

12 March 2021

Mr. Giuseppe Nastasi  
Associate Civil Society Officer  
Civil Society Division  
European Investment Bank

Dear Mr. Nastasi,

**Re: Comments on the European Investment Bank's draft revised Transparency Policy**

We would like to thank you for the opportunity to comment on the European Investment Bank's draft revised Transparency Policy. Please find our comments on the draft revised policy **enclosed**. Our comments are prepared as track changes in a clean version of the draft revised policy.

**Relevant background on the Aarhus Convention**

The UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) was adopted in Aarhus, Denmark, in June 1998 and entered into force in October 2001. It currently has forty-seven Parties.

The Aarhus Convention enshrines Principle 10 of the Rio Declaration, which concerns the rights of the public to have access to information, public participation and access to review procedures regarding the environment. Parties to the Aarhus Convention must ensure that members of the public have a right to access to environmental information, to participate in decisions relating to the environment and to have access to justice in environmental matters. The Convention also requires Parties to ensure that persons exercising their rights under the Convention are not penalized, persecuted or harassed for doing so.

The European Union is a Party to the Aarhus Convention, and its institutions and bodies, including the European Investment Bank, are legally bound to ensure access to information, public participation in decision-making and access to justice meeting the requirements of the Convention in the context of their activities and operations.

Furthermore, pursuant to article 3(7) of the Aarhus Convention, all forty-six State Parties plus the European Union are legally required to promote the application of the principles of the Convention in international environmental decision-making processes and within the framework of international organisations in matters relating to the environment. This includes the processes, policies, activities and projects of international financial institutions such as the European Investment Bank.

For further information on the Aarhus Convention, its implementation in practice and its application to international forums, we invite you to consult the following background material:

- The text of the Aarhus Convention: <https://unece.org/environment-policy/public-participation/aarhus-convention/text>
- The Aarhus Convention Implementation Guide, second edition (2014): <https://unece.org/environment-policy/publications/aarhus-convention-implementation-guide-second-edition>
- Almaty Guidelines on Promoting the Application of the Principles of the Aarhus Convention in International Forums (2005): <https://unece.org/DAM/env/documents/2005/pp/ece/ece.mp.pp.2005.2.add.5.e.pdf>

We hope that our comments on the European Investment Bank's draft revised Transparency Policy may be of assistance. Please do not hesitate to contact us if you would like to discuss any aspect of our comments.

Yours sincerely,



---

Fiona Marshall  
Environmental Affairs Officer – Secretary to the Compliance Committee  
Aarhus Convention secretariat

Enc: Comments on the European Investment Bank's draft revised Transparency Policy



## **The EIB Group Transparency Policy**

[Date]

## Contents

1. Background and Purpose .....	3
2. Guiding Principles .....	3
Openness .....	3
Ensuring trust and safeguarding sensitive information .....	4
Willingness to listen and engage .....	4
3. The Institutional Framework.....	4
4. Publication of Information .....	5
Principles for publication of information .....	5
Project Information.....	6
Financial Information.....	7
5. Disclosure of Information .....	9
Principles for Disclosure.....	9
Exceptions.....	9
Procedures for Handling Information Requests .....	12
6. Provisions for Complaints and Appeals.....	14
Complaints Mechanism .....	14
European Ombudsman.....	14
Aarhus Convention Compliance Committee.....	14
Court of Justice of the European Union.....	14
7. Stakeholder Engagement and Public Consultation.....	15
Principles for stakeholder engagement.....	15
Stakeholder engagement in projects.....	15
Public consultation.....	16
8. Promoting Transparency.....	16
Task Force on Climate-related Financial Disclosures (TCFD) .....	17
Extractive Industries Transparency Initiative.....	17
International Aid Transparency Initiative .....	17
9. Responsibilities .....	17

## 1. Background and Purpose

- 1.1 The Bank of the European Union (EU) recognises its special responsibility to be open and transparent towards EU citizens and the public at large. Transparency contributes to the quality, accountability and sustainability of the projects we finance and helps to build trust in the EU Bank. To that end, the European Investment Bank (EIB) Group has adopted the present Transparency Policy, which sets out the EIB Group's approach to transparency and stakeholder engagement and is in line with EU transparency requirements and international best practice.
- 1.2 The EIB Group consists of the EIB and the European Investment Fund (EIF). The Guiding Principles of this Policy, laid down in Chapter 2, apply to the EIB Group as a whole, while the subsequent parts apply to the EIB only. The EIF has established its own implementation framework, which considers the specific business and governance context of the EIF.<sup>1</sup>
- 1.3 In applying this Policy, the EIB Group takes into account other EIB Group Policies and rules such as the Anti-Fraud Policy, the Whistleblowing Policy, the Complaints Mechanism Policy, and relevant Codes of Conduct applicable to staff and governing bodies. This Policy does not override these Policies and rules but must be read in conjunction with them as they are mutually reinforcing. In case of conflict between specific transparency and disclosure rules in other EIB Group Policies and this Transparency Policy, the provisions of the latter shall prevail.
- 1.4 The Policy was approved by the EIB's Board of Directors on [date], in accordance with Article 18 of the EIB's Rules of Procedure and following a public consultation process. The Policy is available in all official languages of the European Union on the EIB's website. It shall apply from the above-mentioned date, without prejudice to ~~processes~~ transparency-related procedures that are ongoing on the date of adoption.

**Commented [A1]:** "Processes" could cover any aspect of EIB operations. For example, the processing of a loan application under consideration by EIB. It should be made clear that it is only ongoing tasks under the transparency policy that will continue to be dealt with under the previous policy.

## 2. Guiding Principles

### OPENNESS

- 2.1 This Policy is guided by openness and the highest possible level of transparency. Information concerning the EIB Group's operational and institutional activities will be made available to third parties (the public) unless it is subject to a defined exception ("presumption of disclosure", see section 5 of this Policy and the respective disclosure section of the EIF Transparency Policy), based on the principle of non-discrimination and equal treatment and in line with EU legislation"), in accordance with section 5 of this Policy.
- 2.2 The member institutions of the EIB Group consider that due to their dual character as financial and public institutions, being transparent about how they make decisions, work and implement EU policies strengthens their credibility and accountability to citizens, the public. Transparency also contributes to increasing the efficiency, effectiveness and sustainability of the EIB Group's operations, reinforcing its zero-tolerance approach on fraud and corruption, and its commitment to equal treatment and non-discrimination, while ensuring adherence to environmental and social standards linked to financed projects, and promoting accountability, and good governance.
- 2.3 The EIB Group understands transparency to refer to an environment in which the policy objectives, its legal, institutional and economic framework, policy decisions and their rationale, and the terms of its member institutions' accountability are provided to the public in a comprehensive, accessible and timely manner.

**Commented [A2]:** Para. 1.3 explicitly states that this Transparency Policy prevails over other transparency and disclosure rules in other EIB Group Policies.

There is thus no legal basis to withhold disclosure under an exception in the EIF Transparency Policy if EIB's Transparency does not provide for that exception

**Commented [A3]:** It is unclear why "equal treatment and non-discrimination" are highlighted here to be the core principles of transparency above all the important transparency-related principles in para. 2.2 below.

