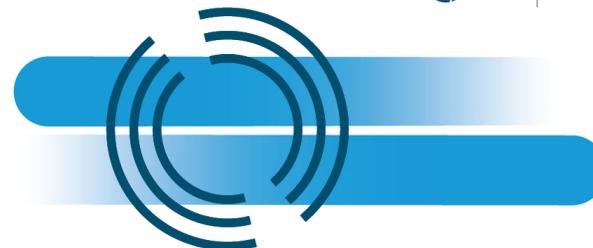Access to
information policy

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

MEETING IN WASHINGTON, D.C. – SEPTEMBER 28, 2018
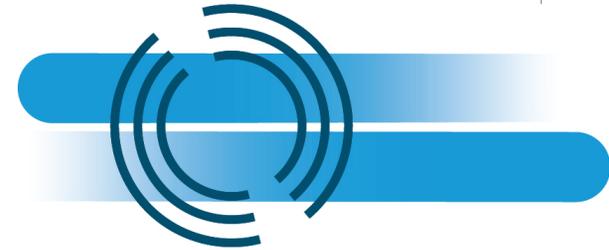SUMMARY OF STAKEHOLDERS' COMMENTS

I.   INTRODUCTION

Following the Consultation Plan, a face-to-face consultation was held in Washington, D.C., on September 28, 2018. Of the total of 16 participants, 19% were from the private sector, 25% from multi-lateral organizations and 56% from civil society:
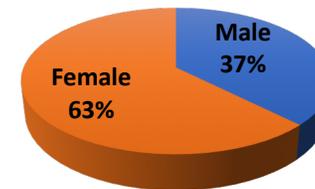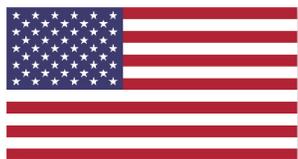
II.　　STATISTICS

Figure 1: Washington Workshop by Type of Attendee

- NGOs
- Private Sector
- Multi Lateral

Figure 2: Washington Workshop Attendance By Gender

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, multi-lateral organizations and private sector, 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. Over 81% of attendees were from civil society and multi lateral organizations.
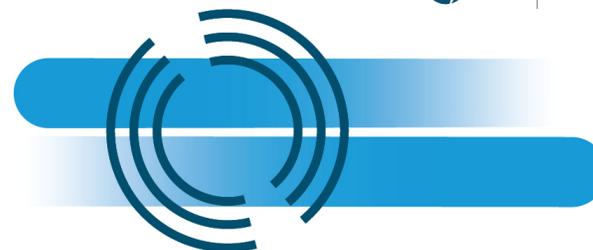
A. GENERAL COMMENTS ON ACCESS TO INFORMATION

A1. *Before Project Approval*

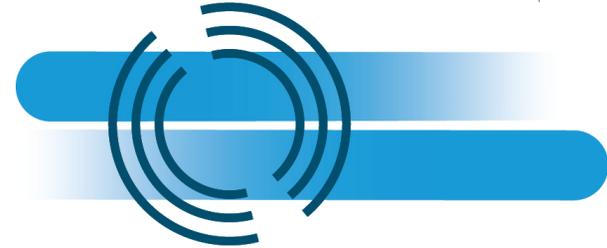| Issue Areas Identified	Stakeholder Comments
1. *Overall Principles*	• Participants acknowledged the work IDB Invest has put into creating the draft policy, consulting in several countries, and considering the need to keep pace with international standards and practices. However, some participants indicated the need for further clarification and strengthening;

	• In this regard, reference was made to a brief submitted by the Center for International Environmental Law – CIEL - to IDB Invest, and its consultants. A participant indicated that the legally binding *Escazu Agreement*[1] creates a clear path for the proposed policy to incorporate protections for people who want to safely access information; • It was noted that IDB Invest should be using this policy development opportunity to take a leadership role and raise the bar by looking for new and innovative ways to improve access to information processes, as opposed to following what other multi-lateral banks may be doing; • A number of civil society participants noted that gender barriers exist with regard to access to information, especially by the most marginalized groups, and they suggested that the gender policy of IDB should be specifically referenced as being part of the policy; • A participant stressed that there needs to be a human rights element integrated into the review of a project; • In a shrinking civil society space where people seeking information can be endangered, the policy should articulate the human right of protection to people requesting information.
2. *Enhancement of transparency*	• A participant noted that simply having a new policy is not sufficient. It raises expectations and creates frustrations. The policy needs to: o have an implementation plan; o be evidence-based;

