND 46: GENDER</p>	<p>As part of the ESRS, ESAP, EIAs, and other documents prepared by the client, gender should be explicitly taken into account.</p>	<p>When drafting the ESRS and ESAP, IDB Invest will explicitly take gender into account. The framework for analyzing environmental and social issues takes gender differences into consideration, as prescribed in the IFC Performance Standards (PS). PS 1 requires that when assessing risks and impacts, the client should “identify individuals and groups that may be directly and differentially or disproportionately affected by the project because of their disadvantaged or vulnerable status.” This disadvantaged or vulnerable status may stem from an individual’s or group’s race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status.</p> <p>PS 1 also mentions that effective consultation is a two-way process that should focus inclusive engagement on those directly affected as opposed to those not directly affected, such as men, women, the elderly, youth, displaced persons, and</p>

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		<p>vulnerable and disadvantaged persons or groups. It states: <i>For projects with potentially significant adverse impacts on Affected Communities, the client will conduct an Informed Consultation and Participation (ICP) process that will build upon the steps outlined above in Consultation and will result in the Affected Communities' informed participation... The consultation process should (i) capture both men's and women's views, if necessary, through separate forums or engagements, and (ii) reflect men's and women's different concerns and priorities about impacts, mitigation mechanisms, and benefits, where appropriate.</i></p> <p>PS 2 demands that the client base the employment relationship on the principle of equal opportunity and fair treatment, and not discriminate with respect to any aspects of the employment relationship (such as gender, race, nationality, ethnic, social and indigenous origin, religion or belief, disability, age, or sexual orientation).</p> <p>It is required that the client take measures “to prevent and address harassment, intimidation, and/or exploitation, especially in regard to women.” The client also needs to provide “a safe and healthy work environment, taking into account inherent risks in its particular sector and specific classes of hazards in the client’s work areas, including physical, chemical, biological, and radiological hazards, and specific threats to women.”</p> <p>PS 4 addresses the client’s responsibility “to avoid or minimize the risks and impacts to community health, safety, and security that may arise from project related-activities, with particular attention to vulnerable groups.” This disadvantaged or vulnerable status may stem from an individual’s or group’s race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status.</p> <p>PS 5 requires that during resettlement the consultation process “should ensure that women’s perspectives are obtained and their interests factored into all aspects of</p>
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		<p>resettlement planning and implementation. Addressing livelihood impacts may require intra-household analysis in cases where women’s and men’s livelihoods are affected differently. Women’s and men’s preferences in terms of compensation mechanisms, such as compensation in kind rather than in cash, should be explored... Documentation of ownership or occupancy and compensation arrangements should be issued in the names of both spouses or heads of households, and other resettlement assistance, such as skills training, access to credit, and job opportunities, should be equally available to women and adapted to their needs. Where national law and tenure systems do not recognize the rights of women to hold or contract in property, measures should be considered to provide women as much protection as possible with the objective to achieve equity with men.”</p>
<p>PARAS. 35, 36, 37: PRE-APPROVAL DISCLOSURE</p>	<p>A stakeholder recommends adding the phrase “prior to Board or Management making a decision on the proposed investment proposal” to paragraphs 35-37. It views the current wording as inferring that the act of disclosure is definitive, i.e., not allowing for the possibility of the Board receiving information that would change the Board’s decision.</p>	<p>Disclosure prior to approval of an investment is done primarily by the client under its public consultation requirements set out in the IIC Environmental and Social Sustainability Policy, as well as in the IFC Performance Standards (PS) and other relevant regulations. However, IDB Invest understands the importance of providing relevant investment information at an early stage. Therefore, in paragraphs 35-37 of the Policy IDB Invest commits to disclose such relevant information as far in advance as possible and no later than 30 calendar days prior to Board or Management approval for the Investment Summary and the Environmental and Social Review Summary (ESRS), as well as for Environmental Impact Assessments (EIAs) and other environmental and social evaluations for projects other than Category A. For Category A projects, IDB Invest commits to disclosing EIAs <i>“as far in advance as possible and no later than 60 calendar days prior to the Board approving the investment”</i> (paragraph 36 of the Policy).</p>
<p>PARAS. 35, 36, 37, 38: TIMING OF DISCLOSURE</p>	<p>Sixty days is not enough time for stakeholders to obtain, review, and respond to documents. The Policy should adhere to 120 days.</p>	<p>IDB Invest surveyed the practice of other multilateral development banks that work with the private sector and found that its proposal is in line with current standards. It is important to note that the disclosure period to disclose the</p>