We accordingly suggest to move these concepts to para. 2.2 together with the references to other key transparency-related principles.

**Commented [A4]:** In keeping with paras. 2.1 and 2.3, which refer to "the public" and also article 2(4) of the Aarhus Convention, which gives the right of access to information to the public, and not just "citizens".

**Commented [A5]:** We suggest that the movement of these concepts from para. 2.1 to here, next to the reference to corruption, gives a context to why equal treatment in issues of transparency is important.

<sup>1</sup> Thus, a separate policy document as well as specific rules concerning public access to EIF information/documents are drawn up and published separately by the EIF. Accordingly, requests for information/documents in relation to EIF activities are processed by the EIF according to such policy.

Transparency is therefore an essential condition for a free and open exchange with stakeholders whereby the rules and reasons behind policies and practices are fair and clear to all parties.

- 2.4 Furthermore, providing information to economic decision-makers also helps to improve the stability and efficiency of markets and promotes adherence to internationally recognized standards.

## ENSURING TRUST AND SAFEGUARDING SENSITIVE INFORMATION

- 2.5 As financial institutions the members of the EIB Group must maintain the confidence and trust of their clients, co-financiers, investors and other relevant third parties. It is therefore necessary to allay concerns about the treatment of confidential information which, otherwise, could affect these partners' willingness to work with the Group and thus impede its members from fulfilling their respective missions and objectives. This Policy ensures that information is protected from disclosure when disclosure would undermine the legitimate rights and interests of third-parties, and/or of the Group in line with the exceptions defined in the Policy.

## WILLINGNESS TO LISTEN AND ENGAGE

- 2.6 The EIB Group is committed to actively encourage stakeholder input to its policies and practices. Through its commitment to open communication, the Group demonstrates its willingness to listen to third parties so as to benefit from their contributions to its work in fulfilling its mission.
- 2.7 The EIB Group is open to a constructive dialogue and cooperation with all stakeholders based on mutual trust and benefits.
- 2.8 The EIB Group is committed to respecting human rights in all of its activities. Within the framework of this Policy, the EIB Group does not tolerate retaliation, in any form, against individuals or organisations for exercising their rights under this Policy.

**Commented [A6]:** We support this insertion. This insertion is in keeping with article 3(8) of the Aarhus Convention which prohibits penalisation, persecution or harassment of persons for exercising their rights under the Convention.

## 3. The Institutional Framework

- 3.1 The EIB is a body of the European Union. The EIB is a policy-driven Bank whose mission is to further the objectives of the European Union by making long-term finance available for sound investment. Its Statute, which forms an integral part of the Treaty on European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU) and has the same legal value, defines the EIB's role, scope of activities and governance structure. The Statute also establishes the EU Member States as the EIB's shareholders who nominate the Members for the EIB's principal governing bodies: the Board of Governors, the Board of Directors, the Management Committee and the Audit Committee.
- 3.2 The EIB ensures that its activities respect EU policies and laws or, where these are not applicable, uses EU policies and laws as the best reference. In its day-to-day operations, the EIB takes into account standards and practices applied by the banking and financial community, particularly in areas not covered directly by EU law.
- 3.3 Improving the transparency of its institutions and bodies is a key European Union policy aimed at bringing them closer to the publics they serve, as well as highlighting their relevance in contributing to Europe's social and economic cohesion and sustainable development and the promotion of the objectives of the Union's external cooperation.

3.4 This Policy is consistent with the legal obligations of the EIB in respect of the principle of openness and the right of public access to information/documents. Paragraphs [updated cross references] below set out, in a non-technical way, the EIB's understanding of the relationship between the Policy and its legal obligations.

3.5 The principle of openness is enshrined in Article 1 of the Treaty on European Union (TEU), which states that the Treaty marks a new stage in the process of creating an ever closer Union among the peoples of Europe, in which decisions are taken as openly as possible and as closely as possible to the citizens. Openness also contributes to strengthening the principles of democracy and respect for fundamental rights, in line with Article 6 TEU. Article 15(1) of the Treaty on the Functioning of the European Union (TFEU) requires Union institutions, bodies, offices, agencies, including the EIB, to conduct their work as openly as possible in order to promote good governance and ensure the participation of civil society.

3.6 Article 15(3) TFEU provides for the right of public access to documents. This is a fundamental right, recognised by Article 42 of the Charter of Fundamental Rights of the European Union. General principles and limits governing this right are to be determined by the European Parliament and the Council of the European Union through legislation. The legislation currently in force is Regulation (EC) N° 1049/2001.<sup>2</sup>

3.7 The TFEU states that Article 15 (3) applies to the EIB only when exercising its administrative tasks. The EIB understands that the intention of this provision is that the EIB itself should determine, in a way consistent with the principles of openness, good governance and participation, how the general principles and limits governing the right of public access should apply in relation to its specific functions as a bank. The EIB does this through the Policy and specifically through the applications of the exceptions to access set out in Section 5 below.

3.8 The Policy shall also be consistent with the United Nations Economic Commission for Europe (UNECE) Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) adopted in Aarhus, Denmark, on 25 June 1998 and ratified by the European Union on 17 February 2005, which imposes on Parties, and their public authorities, the obligations to ensure access to information, public participation and access to justice with respect to environmental matters. In this regard, the Policy shall also be consistent with Regulation (EC) No 1367/2006 of the European Parliament and of the Council of 6 September 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies.

**Commented [A7]:** Our suggested edit is for consistency, since this dual term "information/documents" is used throughout the policy.

Under the Aarhus Convention, the EU, and thus EIB, must ensure the public's right of access to "information" in environmental matters.

**Commented [A8]:** Please note that EIB's obligations under the Aarhus Convention are not limited to the exercise of its administrative tasks.

Pursuant to article 2(2) of the Convention only "bodies acting in a legislative or judicial capacity" are exempt from the Convention's obligations of access to information.

**Commented [A9]:** As held by the Aarhus Convention Compliance Committee in its findings on communications ACCC/C/2008/32 (European Union) and ACCC/C/2015/128 (European Union), Regulation 1367/2006 currently does not fully comply with the EU's obligations under the Convention.

Thus, it would be important not to send the incorrect message that EIB's obligations under the Convention are limited only to those in Regulation 1367/2006.

**Commented [A10]:** The Aarhus Convention and Regulation 1367/2006 are also important components of EIB's institutional framework. Since they are referred to in para. 5.1 it seems appropriate to include them as part of EIB's institutional framework.

## 4. Publication of Information

### PRINCIPLES FOR PUBLICATION OF INFORMATION

4.1 In order to support and promote the principle of transparency, the EIB is fully committed to regularly publish accurate information regarding its role, policies and operations in a timely fashion.

The EIB routinely publishes a broad set of information and documents including e.g.:

- Institutional information
- Policies and strategies

<sup>2</sup> Regulation (EC) N° 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents, OJ 2001 L 145, p. 43.

- Project related information
- Procurement information and tender notices for the EIB's own account
- Accountability, risk management and governance related information
- Evaluation reports
- Environmental, sustainability- and climate-related information.