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[1] United Nations. Escazú Agreement: "Regional Agreement on Access to information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean", March 4, 2018.
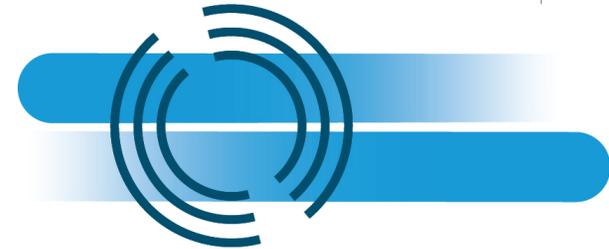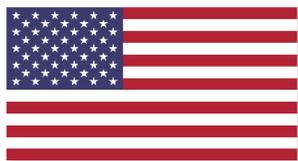
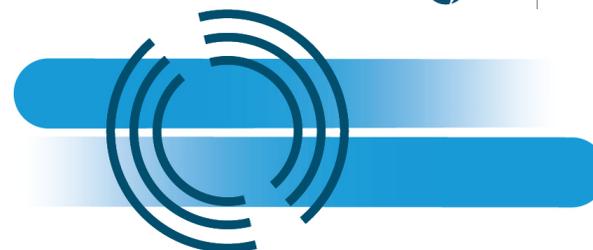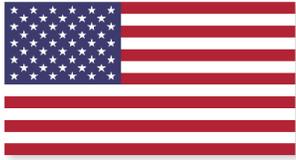|	
	o have links to the governments to ensure open access to people and that state agencies cannot withhold information; and o be clear regarding the obligations of companies and the state. • Another indicated that access to information is the first step to transparency, which is the first step to accountability. If transparency and accountability are important goals of this Policy, then there needs to be a defined *process* that is actionable. The policy is a step forward, but without a process to implement it, actual results are put into question. • A participant stressed the value of providing dates on which certain documents were disclosed or updated, on the website'; • Information in the hands of the government should be disclosed.
3. Categorization of Risk	• A participant indicated that, while there are more stringent requirements for Category A projects, lower Category B and C risk categorizations can frequently fail to take into consideration important local conditions, often related to social impacts. While the Policy may not be able to change the categorization process, this problem needs to be considered in IDB Invest's Environmental and Social Policy; • When disclosure of documents is not required for a specific risk category, IDB Invest should indicate on its project website why the documents are not being disclosed, i.e., that they are not required, and provide a rationale for why they are not required.
4. Timing for Disclosure and Review	• A participant emphasized that there needs to be full disclosure at the "proposed project" stage, *before* projects are designed, as risk categorizations can be made without adequate awareness of local conditions. People need to see if there are benefits for them, what impacts could be expected, etc., so they can be well-informed and involved in the decision-making process; • Civil society participants stressed that the proposed reduction of the review period to 60 days from 120 represents a problem and contradicts the proposed policy's principle of maximum access. Many people,

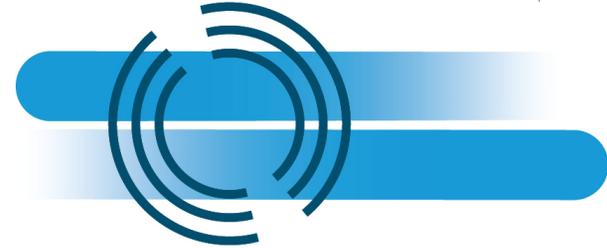|	
	especially the most vulnerable, cannot be expected to access the necessary information, translate and understand the information in their own context, review the information in an informed manner, prepare and deliver comments, etc., within the 60-day period. If the rationale for such a reduction is that other multilateral banks have done so, this rationale is insufficient.
5. *Definitions and clarifications*	• Definitions need to be included to provide clarity (e.g., "competitive advantage"; "commercially sensitive information"; etc.); • IDB Invest should clarify, with regard to Para 46 of the policy, *how Environmental and Social Action Plans* ("ESAPs" and their updates) will be disclosed, and what is meant by "new or revised environmental or social documents"; • In regard to Para. 42, Early Disclosure, the policy should clarify the situation addressing policy adherence when IDB Invest is the "senior lender" on a project vis-a-vis when IDB Invest's involvement might come later in the process, co-financing along with others. It should be made clear in the policy whether the policy applies both when IDB Invest is the primary lender, or when it is not; • Para. 34 addresses investments made through financial intermediaries. A private sector representative noted that such FI's are highly competitive and averse, generally, to disclosing information. Therefore, the policy should be clear regarding whether FI's are expected to follow the policy. If not, the extent to which FI's are expected to follow the policy should be made clearer.
	A2. *After Approval/During Project Implementation*

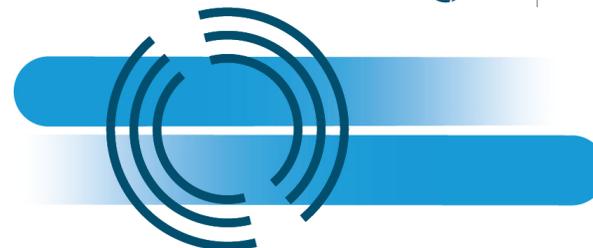|	
6. *Monitoring and evaluation*	• In order to evaluate the effectiveness of the policy it is important to monitor and measure results, and to determine what has improved in regard to development projects because of it. The policy should include references as to how IDB Invest will do this, and why it will matter to people; • Independent accountability should be provided for; • Annual updates to the ESAPs is regarded as a positive part of the policy, but more clarity is required about how this will be accomplished; • More frequent than annual ESAP updates are required; • Para 46 refers to ESAP updates and disclosure of new or revised relevant environmental or social documents, if they are made available. Would this include an updated Environmental and Social Review Summary (ESRS)? A private sector representative indicated that greater clarity is required regarding exactly what is going to be disclosed. ESAP-related requirements are being completed on an on-going basis. Policy language should be more precise.
**B. EXCEPTIONS**
7. *Clarity regarding exceptions*	• While it was noted that client confidentiality is important, civil society representatives stated that the exceptions are not clear enough; • When exceptions are being considered, a participant argued that the harm test should be used, i.e., legality, legitimacy and proportionality, as defined by the International Covenant on Civil and Political Rights of the United Nations (UN); • A civil society representative stated that the policy is focused on IDB Invest's clients and their views on disclosure.