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<p>OF KEY ENVIRONMENTAL AND SOCIAL DOCUMENTS</p>	<p>Paragraph 36 should be changed for Category A and FI-1 from 60 days to 120 days.</p>	<p>EIAs and other environmental and social information refers to when IDB Invest discloses such information and not when IDB Invest client should conduct the public consultation on the project, or for how long. The public consultation and disclosure carried out by the clients are typically done far in advance, long before IDB Invest posts the studies, particularly in the case of project-related impacts with higher risks.</p>
	<p>Paragraph 35 should be changed to allow 120 calendar days. For disclosure of the ESRS and Investment Summary (for even low risk projects).</p>	
	<p>For disclosure of EIAs and other social evaluations for projects, paragraph 37 should be changed from 30 days to no later than 120 days.</p>	
	<p>Paragraph 38 should be changed such that, where disclosure of EIAs, SIAs, etc., are delayed, communities are given 120 days for review before a vote of IDB Invest Board regarding approval.</p>	
	<p>Information on all projects, regardless of category, should be disclosed when a project is still in the concept stage, at least 120 days before Board consideration, in language and terms appropriate to communities.</p>	
<p>PARA. 38: INTENT</p>	<p>Paragraph 38 language should be changed to indicate that lives take precedence over market conditions and economic profit.</p>	<p>Paragraph 3 of the Policy states that IDB Invest <i>“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.”</i> In addition, the Environmental and Social Sustainability Policy indicates that IDB Invest <i>“is committed to good international practice in the context of all social aspects of the projects it finances including human rights.”</i></p>
<p>PARA. 39: “HIGH-QUALITY CONTENTS”</p>	<p>Paragraph 39 should be changed from “high-quality contents that are suitable for disclosure” to include, instead, a non-exhaustive list of documents that must be disclosed to communities.</p>	<p>IDB Invest will disclose environmental and social evaluations and plans for projects depending on its risk categorization. Paragraph 39, however, does not refer to the documents that will be disclosed but to the suitability of the content of such documents. This commitment seeks to provide information that is useful to affected communities and the public while assessing the impacts of a project. The specific requirements for an environmental and social assessment to be “suitable for disclosure” will be detailed in the Policy’s implementation</p>

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		<p>guidelines. Language has been added to paragraph 39 to provide clarification: Para 39: <i>To allow affected communities and interested parties stakeholders to substantively participate in the processes prior to the approval consideration of the investment for the approval, IDB Invest will disclose high-quality contents that are suitable for disclosure, <u>which will be deemed as such when the contents incorporate the elements included in IDB Invest's IIC's Environmental and Social Sustainability Policy.</u> These parameters will be developed through <u>referenced in</u> this Policy's implementation guidelines.</i></p>
<p>PARA. 41: LANGUAGES</p>	<p>For high-risk projects where a social safeguard is triggered, the client should be required to communicate in the formats and languages that are accessible to affected communities.</p>	<p>Language in Paragraph 41 has been adjusted to address this concern. Para 41: <i>The environmental and social information produced by the client will be disclosed in <u>one of</u> the national languages of the country in which the project will be implemented. For projects where there are with high environmental and social risk and where there are affected communities, the client will communicate in the formats and languages accessible to such communities, <u>in a manner commensurate with the level of risk.</u></i></p>
<p>PARA 42: EARLY DISCLOSURE</p>	<p>The requirement that the EIA should be disclosed early in the environmental and social evaluation process should be extended to apply to lower-risk categorizations.</p>	<p>For certain projects, and particularly for greenfield investments and projects involving specifically identified physical elements, aspects, and facilities that are likely to generate potentially significant adverse environmental and social risks and impacts (including, but not limited to, major expansion or transformation/conversion activities), the client should conduct a comprehensive, full-scale Environmental Impact Assessment (EIA). For other occasions, when the project to be financed consists of specific activities with potential limited adverse environmental and social risks and/or impacts, for which the development of a full-scale EIA is not required by the host country's environmental assessment laws and regulations, the clients should conduct limited or focused environmental and social assessments that are narrower in scope than a full-scale EIA. Those studies are specific to potential environmental and social risks and/or impacts</p>