In particular, the EIB publishes the agendas and minutes of the meetings of the Board of Directors as soon as possible after they are finalised.

A non-exhaustive list with links to key EIB documents and information is published on the EIB website. The list is regularly up-dated and developed.

4.2 The main tool for disseminating this information is the EIB website ([www.eib.org](http://www.eib.org)). The EIB also seeks to disseminate information to the public by other means such as hard copy publications and informative documents, social media, press releases, conferences and seminars.

4.3 In compliance with the Aarhus [Convention and the Aarhus Regulation](#), environmental information held by the EIB is made available through the EIB Public Register of documents that the EIB has set-up on its website.<sup>3</sup> In addition, the EIB Public Register includes relevant project-related social documentation. The EIB is developing this register to ensure that environmental information is progressively made available and disseminated to the public [in a timely manner](#).<sup>4</sup>

4.4 In order to promote the accessibility of information, the EIB is committed to a language regime that takes into account the public's needs. EIB's statutory documents are available in all official EU languages. Other key [information/documents](#) with a particular importance for the public, such as this Policy itself, are also published in all official EU languages, while some others are available in English, French and German. Translation into other languages can be considered depending on the type of the document, [and the information contained therein](#), and the public interest.

4.5 Within the limits imposed by applicable laws and regulations, and without prejudice to Section 5 of this Policy, the final determination as to what information/documents may be released shall rest with the EIB. The EIB shall also decide which information/documents to publish, in electronic and/or in paper form. All other information/documents are [in principle](#) available upon request [in accordance with Section 5 below](#).

## PROJECT INFORMATION

4.6 A project summary is [usually](#) posted on the Project List on the EIB's website when the EIB formally requests the opinions of the Member State or the project host country and the European Commission, as required under Article 19 of the EIB Statute. [This is considered to be the most suitable point for the first public statement when the EIB has reached a sufficiently advanced stage in discussions with a project promoter to commence the project's appraisal prior to a loan proposal going to the Board of Directors. The webpage of EIB's Project List informs the public of the possibility to get access to further information related to the listed projects upon request in accordance with section 5 below.](#)

4.7 The EIB shall publish project summaries of all investment projects at least [3 weeks/30 days](#) before the project is considered for approval by the EIB's Board of Directors. [However, a limited number of project summaries](#)

<sup>3</sup> <https://www.eib.org/en/registers/all/index.htm>

<sup>4</sup> The "Frequently Asked Questions" (FAQ) page of the EIB Public Register contains additional information about the content of the Register, including a regularly updated list of the types of [information/documents](#) published in the Register.

**Commented [A11]:** While it may not be possible to publish an exhaustive list, the list published on the website of the types of information and documents held by EIB should be as complete as possible.

Article 5(2)(a) of the Aarhus Convention requires each Party to ensure that environmental information is "effectively accessible" by "providing sufficient information to the public about the type and scope of environmental information held,...the basic terms and conditions under which such information is made available and accessible, and the process by which it can be obtained.

**Commented [A12]:** For consistent use of this dual term throughout the policy.

**Commented [A13]:** The reference to "in principle" adds uncertainty, and also not consistent with para. 5.1.a.

**Commented [A14]:** Why only "usually"? This removes clarity and certainty from the Policy as stakeholders cannot be sure what to expect. What reason would there be for not posting a project summary in a particular case?

**Commented [A15]:** Our suggested amendment addresses two considerations:

- First, if a member of the public wishes to make a request for further information related to the project, then depending on the nature of the information requested, this can take up to 30 days to receive the requested information.
- The Aarhus Convention Compliance Committee has held that a minimum of 30 days is reasonable to examine project documentation (see its findings on communication ACCC/C/2009/37 (Belarus)).

are may not be published before Board approval and, in some cases, not before loan signature in order to protect justified interests based on the exceptions to disclosure laid down in Section 5 of this Policy. These exceptions must be interpreted restrictively, taking into account the public interest served by its disclosure and whether the information relates to emissions into the environment. The EIB cannot publish project-related information if the publication of such that specific information would violate European Union law such as the Market Abuse Regulation.

**Commented [A16]:** It is of concern that there would be no public disclosure of the existence of these projects at all before Board approval and, in some cases, not even before loan disclosure.

While some or even most of the information typically included in the project summary might in a particular case need to be withheld in accordance with the exceptions in section 5, this should not prevent the disclosure of the rest of the project summary information (see article 4(6) of the Convention).

**Commented [A17]:** See article 4(4) of the Aarhus Convention.

4.8 Project summaries generally include the name of the project, the project promoter or financial intermediary (for intermediated loans), the location of the project, the sector it represents, a project description, its objective(s), its environmental and, if relevant, social aspects, including potential environmental/social risks and impacts, procurement data, proposed EIB finance, the total project cost, and the status of the project, noting whether it is “under appraisal”, “approved” or “signed”. When applicable, links are provided to environmental information, including Environmental and Social Impact Assessments and/or Non-Technical Summaries, as early as possible in the project cycle.<sup>5</sup>

**Commented [A18]:** It is correct that environmental information is not limited to EIS or NTS.

However, it is important that EIB makes a clear and visible commitment to publish environmental impact assessments whenever they exist for its financed projects.

4.9 Information on any intermediated financing of the EIB is published on the Project List on the EIB’s website. In addition, and to the extent possible, the EIB releases, on request, aggregate data on intermediated loan financing, including country and sector breakdowns.

4.10 If applicable, project summaries include links to environmental and social information/documents in the EIB Public Register, project data sheets, press releases, related projects, and/or other relevant information, or documents published on the EIB’s website.

4.11 After signature, project summaries are accessible through links in project data sheets published on the financed projects list on the EIB’s website. Project data sheets generally include the name of the project, the location of the project, the sector it represents and the loan amounts with their corresponding signature dates. The webpage of EIB’s financed project list informs the public of the possibility to get access to further information related to the financed projects upon request in accordance with section 5 below.

4.12 Project information is removed from the EIB website once the EIB’s involvement in the project is no longer foreseen.

## FINANCIAL INFORMATION

4.13 The EIB publishes audited financial statements on an annual basis which are included in the EIB’s Annual Report as well as a half-yearly summary non-audited balance sheet and profit and loss account. The EIB applies International Financial Reporting Standards (IFRS) at consolidated (group) level, with extended notes to the Balance Sheet and to the Profit and Loss Account Statement as well as to the Independent Auditors Report and to the Audit Committee Report. This is a fundamental element of transparency and is recognised as an expression of best practice in corporate governance at group level. With the same objective, the relevant European Directives<sup>6</sup> are applied to non-consolidated and to consolidated EIB financial statements.

<sup>5</sup> Information in project summaries is indicative and, if relevant, the EIB may consider updating it throughout the project cycle.

