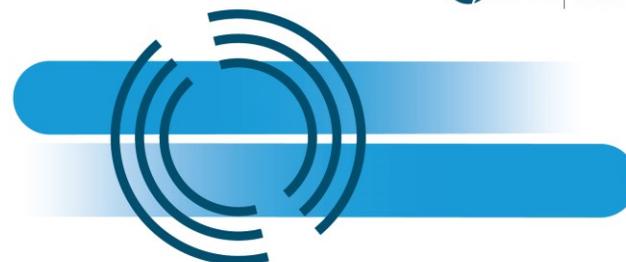




Access to
information policy



**IDB INVEST CONSULTATIONS REGARDING ITS
DRAFT *ACCESS TO INFORMATION* POLICY:**

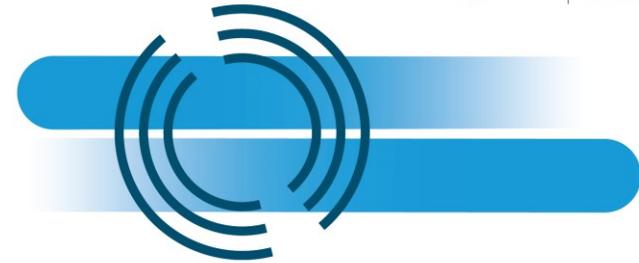
MEETINGS IN BRAZIL – AUGUST 13, 2018
SUMMARY OF STAKEHOLDERS' COMMENTS

I. INTRODUCTION

Following the Consultation Plan, a face-to-face consultation was held in Sao Paulo on August 13, 2018. Of the total of 39 participants, 56% were from the private sector, 28% from non-governmental organizations and the remaining 20% from the public sector and academia:



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II. STATISTICS

Figure 2: Brazil Workshops:
Male/Female Attendance

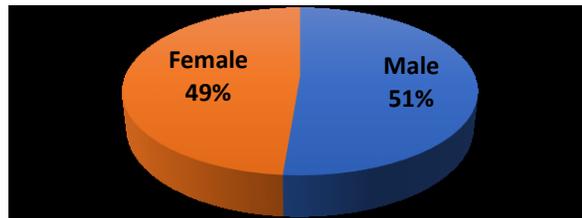
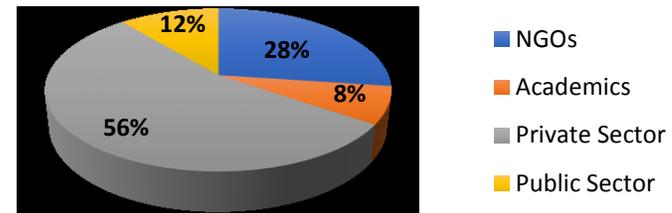


Figure 1: Brazil Workshops by
Type of Attendee





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III. SUMMARY OF STAKEHOLDER COMMENTS

An overarching feedback received during the meeting was that the new draft policy represents a major step in the right direction. Both private sector and civil society endorsed IDB Invest’s drive to increase transparency and accessibility to information.

NOTE: Comments were received from representatives of civil society, and the public and private sectors, as summarized below. These comments do not necessarily reflect consensus among participants but rather demonstrate the array of opinions on key issues of interest that were voiced by representatives of these groups.

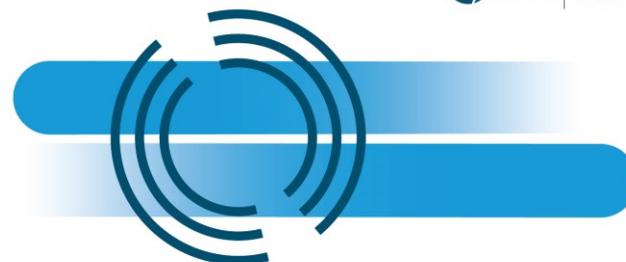
QUESTION #1: WHAT TYPES OF INFORMATION ARE MOST IMPORTANT TO YOU?