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		<p>(including those related to labor, health, safety, and security) identified as associated with the project. In summary, lower-risk projects do not have EIAs.</p>
	<p>A participatory process should be defined to require that communities and stakeholders have an opportunity to provide input.</p>	<p>PS 1 of the IFC Performance Standards states: <i>When Affected Communities are subject to identified risks and adverse impacts from a project, the client will undertake a process of consultation in a manner that provides the Affected Communities with opportunities to express their views on project risks, impacts and mitigation measures, and allows the client to consider and respond to them. The extent and degree of engagement required by the consultation process should be commensurate with the project's risks and adverse impacts and with the concerns raised by the Affected Communities. Effective consultation is a two-way process that should: (i) begin early in the process of identification of environmental and social risks and impacts and continue on an ongoing basis as risks and impacts arise; (ii) be based on the prior disclosure and dissemination of relevant, transparent, objective, meaningful and easily accessible information which is in a culturally appropriate local language(s) and format and is understandable to Affected Communities; (iii) focus inclusive engagement on those directly affected as opposed to those not directly affected; (iv) be free of external manipulation, interference, coercion, or intimidation; (v) enable meaningful participation, where applicable; and (vi) be documented. The client will tailor its consultation process to the language preferences of the Affected Communities, their decision-making process, and the needs of disadvantaged or vulnerable groups.</i></p>
<p>PARA. 43: ACCURACY OF THE INFORMATION DISCLOSED</p>	<p>IDB Invest should independently verify the accuracy of information being disseminated under its Access to Information Policy and clarify who owns and is ultimately responsible for information.</p> <p>The client should not be given the right to veto disclosure.</p>	<p>IDB Invest verifies the accuracy of project information as part of its due diligence process, carried out by an IDB Invest environmental and social specialist and reflected in the investment's Environmental and Social Review Summary (ESRS). To prepare the ESRS, IDB Invest environmental and social specialist goes to the field and reviews all information provided to verify its accuracy.</p>

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	<p>IDB Invest commitment to oversight and verification of its clients' disclosure practices should be articulated.</p>	<p>Through IFC Performance Standards (PS), IDB Invest holds its clients to the highest standards in terms of accuracy and competency of information disclosure.</p> <p>As an example of requirements included, section 29 of PS 1 states: <i>The client will provide Affected Communities with access to relevant information on: (i) the purpose, nature, and scale of the project; (ii) the duration of proposed project activities; (iii) any risks to and potential impacts on such communities and relevant mitigation measures; (iv) the envisaged stakeholder engagement process; and (v) the grievance mechanism.</i></p> <p>IDB Invest commitment to oversight and verification through supervision of its investments is included in the IIC Environmental and Social Sustainability Policy.</p>
<p>PARA. 44: DISCLOSURE OF OTHER CLIENT MATERIALS</p>	<p>“May disclose” should be changed to “will disclose.”</p>	<p>In this draft Policy, IDB Invest commits to disclosing any explanatory, non-technical materials produced by the client in the context of public consultation on a particular project that has been already disclosed to public only when such materials are available. This is why the provision uses the verb “may” instead of “will.” Also, for lower-risk projects there may not be a need for non-technical materials, as the issues are relatively simple.</p>
<p>B.2 POST-APPROVAL DISCLOSURE</p>		
<p>PARA 45: INVESTMENT SUMMARY UPDATE</p>	<p>The private sector wants to know beforehand the precise nature of information that will require updating before project implementation.</p>	<p>The Investment Summary posted on the website will be updated if there are changes in the loan amount or project description.</p>
<p>PARA. 46: MONITORING AND EVALUATION</p>	<p>There should be more frequent than annual updates of the ESAP, as well as other new or revised environmental or social documents.</p>	<p>Under paragraph 46 of the Policy IDB Invest commits, for Category A projects, to disclose new or revised relevant environmental or social documents as they become available; this way, the new information will be made available to the public consistent with when the information is created and not subject to an arbitrary and potentially meaningless timeframe. That said, for Category A Projects approved after the entry into force of this Policy, IDB Invest will disclose progress on the implementation of the ESAPs on an annual basis in order to allow the necessary time to review clients' annual Environmental and Social Compliance Report and the</p>

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		monitoring reports prepared by third party consultants, as well as to carry out any necessary supervision visits.
	Monitoring reports, including clear, complete, measurable indicators, should be disclosed and should show actual versus expected impacts.	The implementation guidelines will provide that indicators will be specific, measurable, achievable, relevant, and time-bound (SMART).
	There should be a compliance control committee or independent consultant to assess impacts and to ensure compliance.	IDB Invest retains third-party consultants to assist in monitoring compliance and assessing impacts, particularly in the case of high-risk projects.
	Paragraph 46 should apply to all risk categories.	Due to the additional resources required to disclose progress on the implementation of the Environmental and Social Action Plan (ESAP) for lower-risk projects, IDB Invest has decided to use a risk-based approach and focus its efforts on disclosing that information only for high-risk projects. That said, IDB Invest will continue to monitor compliance for projects at all levels of risk.
	The client should be required to maintain a register of public comments received regarding a project.	A register of public comments is part of the grievance mechanism that IDB Invest clients are required to have, per the IIC Environmental and Social Sustainability Policy.
PARA. 46: SCOPE OF INFORMATION	The type of information that will be published under paragraph 46 should be more precisely defined.	The Environmental and Social Action Plan (ESAP) is spelled out in section 32 of this Policy, as well as in Section 4 of the IIC Environmental and Social Sustainability Policy (ESSP). The Environmental and Social Action Plan aims to close gaps in compliance with ESSP requirements. Once agreed upon, the ESAP along with the project environmental and social management plans form an integral part of the subsequent legal agreements between IDB Invest and the client.
PARA. 50: ADVISORY SERVICES	Given the use of the word “confidential,” information covered by this clause appears to be creating an additional type of exception not included under the exceptions section of the Policy.	Language has been added to paragraph 50 of the Policy to clarify this issue. Para 50: Upon completion of the activities for each advisory service project, with the consent of the client and the respective donors, IDB Invest will disclose information on the standard development impact indicators that do not contain