<sup>6</sup> EU directive 86/635/EEC of 08.12.1986 modified by EU directives 2001/65/CE of 27.9.2001 and 2003/51/CE of 18.06.2003

- 4.14 The EIB Group publishes annually a Risk Management Disclosure Report, also referred to as “Pillar 3 report” as per the Basel Committee on Banking Supervision definition. The Report is designed to provide further information about the approach the Group takes in managing the main risks that it is exposed to and assessing its capital adequacy, leverage and liquidity. In addition to following the disclosure set out in the EU Capital Requirements Regulations, the Risk Management Disclosure Report considers guidelines and opinions of the European Banking Authority, as well as the Standards Documents from the Basel Committee of Banking Supervision on disclosure requirements. Pillar 3 disclosures play a key role in promoting market discipline through the public reporting of meaningful prudential information. The definition and implementation of a common Pillar 3 framework with granular and comparable prudential disclosures is a major step towards reducing asymmetry of information with users of prudential information.
- 4.15 Detailed information on borrowing focuses on financial products, on-going financing operations and outstanding securities. Further information is provided on bond markets, tables of issues and links to offering circulars and debt issuance programmes.
- 4.16 Information on the EIB’s approach to borrowing activities is outlined on the EIB’s website, while the expected funding volume is announced to the market with a press release and indicated in the annually updated three-year Operational Plan (OP).
- 4.17 The EIB is required to follow the law in the markets in which its securities are offered. A common requirement in the jurisdictions in which the EIB operates is non-discrimination in the disclosure of financial information that would provide someone with an unfair competitive advantage in trading. In general, the EIB will seek to ensure that information on such matters will be released simultaneously through appropriate approved regulatory channels as well as on its website. Routine information on EIB borrowing activities is also made available by financial intermediaries.
- 4.18 The main means of communication on borrowing operations and other information of relevance for capital markets audiences include:
- Regulatory filings that are made available to the public;
  - The EIB’s website;
  - Key financial news services, notably Bloomberg and Reuters;
  - Dissemination of news through a Regulatory Information Service;
  - The Investor Relations sub-site of the EIB’s website focuses on the EIB’s borrowing activities, and also provides material on EIB’s credit story, including links to rating reports. These website pages provide a profile of EIB as an issuer, and information related to key aspects of its borrowing operations, including tables of issues and links to offering circulars and debt issuance programmes;
  - The EIB Group Annual Report includes extensive information on lending and borrowing activities, as well as financial statements. It includes the Financial Report, which provides an annual overview of borrowing activities, treasury, collateral and liquidity management. Among the Annual Report documents is the statistics supplement, which contains a list of bond operations carried out in the capital markets;
  - Presentation documents and fact sheets;
  - Periodical investor newsletters on funding activities, climate and sustainability awareness bonds and any relevant market development;
  - Press releases on borrowing activities, which are considered particularly newsworthy or respond to disclosure requirements;
  - Other specialised information materials on the EIB’s activities in the capital markets; and
  - Via EIB’s direct contacts with sections of the investment community in meetings (including road-shows, teleconferences and conferences).

4.19 Documentation (Offering Circulars, Prospectuses and/or Programmes) for public bond issues is available upon request.

4.20 Queries related to the EIB's activities in the capital markets should be addressed to the Investor Relations Division ([investor.relations@eib.org](mailto:investor.relations@eib.org)).

## 5. Disclosure of Information

### PRINCIPLES FOR DISCLOSURE

#### 5.1 Presumption of disclosure:

- a. All information and documents held by<sup>7</sup> the EIB are subject to disclosure upon request, unless there is a compelling reason for non-disclosure (see "Exceptions" below).
- b. The present Policy applies without prejudice to the right of public access to information/documents held by the EIB in line with:
  - i. ~~The United Nations Economic Commission for Europe (UNECE) Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters done at Aarhus, Denmark, on 25 June 1998, as implemented by The Aarhus Convention~~ and Regulation (EC) No 1367/2006; the EIB shall pay particular attention to all requests for the disclosure of information/documents, especially those concerning environmental information;

or  
and

- ii. Other instruments of international and EU law, or acts of EU institutions implementing them, that are applicable to the EIB.

5.2 Non-discrimination and equal treatment: Every member of the public has the right to request and receive timely information/documents from the EIB ~~without suffering from any retaliation~~. When considering such a request for information/documents, the EIB does not discriminate or give special privileged access to information/documents.

Non-retaliation: EIB does not tolerate retaliation against individuals or organizations for exercising their rights under this Policy.

### EXCEPTIONS

5.3 While the EIB is committed to a policy of presumption of disclosure and transparency, it also has a duty to respect confidentiality in compliance with European Union laws, including the obligation not to disclose information of the kind covered by the obligation of professional secrecy in accordance with Article 339 TFEU, as well as legislation to protect personal data. National regulations and banking sector standards covering business contracts and market activity may also apply to the EIB. There are therefore certain ~~limits~~ constraints on the disclosure of information/documents.

**Commented [A19]:** If the Aarhus Convention is mentioned in Section 3 on the Institutional Framework, its common name can be used here for readability.

**Commented [A20]:** "As implemented by" implies that the Aarhus Convention itself does not apply to EIB. However, as an EU institution, EIB is bound to implement the Aarhus Convention itself, including those provisions of the Convention not found in the Aarhus Regulation. This includes, for example, article 3(8) of the Convention prohibiting the penalization of persons exercising their rights under the Convention.

**Commented [A21]:** This should be in addition, rather than an alternative.

**Commented [A22]:** This is a very important issue – but it should not be lumped together with non-discrimination and equal treatment. These are two very different issues with different actors involved.

First, EIB declares that **EIB** will not discriminate and ensure equal treatment when handling information requests.

Second, EIB declares that it will not tolerate retaliation **by other actors** (eg project developer, host country) against persons exercising their rights under the policy.

We accordingly suggest to insert a new paragraph on retaliation as shown below.

**Commented [A23]:** "such" is unnecessary and reads awkwardly.

<sup>7</sup> That is to say, information/documents drawn up by the EIB or received by it and in its possession, in all areas of activity of the EIB.

In applying the exceptions to disclosure the EIB shall, in line with article [updated cross references] above, have due regard for its specific role and activities, and the need to protect its legitimate interests and the legitimate interests of its clients, and thus the confidentiality of the relationship between the EIB and its clients and other relevant counterparts. In particular, under this Policy the EIB cannot disclose information in violation of European Union law such as the Market Abuse Regulation.

5.4 Notably, access shall be refused where disclosure would undermine the protection of:

- a. the public interest, as regards:
  - o public security;
  - o international relations;
  - o the financial, monetary or economic policy of the EU, its institutions and bodies or a Member State;
  - o the environment, such as breeding sites of rare species.
- b. privacy and the integrity, safety and security of the individual, in particular in accordance with EU legislation regarding the protection of personal data.

5.5 Access to information/documents shall also be refused where disclosure would undermine the protection of commercial interests of a natural or legal person.

The following non-exhaustive examples illustrate common cases of commercial interests:

- o ~~Business, financial, proprietary or other non-public commercially sensitive information/documents created or received by the EIB;~~
- o ~~Information/documents relating to negotiations, legal documentation and related correspondence;~~
- o ~~Information/documents commercially sensitive information covered by a confidentiality agreement<sup>8</sup> or in relation to which a third party has legitimate expectations that they would not be disclosed.~~

5.6 Access to information/documents shall also be refused where disclosure would undermine the protection of:

- o intellectual property;
- o court proceedings and legal advice;
- o the purpose of inspections, investigations and audits.<sup>9</sup>

~~Disclosure of information/documents related to inspections, investigations and audits shall be presumed to undermine the protection of the purpose of the inspections, investigations and audits.~~

Requests for disclosure of information/documents relating to finalised investigations will be assessed in light of all the relevant circumstances of each case, taking into account the public interest in disclosure.