A1. Before Project Approval

Issue Areas Identified	Stakeholder Comments
1. Access to Information as a Human Right	Civil Society representatives expressed the view that access to information is a fundamental human right, referencing Paragraph 3 of the draft Access to Information Policy, thereby underscoring, in their view, the need for communication between IDB Invest and its clients regarding the relevance of its Access to Information Policy and its goal to support human rights.
2. Enhancement of transparency	Civil society representatives stressed that information, in order to be transparent, needs to encompass: <ul style="list-style-type: none"> • Criteria used to evaluate a proposed project, and for approving one project over another (e.g., justification of the location; reasons for the company’s involvement; etc.); • Information about the project (e.g. financing modalities, including how the monies are going to be spent; project goals; etc.); • Stakeholder mapping, identifying investors, affected stakeholders, project implementing groups (consultants, etc.) • The link, if any, between the proposed project and broader government sectoral plans and policies;



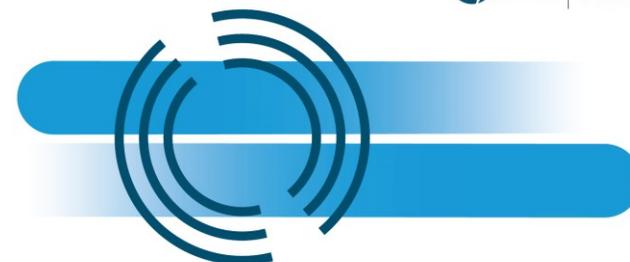
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	<ul style="list-style-type: none"> • Definition of direct and indirect impacts that are projected as a result of project implementation, including a risk assessment as regards impacts on affected communities; • Definition of a timeframe for access to information that extends beyond completion of a project, to allow for potential later legal claims by stakeholders. <p>Civil society representatives requested clarification of how the proposed Access to Information Policy will be implemented and monitored to enhance transparency, suggesting that a compliance control committee could be established to ensure policy fulfilment.</p> <p>Public and private sector representatives noted the need to disclose information on the entire project and its impacts, not just the part being financed by IDB Invest, in order to avoid the situation where IDB Invest could fund some elements of a project before it has the entire socio-environmental analysis for the entire project in hand.</p> <p>Private sector representatives stressed that information, in order to be transparent, needs to encompass disclosure of the criteria used to evaluate a proposed project (financing modalities, reasons for approval of one project over another, etc.)</p>
<p>3. Timing for Disclosure and Review</p>	<p>Civil society representatives asked what the rationale is for decreasing the time period for review of an ESAP from 120 to 60 days for a Category A project, deeming this shorter period difficult to work effectively with affected communities to respond.</p> <p>Private sector representatives asked if the reduction from 120 to 60 days would conflict with the Pelosi Amendment, a U.S. regulation. Private sector representatives commented that the disclosure requirement could be the same for all projects (e.g. 30 days) – more aligned with commercial Banks.</p> <p>Private sector representatives also asked if an ESAP could be withheld if they contained sensitive information.</p>