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		confidential information as contemplated under the Policy exceptions in Section IV.
	Impacts and outcomes should be disclosed, even when they may be negative, for transparency's sake.	Under the current draft of the Policy, all impacts not containing confidential information under the exceptions will be disclosed regardless of their positive or negative nature.

IV. EXCEPTIONS

GENERAL COMMENTS	<p>A variety of items currently cited as commercial and financial exceptions should not be included as they are not "sensitive."</p> <p>Despite the fact that the Policy proposes to disclose information as the default option, there is too much discretionary power/latitude between IDB Invest and the client to choose what is and is not an exception.</p> <p>The Policy should not grant veto powers to third parties but rather should simply protect the parties' legitimate interests (see paragraph 9).</p> <p>Exceptions, as currently written, require substantial amendments to conform to international standards, including a test of legitimacy; harm; override of public interest, etc.</p> <p>"Consent of the client" is currently a condition of release of information, which is contrary to routine disclosure.</p> <p>While exceptions begin with a reasonably tight statement of interests being protected against harm, there is then a list of over-broad, non-harm-tested categories of exempt information, such as "exceptional circumstances." International standards require that benefits of disclosure outweigh harm.</p>	<p>IDB Invest appreciates the stakeholders' well-articulated comments on the exceptions in the draft Access to Information Policy.</p> <p>Following international standards and the practice of other multilateral development banks that work with the private sector, the exceptions to disclosure are structured in line with the harm test, whereby the disclosure of information covered by such exceptions would result in more harm than benefit to interests, entities, or affected parties.</p> <p>The exceptions capture information limited to commercial, proprietary, financial, privileged, and intellectual property information belonging to IDB Invest clients and partners associated with IDB Invest activities, as well as to IDB Invest confidential information. The fact that the exceptions relate mainly to information belonging to IDB Invest clients and partners warrants a deferential treatment to the owner of the information. This deference has also been recognized by national laws, under which categories of information such as intellectual property, strategic commercial and financial proprietary information, and privileged information are typically considered "legitimate interests" that require proper protection.</p> <p>IDB Invest's objective in adopting this Access to Information Policy is to set a baseline standard. The institution recognizes that the right of access to information and best practices related to the exercise of this right evolve rapidly. Therefore, IDB Invest's commitment to transparency includes adopting</p>
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		<p>such best practices as they evolve. IDB Invest plans to implement this commitment by working together with its clients from the beginning of its interactions to detail the information that public stakeholders expect to receive.</p> <p>IDB Invest considers that another important commitment toward greater transparency involves working with its clients to disclose relevant and meaningful results of the development impact of projects and investments. IDB Invest believes this is essential to its business DNA, a step that will allow external stakeholders to know how IDB Invest interventions are being used and whether the expected impact is reached or not.</p>
	Clarification is needed if there is disagreement between a client and IDB Invest regarding what are, and are not, exceptions.	IDB Invest commits to disclosing as much information as possible. The draft policy recognizes that IDB Invest will have access to information that does not belong to it. For example, paragraph 4 explains that IDB Invest will receive information from its clients in the course of its business. IDB Invest asks its clients to identify any confidential information it receives from them and commits to maintaining such confidentiality, pursuant to the draft Access to Information Policy and any agreements that are signed between the IDB Invest and its clients. Therefore, IDB Invest will not challenge a client's confidentiality assessment of the client's own information.
PARA 51: BALANCING HUMAN RIGHTS AND OTHER RIGHTS	<p>While paragraph 3 indicates that the “IDB Invest 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,” paragraph 51 states that human rights interests must be balanced against other rights (e.g. privacy). (See comments on paragraph 3 above.)</p> <p>A three-part test should be applied to assess whether the right to privacy should override human rights.</p>	See response to general comments on exceptions (section IV) above.
PARA. 52:	There should be clearer definitions of commercial exceptions, including proprietary, financial, privileged, and “other non-public information”	IDB Invest recognizes that a possible solution to this issue would be to define the kind of information that belongs to its clients that will not be disclosed. However, such information