<sup>8</sup> The term “commercial interest” covers, but is not limited, to cases where the EIB concluded a confidentiality agreement. Also, commercial interests can be protected even after the expiration of the confidentiality agreement: if they are still otherwise protected under EU law. The relevance of confidentiality agreements is recognised, for example, in Recital 15 of Regulation (EC) No 1367/2006, which states that *[t]he term ‘commercial interests’ covers confidentiality agreements concluded by institutions or bodies acting in a banking capacity.*

<sup>9</sup> Article 5.6, third bullet point, applies to inspections, investigations and audits including compliance due diligence carried out by, or on behalf of, the relevant services of the EIB, notably the investigation, audit and compliance functions, as well as other relevant third parties (such as the European Anti-Fraud Office (OLAF), the European Public Prosecutor’s Office (EPPO) or national authorities). The third and fourth subparagraphs do not apply to the activity of audit and compliance functions; for the purposes of these subparagraphs, investigations are considered finalised when they have been closed without follow-up or monitoring or the follow-up or monitoring has been completed.

**Commented [A24]:** For consistency with article 5.4, which refers only to “Access”.

**Commented [A25]:** This is too sweeping. EU law does not protect **all** business or financial information. “Business information” could simply be the name of the company director. “Financial information” could be a company’s current share price

**Commented [A26]:** This needs to be re-worded or deleted. As currently drafted, this would exclude from disclosure every piece of information, of any type, held by EIB that is not already in the public domain!

**Commented [A27]:** In line with both article 4(6) of the Aarhus Convention and article 4(6) of Regulation 1049/2001, it is not necessarily the whole document that should be withheld, but rather the information exempted from disclosure, with the rest of the document then disclosed.

**Commented [A28]:** This is again too sweeping. “Negotiations” is a broad and undefined category. Similarly, “legal documentation” can be on all kind of topics and only a small part of a legal document may contain confidential commercial information

**Commented [A29]:** The fact that information is subject to a confidentiality agreement does not necessarily make it “commercial information”.

Similarly, third party information is not necessarily “commercial information” and there is a dedicated exception for third party information below.

Rather, there needs to be a legitimate economic interest at stake for it to come within the “commercial interest” exception. (See article 4(4)(d) of the Aarhus Convention).

**Commented [A30]:** We have suggested to slightly amend the footnote to avoid implying that commercial interests are automatically protected after the expiry of a confidentiality agreement. To benefit from ongoing protection, they would still need to qualify for protection under EU law.

**Commented [A31]:** For consistency with article 5.4 which refers to “Access”.

**Commented [A32]:** This is too sweeping. This would prevent from disclosure even the fact that an inspection or investigation is going on or has been undertaken. Withholding such facts may do reputational damage to EIB.

In its findings on ACCC/C/2013/89 (Slovakia), the Aarhus Convention Compliance Committee held that “an approach where whole categories of environmental information are unconditionally declared as confidential and for which no release is possible is incompatible” with the Convention (see ECE/MP.PP/C.1/2017/13, para. 83).

Without prejudice to the above or any provisions of this Policy, the EIB may ~~consider providing~~ provide a summary of the findings of investigations.

Any disclosure made under the previous subparagraphs shall be assessed in light of all the relevant circumstances of each case, notably taking into account the provisions of this Policy and of other EIB policies, ~~the public interest served by disclosure and the need to protect the effectiveness and the purpose of ongoing and future investigations by the EIB or other parties.~~

**Commented [A33]:** Once an investigation is finalized, there is a public interest in the outcome of the investigation being known.

**Commented [A34]:** This is an essential part of the balancing exercise under article 4(4) of the Aarhus Convention.

5.7 Access to information/documents, drawn up by the EIB for internal use or received by the EIB, which relate to a matter where the decision has not been taken by the relevant organ of the EIB, shall be refused if disclosure of the document/information would seriously undermine the EIB's decision-making process.

Access to information/documents containing opinions for internal use as part of deliberations and preliminary consultations within the EIB or with Member States/other stakeholders shall be refused even after the decision has been taken if disclosure of the information/document would seriously undermine the EIB's decision-making process.

5.8 The exceptions under Articles 5.5, 5.6 and 5.7 shall apply unless there is an overriding public interest in disclosure. As regards Article 5.5 and the first and third bullet points of Article 5.6 with the exception of investigations, an overriding public interest in disclosure shall be deemed to exist where the information requested relates to emissions into the environment.

5.9 ~~The~~ If only parts of a requested document are covered by any of the exceptions, the remaining parts of the document shall be released.

**Commented [A35]:** This is required by article 4(6) of the Aarhus Convention and also by article 4(6) of Regulation 1049/2001

~~5.9.5.10~~ All grounds for refusal, in particular as regards access to environmental information/documents should be interpreted in a restrictive way, taking into account the public interest served by disclosure and whether the information requested relates to emissions into the environment.

~~5.10.5.11~~ As regards third-party information/documents,<sup>10</sup> the EIB shall consult with the third party(ies) on whether the information/document is confidential according to this Policy unless it is clear that it shall or shall not be disclosed. In all cases, the final decision on disclosure lies with the EIB.

**Commented [A36]:** In order for EIB to protect itself from potential liability in a situation where the third party refuses to agree to disclosure in a situation where, legally, the requested information cannot be withheld, we suggest this addition.

5.12 A Member State or an EU institution, body or agency may request the EIB not to disclose information/documents originating from them without their prior agreement, setting out the reasons for their objection by reference to the exceptions referred to in Section 5 of the present Policy.

**Commented [A37]:** It is helpful for the reader, and more transparent, to make clear that all exceptions are contained in this section.

~~5.12.5.13~~ The EIB occasionally co-operates closely with other IFIs and bilateral European development finance institutions and has broadened and deepened this co-operation especially by partial or full delegation of project appraisal and monitoring. Documents relating to such common projects prepared by another IFI and/or bilateral European institution could be disclosed by the other parties themselves or by the EIB with the prior agreement of the relevant other IFI or bilateral European institution.

~~5.12.5.14~~ The EIB discloses certain aggregate information on investor activity. Confidential information, in line with within the exceptions laid down in this Policy, relating to individual investors or banks will not be disclosed. The EIB will, however, seek to encourage transparency regarding its securities issues wherever possible.

**Commented [A38]:** From the previous wording, it was not clear whether "confidential information relating to individual investors or banks" was an additional exception from disclosure in its own right. Our understanding, however, is that the information to be withheld would still need to fall within one of the above exceptions.

<sup>10</sup> This includes mixed information/documents from both third parties and the EIB.