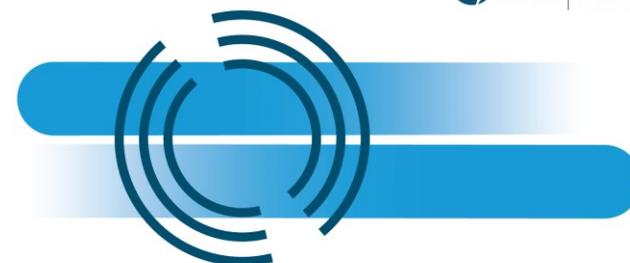
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<p>4. Definitions</p>	<p>Private sector representatives stressed the importance of creating a glossary of definitions, or the main terms used in the Policy.</p>
<p>A2. After Approval/During Project Implementation</p>	
<p>5. Monitoring and evaluation</p>	<p>Civil society participants stressed the need for:</p> <ul style="list-style-type: none"> • Disclosure of checklists to enable them to track the fulfilment of private sector obligations (e.g., indicators of environmental, social and labour requirements; impacts on human rights, and gender related achievement of obligations related to women’s access to information); • A clear articulation of the format, content and frequency of monitoring; • Consideration of universities or other objective organizations that could assist. <p>Civil society representative requested clarification regarding the disclosure of documents related to past projects, under the proposed new Policy, including:</p> <ul style="list-style-type: none"> • What types of information will be published <i>a posteriori</i>; • Whether affected communities will be given timely access to such information; • The period of time during which information will be made available after completion of a project.
<p>QUESTION # 2: WHAT DO YOU THINK OF THE PROPOSED EXCEPTIONS TO DISCLOSURE?</p>	
<p>6. Clarity regarding exceptions</p>	<p>Civil society representatives stressed a need for more standardized definitions and criteria for determining exceptions, including more precise definitions of:</p> <ul style="list-style-type: none"> • Financial exceptions and financially sensitive information: The proposed Policy’s current language was deemed too general such that a wide range of information could be classified as financial data; • Commercial exceptions and commercially sensitive information; • Information that could conceivably cause harm to an individual; • National security.



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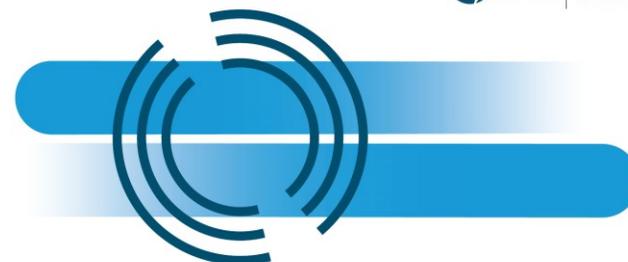
Civil society representatives also suggested that financial exceptions should be considered within the context of assuring the protection of human rights. Use of the “tripartite test” could be adopted, as applied, for example, by the United Nations.

Private sector representatives cited the need for IDB Invest to:

- Precisely define, *ex ante* exactly what information will be disclosed before the project, and to identify which information will require updating through project implementation, as updating/developing new information requirements later may be much harder to fulfil;
- Refrain from disclosing information early, before an agreement is signed with IDB Invest, or before the company has released information about itself to the public (e.g., annual reports, company statements);
- Respect companies’ practices and policies (e.g., the frequency of reports, such as Annual Reports, produced by a company);
- Precisely define what is considered commercially sensitive information;
- Precisely define what is considered financially sensitive information;
- Identify the specific criteria that will be used to define exceptions, including those which will define what causes more harm than benefit;
- Describe the process if there is a disagreement between a client and IDB Invest regarding application of the criteria;
- Clarify what the policy is regarding disclosure of an application that is turned down;
- Clarify what will be disclosed related to consultancy services;
- Clarify whether IDB Invest, under the new Policy, will be required to disclosure information regarding intermediaries.



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QUESTION # 3: WHAT ARE THE BEST WAYS TO IMPROVE YOUR ACCESSIBILITY TO THE INFORMATION THAT IS DISCLOSED?

7. Proactive delivery of comprehensive information

Civil society representatives offered the following:

- Information should be provided in an open format (micro data);
- Documents/communications should be in the languages of the target audiences;
- Technical information should be presented in a clear and accessible way;
- Confidentiality should be guaranteed for those requiring certain information;
- Ensure women have access to information;
- Information should be granted to all parties with an interest, not just those who have requested it;
- Other modes of communication are required beyond electronic media, to enhance transparency;

Some **civil society representatives** suggested that public hearings be convened prior to approval of the project loan, targeting the different stakeholder audiences.

QUESTION #4: WHAT DO YOU THINK OF THE PROPOSED MECHANISM FOR REQUESTING INFORMATION?

8. Clarification of the Panel

Both civil society and private sector representatives want the Policy to precisely define:

- Composition of internal committees and the external panel;
- Participants' identities and their qualifications;
- How decisions are made (e.g. voting procedure).