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<p>COMMERCIALY SENSITIVE INFORMATION</p>	<p>related to clients. The policy should define what will be disclosed, such that all other information will not be disclosed, including regarding consultants' services and intermediaries.</p>	<p>does not belong to IDB Invest, and therefore it is hard to anticipate a pattern of information that all stakeholders would consider confidential.</p> <p>Instead of using definitions, IDB Invest proposes to add the following examples to paragraph 52, for illustrative purposes:</p> <p>a) Commercially Sensitive Information</p> <p>Para 52: <i>Consistent with the practice of commercial banks and of most public sector financial institutions with respect to their investments in the private sector, IDB Invest does not disclose to the public commercial, proprietary, financial, privileged, intellectual property, or other non-public information about IDB Invest, its clients, co-financiers, and investors, or third parties. To do so would be contrary to the legitimate expectations of such parties, who need to be able to communicate detailed information to IDB Invest without fear of compromising confidential information. For illustrative purposes and in a non-exhaustive manner, IDB Invest does not provide access to the following information:</i></p> <ul style="list-style-type: none"> <i>i) Legal documentation or correspondence pertaining to IDB Invest investments or advisory services, documents or information relating to negotiations between IDB Invest and its clients or other third parties relating to such investments or advisory services, and operational procedures.</i> <i>ii) Board documents relating to specific investments, advisory service projects, and investment facilities.</i> <i>iii) Information belonging to IDB Invest's clients, co-financiers, and investors or third parties identified by them as confidential, such as business plans, financial projections, commercial or trade secrets.</i>
	<p>The phrase "or other non-public information" is open-ended, allowing for unlimited exceptions.</p>	<p>Language has been added to Paragraph 52 to clarify the scope of "non-public information." See the paragraph immediately above.</p>
	<p>Protection of IDB/IDB Invest client information is not necessarily consistent with the practice of commercial banks, as is claimed, as nationally many countries with right-to-information laws are required to disclose information, including</p>	<p>See comment on harm test above. The intention of the reference to the practice of commercial banks is to capture how such banks treat confidential information belonging to their clients. It does not refer to the relationship between a state and a commercial bank under its oversight.</p>

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	commercial information, unless specific harm would damage legitimate commercial interests.	
PARA. 53: FINANCIAL INFORMATION	A harm test needs to be applied to the list of exceptions, as not all of these would be exceptions all of the time.	See comment on harm test above.
PARA. 54: DELIBERATIVE INFORMATION	The phrase referring to Board agendas, minutes and resolutions of the preliminary and voting meetings for investments at the very least once a month with periodic monthly updates should be deleted from exceptions.	While the Policy protects the deliberative process to reach a decision, once the process is concluded IDB Invest discloses results and final decisions (paragraph 54 of the Policy). Therefore, Board minutes and resolutions are public documents under the Policy, not protected by the deliberative exception. If such types of documents contain confidential information under another Policy exception, such information will be safeguarded accordingly. Furthermore, meeting agendas are public in nature; however, if they contain confidential information under Policy exceptions, such information will not be disclosed.
	IDB Invest's website should provide constant updates regarding project approvals.	This is already being done by IDB Invest.
	Such deliberative matters as criteria used to decide whether to fund a project should be disclosed to provide a rationale for decisions being made.	In order to address this concern, IDB Invest will include a brief rationale for decisions on investments in the corresponding minutes.
	Subclauses related to studies, reports, audits, etc., should be harm-tested to determine whether there are legitimate privacy interests.	See comment on harm test above.
PARA. 55: DEBARMENT	It should be made clear in paragraph 55 that exceptions will not infringe upon IDB Invest responsibility to disclose information related to sanctions of clients or individuals.	Language has been added to Paragraph 17 of the draft policy to address this concern: Para 17: <i>IDB Invest discloses information regarding its policies and guidelines:</i> <i>i) the IIC Environmental and Social Sustainability Policy;</i> <i>ii) the Access to Information Policy;</i> <i>iii) the Policy of the Independent Consultation and Investigation Mechanism (ICIM);</i>