~~5.135.15~~ The exceptions will only apply for the period during which protection is justified on the basis of the content of the document. The exceptions may apply for a maximum period of 30 years. After 30 years, a document becomes subject to review for public archiving. In the case of documents covered by the exceptions relating to the protection of personal data or commercial interests of a natural or legal person including intellectual property, the exceptions may, if necessary, continue to apply after this period. In general, information shall only be held by the EIB until the end of the retention requirements has been reached.

## PROCEDURES FOR HANDLING INFORMATION REQUESTS

The EIB's procedures for handling requests for information from the public are as follows:

~~5.145.16~~ ApplicationsRequests for access information should be preferably addressed to the EIB information desk ([infodesk@eib.org](mailto:infodesk@eib.org)). They can also be sent to any of the EIB mailpostal addresses, including its External Offices.

~~5.155.17~~ The applicant is not obliged to state reasons for the applicationrequest.

~~5.165.18~~ ApplicationsRequests for access shall information should preferably be made in writing, for reasons of recording, handling and reporting in accordance with the provisions of this Policy. ~~EIB staff remains available to respond informally to oral requests. They can also be made orally.~~

~~5.175.19~~ If an applicationa request is not sufficiently precise or if it does not enable the document, or information, to be identified, the applicant shall be asked to clarify the applicationrequest.

~~5.18~~ If information has already been released by the EIB, the applicant shall be informed of how to obtain the requested information.

~~5.195.20~~ In the event of an applicationa request relating to a very long document or to a very large number of documents; or when the information is not readily available or complex to collate, the EIB may confer with the applicant informally, with a view to finding a fair solution.

~~5.21~~ In the event that EIB does not hold the information requested but is aware of the entity that may do so, the EIB shall, as promptly as possible, inform the applicant of the entity that may hold the information.

~~5.205.22~~ Requests are replied to without delay, and in any event no later than 15 working days following receipt<sup>11</sup>.

~~5.215.23~~ In exceptional cases, for example in the event of an application relating to a very long document or when the information is not readily available and complex to collate,<sup>12</sup> the time-limit for providing the

<sup>11</sup> A longer, reasonable time frame may for example be necessary: (i) when the request or the information/documents sought are in languages other than the EIB working languages (English and French); (ii) to complete the consultation of third parties; (iii) when the request concerns a large volume of information/documents or historical information/documents. The EIB will inform the applicant about the delay and the reasons thereof.

<sup>12</sup> A longer, reasonable time frame may for example be necessary: (i) when the request or the information/documents sought are in languages other than the EIB working languages (English and French); (ii) to complete the consultation of third parties; (iii) when the request concerns a large volume of information/documents or historical information/documents. The EIB will inform the applicant about the delay and the reasons thereof.

**Commented [A39]:** For consistent terminology throughout (and to avoid possible confusion with the confirmatory application discussed later in the policy), we suggest to use the terminology "request for information" rather than "application for access".

**Commented [A40]:** Is this what is meant? "Mail" address could also mean any EIB "email" address.

**Commented [A41]:** This is not in accordance with the Aarhus Convention, which does not allow requests for information to be limited to written requests.

For the purposes of recording, handling and reporting, EIB staff can themselves make a written record of the request, including its date and other essential information as needed.

**Commented [A42]:** It is very unclear what "respond informally" means.

The Aarhus Convention does not permit downgrading the rights accorded to information requests made orally. The same provisions (eg the applicable timeframes and access to review procedures) still apply.

**Commented [A43]:** This is not permitted under the Aarhus Convention.

The provision which would seem most similar is article 4(1)(b)(ii) of the Convention which states that, if the information is already publicly available in another form, the information can be provided in that form, rather than in the form requested.

The requested information still however has to be provided to the requester.

**Commented [A44]:** See article 4(5) of the Aarhus Convention.

**Commented [A45]:** The footnote suggested by the Ombudsman would seem to fit better in this sentence, since it is describing situations where the requested information is not readily available and will need further time to put together.

information may be extended and the correspondent. The applicant shall be informed accordingly of the need for an extension of time and the reasons justifying it no later than 15 working days following receipt.

**Commented [A46]:** For consistency of terminology

~~5-225.24~~ The EIB shall, however, endeavour to provide a reply to such complex requests no later than 30 working days following receipt. In all circumstances, a reply will be provided no later than two months following receipt.

**Commented [A47]:** Whilst EIB endeavours to reply to complex requests no later than 30 days following receipt, article 4(2) of the Aarhus Convention requires that complex requests are dealt with in a maximum of two months.

~~5-225.25~~ If, in order to safeguard the interests protected by this Policy, the EIB is unable to divulge the information requested, in full or partially, the reason(s) why such information cannot be provided shall be stated and the applicant will be informed of the right to make a voluntary confirmatory application or lodge a complaint. A refusal of a request shall be in writing if the request was in writing or the applicant so requests. A refusal shall be made as soon as possible and at the latest within 15 working days, unless the complexity of the information justifies an extension of up to 30 working days. The applicant shall be informed of any extension and the reasons justifying it.

**Commented [A48]:** See article 4(7) of the Aarhus Convention.

~~5-245.26~~ Information shall be supplied in an existing version and format, or, if feasible, the form requested unless it is already publicly available in a format according to the specific needs of another form or it is otherwise reasonable for the requester. EIB to make it available in another form, in which case reasons shall be given for making it available in that form.

Although it may be intended that the timeframes in the preceding paragraphs for “replying” to an information request also automatically apply to refusals, to avoid ambiguity, it is suggested to make clear the timeframes for refusals also.

**Commented [A49]:** This is required by article 4(1)(b) of the Aarhus Convention.

~~5-255.27~~ Members of the public writing to the EIB in one of the official languages of the EU shall have the right to receive a reply in the same language.

~~5-265.28~~ Only the costs of producing and sending copies may be charged to the applicant. The charge shall not exceed the real costs of producing and sending the copies. A schedule of such charges will be made available on the EIB website, indicating the circumstances in which the charges may be levied or waived and when the supply of information is conditional on advance payment of the charge.

**Commented [A50]:** A schedule of charges is required by article 4(8) of the Convention.

~~5-275.29~~ The handling of requests shall be carried out in compliance with rules on the protection of individuals with regard to the processing of personal data as laid down in EU law Regulation (EU) 2018/1725.

**Commented [A51]:** For transparency, readers of the policy should be able to know which EU law is being referred to, so that they can check for themselves what it says.

~~5-285.30~~ The EIB retains the possibility of refusing to follow up an application request that is excessive or manifestly unreasonable, for example repetitive. The same applies to applications that are or clearly frivolous requests or requests that are malicious or commercial in nature.

**Commented [A52]:** The reference to “excessive” is problematic, as to fairly determine what is excessive, EIB needs to know the reason why the information is sought (which it is not entitled to do).

~~5-295.31~~ In the event of a total or partial refusal following the initial application request, the applicant may, within 15 working days of receiving the EIB’s reply, make a confirmatory application asking the EIB to reconsider its position. Alternatively, the applicant may lodge a complaint with the Complaints Mechanism within one year of the EIB’s response.