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	• It should be stated that there is a need for the policy to enable a voluntary agreement with financial intermediaries that they will comply with the Access to Information policy so that there is transparency regarding which projects they are financing (which local commercial banks may make it impossible to uncover); • One participant indicated that Para 62 and 63, Positive Override, is very positive, particularly in instances where harm could arise if information were not disclosed.
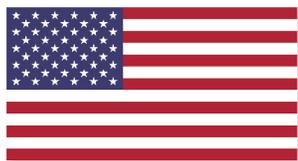
| C. ACCESSIBILITY OF INFORMATION	
8. *Proactive delivery of comprehensive information*	• The need for user-friendly information was stressed by several people. Information should be delivered in plain and understandable language and including verbal communication with local people (not technical). Information vehicles should be such that they overcome disability-related barriers. Companies should be required to ask them how affected communities and stakeholders want to receive information; Several participants agreed that strong public participation requires that all stakeholders have safe access to the same information, in appropriate languages and in a timely manner. While information needs to be delivered in understandable terms, and provided in appropriate non-technical formats, it should not be "dumbed down" to a meaningless level simply for expediency; • Information needs to be delivered pro-actively at the local level. It is not sufficient to simply notify project information through a newspaper and trust that affected communities will be informed; • The use of a website to provide information is not sufficient. The website is not up to date regarding Board activities; the site should include a guide to help people better understand which sections of the Bank come into play at different points in the project cycle; contact names in DC and in the country should be indicated for projects so people can make contact and get information about each project; • Approved projects should be required to deliver information about benefits that will accrue to local people, not only present information about negative impacts; • Some participants said that the IDB group is a complex institution and that information is not only difficult to access but requests for information can be dangerous in situations where there is conflict. People need to feel safe when they try to access information and, as such, the policy needs to call for *safe*, timely and understandable processes to obtain information;
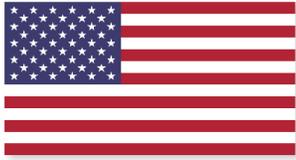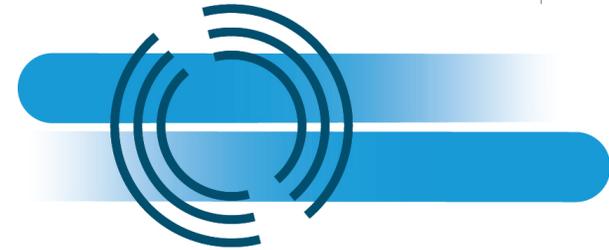
	• Definition of how the policy will be implemented is seen as a critical element that needs to be addressed more fully, as a policy is only as good as its implementation. People said they want to know how the policy will be made actionable, and who, specifically, is responsible for implementing actions at each stage of a project; • Participants working with indigenous groups stressed that access to information is very important for these stakeholders as they often do not get information from their governments. They believe that the policy should include a statement that all information must be provided in all relevant languages for project affected populations. It was further stressed that this is a legal requirement in most countries today, so this policy will be a win-win scenario to avoid legal conflicts; • The policy needs to include a requirement for provision of non-technical documents to make information available to all; • IDB Invest's website should provide open data that can be re-shared; • It is crucial that the IDB Invest website regarding board meetings, dates, agendas and meetings are kept up-to-date. In this ways, communities, among others, can be informed prior to important decisions and have input; • Information needs to be shared beyond the immediate communities. Often, impacts are felt beyond the immediate study area defined by the client.

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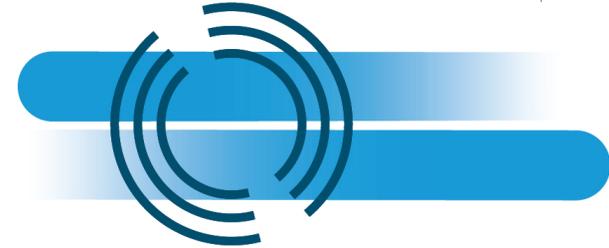
D. MECHANISM FOR REQUESTING INFORMATION	
9. *Clarification of the review process and panel*	- Regarding these issues, some participants mentioned that they provided written comments to the IDB Invest website; - It was strongly recommended that any language should be accepted with regard to requests, and questions/answers should be posted for anyone to view on the web site; - It was stated that no fees should be charged for information.