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		<p>iv) the Operating Policy; v) the Integrity Framework, the Sanctions Procedures and the list of sanctioned entities; and vi) the Code of Ethics.</p>
	The subparagraphs that list classes of exceptions go far beyond the proper scope of legitimate exceptions.	The intention of the subparagraphs is to provide examples for illustrative purposes only. As is the case with the application of the Policy to any circumstance, the evaluation of whether certain information is included in one or more of the exceptions will depend on the context and on who owns the information. Therefore, the examples in the subparagraphs need to be considered within the context of each case.
PARA. 56: COMMUNICATION OF EXECUTIVE DIRECTORS' OFFICES	Any "sensitive" communications, such as those cited in paragraph 56, should be justified as having legitimate interest or imposing harm. Otherwise they should not be considered as exceptions.	See comment on harm test above.
PARA. 57: NATIONAL SECURITY	The conditions under which a decision is made to invoke national security should be clarified to enhance transparency.	As is the case with other terms used in the exceptions, IDB Invest recognizes that a possible solution would be to define "national security." However, the content and extent of a national security situation will depend on the laws of the country alleging such a situation.
PARA. 58: PERSONAL INFORMATION EXCEPTION	Personal information exceptions should include affected community members, complainants, and other individuals requesting anonymity.	See response on the proposal to address the confidentiality of requesters.
	What is included as "sensitive" should be defined specifically regarding what will and will not be disclosed.	IDB Invest respects the privacy of the information belonging to its personnel. For this reason, IDB Invest has assessed similar provisions in peer policies and considers that the current draft strikes the right balance between access to information and the right to privacy of personal information.
	As personal information is not always "private," the wording should be changed to encompass only private personal information.	
	The CV/description of all personnel should be disclosed.	Upper management personnel descriptions and competencies will be disclosed on the IDB Invest website.
V. DISCLOSURE-RELATED TERMS		
PARAS. 62 & 63: CLARIFICATION OF "HARM"	As paragraphs 62 and 63 cite harm as a trigger for a positive override, a definition defining "harm" and how it is measured should be provided.	The positive override will come into play in exceptional circumstances when non-disclosure of confidential information under the Policy is more prejudicial than beneficial in connection with an IDB Invest investment or advisory services

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		project. IDB Invest management will determine if the disclosure of certain non-public information would be likely to avert imminent harm to public health or security and/or significant impacts on the environment. IDB Invest will evaluate the conflicting interests and determine which one outweighs the other, in consultation with the client if the confidential information has been provided by or relates to the client. If public interest prevails, IDB Invest will make the confidential information available to the public. Therefore, this faculty is harm-based.
PARA. 62: PRINCIPLES	From “exceptions” and “exceptional circumstances” (paragraph 62), wording should be provided to confirm that the public interest overrides other considerations, affirming the presumption of disclosure.	Yes, this is clear in paragraph 62.
PARA. 63: POSITIVE OVERRIDE	Wording should be added to reflect that serious violations of human rights justify a positive override.	IDB Invest competent body will analyze public interest on a case-by-case basis. When human rights violations are at stake, there could be a public interest situation to justify a positive override.
	A positive override should be considered as a human right rather than a right of IDB Invest and should include a three-part test.	See comment on harm test above.
	Terms such as “serious” and “imminent” are too subjective, thereby inappropriately limiting information that should be disclosed.	Positive override is meant to respond to exceptional circumstances; therefore, terms such as serious and imminent are criteria to be considered when performing the case-by-case analysis.
	The decision to override should not be within the sphere of clients or other parties but should apply to all documents in possession of IDB Invest.	Positive override applies to all information, in connection with an IDB Invest investment or advisory services project, in possession of IDB Invest. While the client will be informed and consulted, the decision to override rests with IDB Invest.

VI. IMPLEMENTATION ASPECTS OF THE POLICY

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PARA. 65: REDACTION	<p>Paragraph 65, under “Redaction,” suggests that the “confidential” classification is determined by the scope of the listed “exceptions.”</p>	<p>That is correct.</p>
	<p>Documents should show where text was previously confidential, rather than issuing a new document excluding the information.</p>	<p>The word “exclude” has been replaced by the word “redact” in paragraph 65 of the Policy to clarify this concern. Para 65: <i>Information identified as “confidential” under the Policy’s exceptions will be subject to the principle of divisibility. Pursuant to this principle, IDB Invest may create public versions of documents that exclude in which the “confidential” information as contemplated under the Policy exceptions in Section IV is redacted. When the confidential information is so extensive that it is not practical to make the document available to the public, IDB Invest may disclose a summary of such document.</i></p>
PARA. 66: HISTORICAL INFORMATION	<p>The Policy should apply to all documents possessed and produced by IDB Invest regardless of the date of their creation. The implication of paragraphs 5 and 66 is that documents created prior to the Policy’s ratification would not be subject to disclosure.</p>	<p>See general comment above on historical information.</p>
	<p>An archive policy should be created that specifies how long documents will be saved, along with a process for document destruction.</p>	<p>IDB Invest follows a retention schedule for destroying information.</p>
VII: MECHANISM FOR REQUESTING INFORMATION AND FOR REVIEW		
GENERAL	<p>Though paragraphs 13, 76, 78, and 79 infer that the right to appeal arises only when a requester has been denied access to information, an appeal should be available whenever a requester believes a request has not been dealt with in accordance with the Policy.</p>	<p>The scope of the review refers specifically to denial of information under the exceptions, since the remedy is limited to providing the requested information.</p>
PARAS. 69-72: OPERATIONAL GUIDELINES	<p>There is a need for a series of operational guidelines pertaining to internal and external processes regarding application of the Mechanism for Requesting Information.</p>	<p>Internal and external procedures regarding the review mechanism will be regulated in the implementation guidelines and other specific regulations, such as terms of reference and operational procedures.</p>