The policy already envisages several options for dealing with large information requests:  
First, if a request is not sufficiently precise, the requester can be asked to clarify the request.  
Second, if it is for a very large number of documents, EIB may confer with the applicant to find a fair solution.  
Third, there is a longer timeframe for dealing with large or complex requests.  
Finally, if conferring with the requester does not work and the requester is unreasonable – then the request might as a last resort be considered to be manifestly unreasonable.

~~5-305.32~~ The voluntary confirmatory application shall be handled by the EIB’s Secretary General in line with the previous provisions (see articles~~[updated cross references]~~).

**Commented [A53]:** The Aarhus Convention does not expressly refer to the possibility to refuse an information request due to the request being repetitive, frivolous, malicious or commercial in nature. However, these grounds could each potentially be seen as examples of “manifestly unreasonable” requests under article 4(3)(b) of the Convention.

~~5-315.33~~ In the event of a total or partial refusal following a confirmatory application, the EIB shall inform the applicant of the remedies open to him or her, namely making a complaint to the Complaints Mechanism or initiating court proceedings against the EIB before the Court of Justice of the European Union.

~~5-325.34~~ Failure by the EIB to reply to a request within the prescribed time limit shall be considered as a negative reply and entitles the applicant to make a complaint to the EIB Complaints Mechanism or to institute court proceedings against the EIB before the Court.

## 6. Provisions for Complaints and Appeals

This section sets out an exhaustive list of the remedies available in relation to this Policy.

### COMPLAINTS MECHANISM

- 6.1 The provisions for complaints are determined by the EIB Group Complaints Mechanism Policy,<sup>13</sup> which recognises the right of the members of the public to lodge a complaint concerning alleged maladministration against the EIB and provides the public with a tool enabling alternative and pre-emptive resolution of disputes.
- 6.2 Any natural or legal person who alleges a case of maladministration by the EIB Group, which includes failure to deliver according to its Transparency Policy, may lodge a complaint with the EIB Group Complaints Mechanism within one year from the date on which the facts upon which the allegation is grounded could reasonably be known by the complainant.
- 6.3 In line with its Policy, the EIB Group Complaints Mechanism cannot deal with complaints which have already been lodged with other administrative or judicial review mechanisms or which have already been settled by the latter.

### EUROPEAN OMBUDSMAN

- 6.4 In case of dissatisfaction with the outcome of the complaint lodged with the EIB Complaints Mechanism, EU citizens or any natural or legal person residing or having its registered office in an EU Member State can, in accordance with article 228 TFEU and regardless of a direct concern in the alleged maladministration, make a complaint to the European Ombudsman. Following the Memorandum of Understanding signed by the EIB and the European Ombudsman, the latter commits to systematically using its own initiative power in order to handle complaints lodged against the EIB when the sole reason preventing an inquiry is the fact that the complainant is not a citizen of the European Union or a natural or legal person residing or having his registered office within the European Union.

### AARHUS CONVENTION COMPLIANCE COMMITTEE

- 6.5 Any member of the public has the right to submit communications to the Aarhus Convention Compliance Committee ~~against the European Union concerning alleged non-compliance with the Convention~~ by the European Union, including alleged non-compliance by EIB.<sup>14</sup>

### COURT OF JUSTICE OF THE EUROPEAN UNION

- 6.6 The EIB's decision on the confirmatory application shall also be subject to judicial appeal before the Court in accordance with the relevant provisions of the Treaty on the Functioning of the European Union, in particular Articles 263 and 271. When deciding to challenge the EIB before the Court, stakeholders should take into consideration the fact that the judicial appeal may preclude access to alternative dispute resolution mechanisms as the EIB Complaints Mechanism and the European Ombudsman.

<sup>13</sup> <https://www.eib.org/en/publications/complaints-mechanism-policy>

<sup>14</sup> Further details on this compliance review mechanism are available [For further information on the web page of the Aarhus Convention Compliance Committee, see: https://unece.org/env/pp/cc](https://unece.org/env/pp/cc).

## 7. Stakeholder Engagement and Public Consultation

### PRINCIPLES FOR STAKEHOLDER ENGAGEMENT

- 7.1 The underlying objective of EIB's principles on stakeholder engagement is to ensure stakeholders are heard, and that due account is taken of their concerns will be adequately addressed. The EIB conducts stakeholder engagement at policy level by holding consultations, including public consultations, and by organising workshops, conferences, seminars and other meetings and events.
- 7.2 The EIB promotes transparency as a way to strengthen its accountability. Therefore, more than simply disclosing standardised information and more than just a one-way flow of information, the EIB aims to provide stakeholders with the information they require thereby positively contributing to enhancing the quality of the EIB's activities. Such transparency requires an ongoing dialogue between the EIB and stakeholders over information provision.
- 7.3 EIB's stakeholder engagement follows best practice, aimed at increasing mutual understanding, addressing stakeholders' concerns and adjusting its activities accordingly, decreasing a possible gap between expectations, policy and practice and achieving greater coherence and accountability in the EIB's policies and practices.
- 7.4 The EIB upholds human rights, including the rights to access to information, to participation, and to remedy. In line with this, stakeholders must be able to engage freely with the EIB and its promoters in providing feedback, voicing opposition, and raising concerns. Hence, the EIB does not tolerate acts of intimidation or reprisals in relation to EIB-financed activities, and takes follow-up actions as and where appropriate.
- 7.5 The contact details of the EIB staff that coordinate the EIB's engagement with stakeholders at an institutional level are published on the EIB website.

**Commented [A54]:** Article 6(8) of the Convention requires Parties to ensure that "due account" is taken of the outcome of the public participation.

### STAKEHOLDER ENGAGEMENT IN PROJECTS

- 7.6 Stakeholder engagement at project level, including information disclosure, meaningful consultation as relevant public participation and access to grievance justice, is governed by relevant provisions of EU law and by the Aarhus Convention and the EIB Environmental and Social Standards,<sup>15</sup> which confirm the EIB's commitment to the principles on stakeholder engagement and encourage project promoters to comply with these standards as well as to follow good practices in project design, implementation and monitoring.
- 7.7 The primary responsibility for information and engagement with local the public concerned and other relevant stakeholders on a project basis lies rests with the project promoter and/or borrower. The EIB encourages supports their efforts in accordance with the EIB Environmental and Social Standards.
- 7.8 The EIB values a constructive dialogue with relevant stakeholders in the context of its due diligence and promotes their participation in relevant decision-making processes. Engaging with stakeholders can contribute to the legitimacy of a project and their trust, knowledge and understanding of local issues can help improve the its performance and sustainability, as well as minimise the risks of a project.

**Commented [A55]:** Aarhus Convention gives the right to participate to the "public concerned"

<sup>15</sup> See the EIB Environmental and Social Standard No 10 on Stakeholder Engagement.

7.9 If deemed necessary, the EIB may meet, through or in cooperation with the project promoter and/or borrower, with concerned parties to better understand their concerns regarding the specific project. Engagement with national stakeholders may take place through different channels, including through the delegations of partner EU institutions present in EIB countries of operation. Discussions with national stakeholders are usually country-specific and seen by the EIB as a tool to adapt to the projects' specificities.