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	There should be a time limit of three to five days to acknowledge receipt of a request.	The system being developed to receive and respond to information requests will acknowledge receipt automatically, as soon as the request is introduced via the online form by the requester or entered into the system by the relevant IDB Invest employee, in the case of requests received by other means.
	Reference to not having access to the internet should be removed. The policy should name an email and physical address and should enable requests to be made orally.	Paragraph 69 of the Policy has been amended to include an oral means to submit an information request. <i>b) Submitting a Request for Information</i> Para 69: <i>Information that is not available on IDB Invest website may be requested through the following channels:</i> <i>i) using the virtual form available on the website: IDBINVEST.org or by e-mail as indicated on the website: IDBINVEST.org; and</i> <i>ii) sending a written request to <u>IDB Invest at the address stated on the website IDBINVEST.org</u>, if the requester does not have access to the internet; <u>or</u></i> <i>iii) <u>calling IDB Invest at the phone number indicated on the website IDBINVEST.org</u></i>
	Clarification is required regarding the information that is required when making a request, which should explicitly not include the reasons for making the request.	The Policy does not require someone requesting information to provide an interest or reason for making the request.
PARAS. 69-72: PROTECTION OF REQUESTERS	Anonymity should be provided to requesters, should they request it. Moreover, requesters who receive information and find violations to the Bank's policies should be protected from retaliation and be able to appeal using grievance mechanisms such as the Independent Consultation and Investigation Mechanism (ICIM).	See general comment above on protection of requesters.
PARA. 70: LANGUAGES	The language requirements specified should be changed to indicate that requested information will be provided in the language of the request. For high-risk projects, requests in a local language would be responded to in the same language.	IDB Invest will provide access to its existing public information. Disclosure will take place in the language in which the information exists. Under the Policy, the IDB Invest Environmental and Social Review Summary (ESRS) will be disclosed in the national language of the country in which the project will be implemented. Furthermore, environmental and

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		social information produced by the client will be disclosed in one of the national languages of the country in which the project will be implemented (paragraphs 40 and 41).
PARA. 70: FORMATS	Information requests should be able to be submitted via multiple formats, not just the internet.	See comment above on paragraph 69, which includes oral requests.
PARA. 71: AN ADDITIONAL EXCEPTION	The language of paragraph 71 appears to provide the option for IDB Invest not to respond to a request. IDB Invest should not be able to refuse to respond to a request.	<p>The language of paragraph 71 has been adjusted to provide more details as to how IDB Invest will address requests for information.</p> <p>d) Responding to Requests</p> <p>Para 71: <i>Requests for information will be analyzed under the Policy and its exceptions. The IIC will assess the possibility of <u>In responding to requests for information, IDB Invest determines whether information requested may be made available in accordance with this Policy and</u> based on the scope of the requests, the number of requests, and the availability of the information requested, <u>and whether the requester should be referred to IDB Invest's client. IDB Invest will acknowledge receipt of requests for information; and will endeavor to provide its response as quickly as possible within a maximum period of 30 calendar days following receipt of the request. If the IIC-IDB Invest requires additional time to respond because of the scope or complexity of the request, it will contact the requester in writing to inform such requester of the delay and, if possible, provide an estimated timeframe for its response. Requests for information must identify the specific information requested; where a request is insufficiently clear or precise to identify the information required, or is unreasonably broad, IDB Invest reserves the right to ask the requester to provide clarifications or to narrow down the scope of the request.</u></i></p>
PARA. 71: TIMING	Where there may be an emergency and immediate need for information, the Policy should define a fast-track process for a response in less than 30 days. A commitment should be included to respond to requests as quickly as possible, i.e.,	<p>Language of paragraph 71 has been adjusted to reflect this concern.</p> <p>Regulation regarding emergency need for information will be addressed in the implementation guidelines.</p>