7.10 The EIB is open to explore further potential ways of engagement with the public concerned and other relevant stakeholders on projects with high environmental and social, including human rights, risk potential.

## PUBLIC CONSULTATION

7.11 The EIB is committed to engage, on a voluntary basis, in formal, meaningful and effective public consultation on selected policies. This participatory process allows external the public as well as other relevant stakeholders and EIB staff to participate in the preparation and review of policy documents, contributing to their quality and credibility and acceptance. The EIB will normally organise a one round public consultation process prior to submission of the respective policy document to the EIB's Board of Directors (or Management Committee, as applicable). The consultation period will be a minimum of 45 working days. The EIB may also decide to organise a second round of public consultation with a consultation period of a minimum of 20 working days and/or public stakeholder meeting(s) during the consultation period. After completion of the consultation and at least 15 working days prior to approval by the corresponding governing body, the final draft policy will be published on the EIB website, together with a draft Consultation Report, the stakeholder submissions and the EIB's reasoned comments on their contributions.

7.12 Stakeholders are informed of future public consultations through the website and to the extent possible through direct electronic mailings. The timetable, as well as the contact details for each consultation, is also published on the website.

## 8. Promoting Transparency

8.1 Weak governance, corruption and lack of transparency are a major issue in some of the regions in which EIB operates, and hinder economic and social development. The EIB actively promotes transparency and good governance in the projects it finances, in the companies in which it participates and generally with its counterparts.

8.2 The EIB is also fully committed to promoting transparency in the capital markets in which its bonds are offered.

8.3 Project promoters and/or borrowers and co-financiers are made aware of the principles of this Policy at an early stage in discussions. The EIB strongly encourages the project promoters and/or borrowers and other competent parties to make environmental and social information on EIB-funded projects available at an early stage to the public, to be open and transparent on their relationship and arrangements with the EIB and to follow the transparency principles detailed in this Policy in the context of the financed projects. This should be done without prejudice to the legitimate interests of the EIB and other third parties, as well as to the applicable laws and regulations.

8.4 The EIB maintains close contacts with other EU and international institutions and bodies to monitor and exchange views on new developments in the area of transparency and disclosure with a view to continuously improving its own policies and practices. It also addresses transparency and disclosure issues in its ongoing dialogue with all other interested stakeholders.

**Commented [A56]:** When preparing policies related to the environment, EIB is bound by article 7 of the Aarhus Convention to endeavour to provide opportunities for public participation.

**Commented [A57]:** Public consultation should not just be "formal". It should be "effective" and "meaningful".

**Commented [A58]:** This section is called "public consultation". It should thus be clear that the consultation is open to the public at large, and not just selected stakeholders.

**Commented [A59]:** The meaning and impact of this disclaimer is unclear.

- 8.5 The EIB also shares information/documents about its activities, including project information, with European Union institutions, bodies and agencies, as well as relevant supranational organisations and peer institutions within their respective mandates. This may include certain categories of data in respect of EIB projects and financings and where feasible data is provided in aggregated or anonymised form.
- 8.6 The EIB will continue to strengthen its efforts to improve its transparency, accountability and governance, and to be at the forefront as a transparent and responsible institution.

#### **TASK FORCE ON CLIMATE-RELATED FINANCIAL DISCLOSURES (TCFD)**

- 8.7 The EIB supports the recommendations of the Task Force on Climate-related Financial Disclosures (TCFD)<sup>16</sup> aiming to achieve robust and internationally consistent climate and environmental related disclosure. The overall EIB's climate actions thereby demonstrate its commitment to climate risk management, transparency and accountability as also reflected in the EIB's Climate Strategy. The EIB acknowledges that, if broadly adopted, the TCFD framework would provide a foundation to improve the ability to appropriately address climate-related risks and opportunities.

#### **EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE**

- 8.8 The EIB is convinced that combatting corruption through improved transparency and accountability in the extractive industries is an essential element for underpinning economic development and poverty reduction and for political stability in resource rich countries. Having endorsed the Extractive Industries Transparency Initiative (EITI), the EIB is committed to support the initiative's work in resource-rich countries outside the EU in which the EIB operates, in particular by working with its project sponsors to introduce greater transparency and consistency in reporting on payments at a project level. At the same time, the EIB will continue to promote the initiative in its contacts with governments and national authorities and encourage them to adopt the EITI principles for reporting and publishing extractive industry revenues. The EIB will also adapt its practices in accordance with legislative developments that stipulate transparency requirements applicable to entities in the extractive industry sector.

#### **INTERNATIONAL AID TRANSPARENCY INITIATIVE**

- 8.9 Based on its commitment to continuously improve its transparency and accountability standards and to ensure that its work in developing countries meets the highest internationally agreed standards of transparency, the EIB implements the internationally agreed International Aid Transparency Initiative (IATI) reporting standard for aid and development finance.

## **9. Responsibilities**

- 9.1 Whereas in accordance with the EIB's Rules of Procedure, the Board of Directors has the competence to adopt the Transparency Policy, its oversight and implementation falls under the responsibility of the EIB's Management Committee. Responsibilities are deployed throughout the organisation as appropriate to ensure the policy objectives are reflected in goals and activities at all levels of the organisation.

---

<sup>16</sup> <https://www.fsb-tcf.org/>

9.2 Resources are assigned for the implementation of the Transparency Policy throughout the organisation. Relevant staff at all levels of the organisation are trained in how to handle transparency and disclosure issues, dialogue with stakeholders, and other related topics. Within the organisation, expert resources, guidance and training on transparency issues shall be provided.

9.3 At least every five years, the EIB will consider the need to launch a review of this Policy, including consultations with the public ~~consultation with EIB Group~~ and other relevant stakeholders. In addition, appropriate amendments may be made at any time in case of changes to the EU's policy and legislative framework on transparency and disclosure of information, changes to policies and procedures within the EIB that require an alignment of this Policy, and any other changes the EIB judges necessary and appropriate.

9.4 The EIB shall publish annually a report for the preceding calendar year on the implementation of this Policy.<sup>17</sup> The report covers the publication of project summaries, the progressive development of the EIB Public Register, the handling of information/documents disclosure requests under this Policy, complaints and appeals related to this Policy, and other notable activities to promote transparency, if any. Information related to the handling of information/disclosure requests under the Policy will include e.g. the number of information requests handled, the number of cases in which the Bank refused to grant access to information, the reasons for such refusal, the type and number of appeals filed with different appeal mechanisms, the adherence to the deadlines specified for responding to information requests and for publishing project related information on the website.

**Commented [A60]:** Article 7 of the Aarhus Convention requires the EU, as a Party to the Convention, to endeavour to provide opportunities for public participation in the preparation of policies relating to the environment.

**Commented [A61]:** It is unclear the reason why this sentence in the current policy is proposed for deletion in the draft revised policy. These statistics are important for the transparent and accountable implementation of this policy.

<sup>17</sup> The EIB publishes an annual report of the complaints submitted under the Complaints Mechanism. Complaints submitted to the European Ombudsman are also published on the Ombudsman's website and in its Annual Report. The deliberations of the European Court of Justice and the findings of the Aarhus Convention Compliance Committee are also published on their websites.