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	within 15 days, while imposing an actual limit of 30 days.	
PARA. 74: THIRD PARTIES	Paragraph 74 references paragraphs 71 and 72 (d) with regard to third parties. But those earlier paragraphs do not even mention third parties. Clarification is required.	Paragraph 74 refers to the provider of the information and not to information produced by IDB Invest. See comment above for references to third parties.
PARA. 75: FEES	Charging fees for the cost of sending requested information to requesters violates both the principles of the Policy and international practice and law, and discriminates against some of the most marginalized stakeholders who would not be able to pay.	Paragraph 75 has been added to address this concern. f) Costs Para 75: <i>Information is made available in digital form free of charge on IDB Invest's corporate website. IDB Invest may charge reasonable fees for the cost of producing and sending copies to requesters, which may be regulated in the implementation guidelines.</i>
PARA. 78: COMPOSITION OF THE EXTERNAL PANEL	The panel's composition needs to be defined, including panel members' qualifications. It should be stipulated that the external panel must meet minimum independence and competency requirements.	Composition of the panel and its procedures and the terms of reference for its members will be developed by IDB Invest in the implementation phase of the Policy. Independence and high competency will be required to be part of the external panel.
PARA. 78: DECISIONS AFFECTING A CLIENT	Clarification is needed regarding whether non-disclosure agreements with a client or other exceptions can be superseded by a decision of the panel.	Decisions made by the panel are final and not subject to review. If client information is considered public under Policy exceptions, the information will be made available to the public by IDB Invest. Likewise, if client information is considered confidential under Policy exceptions, which would be the case if the information requested is protected by non-disclosure agreements, then the panel will deny access based on application of the Policy.
	Clarification is needed as to whether a client would be consulted by the panel before the latter issues its decision.	Procedures to be followed by the panel will be developed in the implementation phase of the Policy. However, the panel is in charge of applying the seven exceptions test to the requested information.
PROPOSED NEW PARA. 81: DATABASE OF REQUESTS	For the purposes of transparency and usefulness to users, a stakeholder group advocates that there should be additions to and frequent updating of a database or webpage in the four official languages	A database of requests will be developed in the implementation stage of the Policy.

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	<p>for information related to access to information requests, including:</p> <ul style="list-style-type: none"> • Title and nature of requested items; • Timeline for their passage through the review mechanism; • Summary information on the number of requests submitted, granted, denied; • The reason for the corresponding decisions; and • How stakeholders and interested parties can communicate with the review mechanism, including a phone number, address, and contact person. 	
VIII: IMPLEMENTATION PROGRESS AND POLICY REVIEW		
PARA. 82: STRUCTURE	There should be a small dedicated unit within IDB Invest to promote proper application of the Policy.	<p>Governance of the Policy will be detailed in the implementation guidelines.</p> <p>IDB Invest will designate relevant resources to implement the Policy in line with an action plan.</p>
PARA. 82: POLICY REVIEW	Paragraph 82 should be renamed as <i>Implementation Progress</i> and <i>Policy Review</i> and should stipulate that a public report will be provided, documenting various measures of progress.	This concern is addressed in Paragraph 81 of the Policy. Implementation progress will be reported in the institutional Annual Report.
	IDB Invest should use a broad-based consultative process regarding the implementation of the Policy and the development of implementation guidelines.	The implementation process will be based on the principles and rules included in the approved Policy. In this regard and following the practices of other multilateral development banks, IDB Invest will take appropriate measures to incorporate the concerns received during the consultation phase in the implementation process.
	A timeline should be established for reviewing and revising the Policy.	IDB Invest will have a flexible approach on the timeframe to review the Policy, to achieve a balance between gathering as much experience during implementation as possible before any update and encouraging updates when new trends on access to information emerge.

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	<p>A public information management process, including an array of actions that apply across IDB Invest operations, is essential. The Policy should mention the administration of archives, which is key to guaranteeing access to information.</p>	<p>This issue will be regulated in the implementation guidelines.</p>
	<p>Provisions should be established for sanctioning staff who intentionally obstruct implementation of the Policy.</p>	<p>IDB Invest employees are required to adhere to high ethical standards regulated in the IDB Invest Code of Ethics and Professional Conduct. Section 16 of the Code refers to the appropriate use of information, including the obligation to follow the relevant Policy, subject to sanctions and procedures established in the Code.</p>
<h3>III. OTHER COMMENTS</h3>		
<p>1. AGGREGATION OF INFORMATION</p>	<p>There is widespread support for aggregation of proposed, current, and past projects—regarding projected and actual risks; impacts; financing; timing/benchmarks, etc.—as a service by the IDB Invest to civil society, national and local governments, and private sector clients.</p>	<p>IDB Invest plans to publish aggregate data on the environmental and social risk distribution of the portfolio annually (i.e. percentage of different category projects). This practice will be included in the implementation guidelines to be developed for this Policy.</p>
<p>2. SUPPORTING DOCUMENTS</p>	<p>Stakeholders ask IDB Invest to include a list of resources for use by affected communities and other stakeholders to understand the Policy and how to access information.</p>	<p>As part of the Policy implementation process, IDB Invest will develop tools to contribute to the understanding and use of the Policy by affected parties.</p>



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