October 2024

Access to Information Policy

Contents

President's recommendation

The Access to Information Policy sets out the European Bank for Reconstruction and Development's (EBRD) commitment to transparency and disclosure based on the principles of transparency, limited exceptions to disclosure, accountability, good governance and accessibility in all its operations and activities.

It governs how the EBRD discloses information and engages with its stakeholders to promote awareness and understanding of its activities.

I recommend that the Board of Directors approve the 2024 Access to Information Policy.

Odile Renaud-Basso

Section I Purpose

The EBRD is committed to enhancing transparency and accountability, improving dialogue with affected stakeholders and fostering good governance in respect of all its operations and activities, to promote an economically and environmentally sustainable transition in EBRD recipient economies, with an emphasis on the private sector.

To fulfil this commitment, the EBRD will disclose information and consult with the public to increase knowledge and continuously promote awareness and understanding of the Bank's operations and activities and to improve the public's ability to participate meaningfully in an informed manner in consultations on its strategies and policies.

The EBRD recognises the developments made on advancing the recognition and exercise of the right to access information as an enabling right crucial to the full realisation of other human rights, and the importance of the principles, purposes and ultimate goals of access to information of the United Nations Economic Commission for Europe (UNECE) Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters.

Section II Definitions

Terms used in this Policy have the following meanings:

AIP or Policy	This Access to Information Policy (2024)
Activities	Technical assistance, advisory services, policy dialogue and cooperation, financed and/or implemented by the EBRD, or the governance, administration and decision-making processes of the EBRD
The Bank or the EBRD	The European Bank for Reconstruction and Development
Board of Directors Committee	A committee of the Board of Directors established pursuant to Section 11 of the Rules of Procedure of the Board of Directors
Board of Governors Committee	A committee of the Board of Governors established pursuant to Section 8 of the Rules of Procedure of the Board of Governors
Confidential information	The categories of information falling under Section III, paragraph 2 of this Policy
Directive on Access to Information	Any directive relating to the disclosure of Bank information issued by the President of the Bank in accordance with this Policy, as amended from time to time
Enforcement Policy and Procedures	The Enforcement Policy and Procedures (2017) (POL/2017/01), as amended from time to time
Environmental and Social Policy	The Environmental and Social Policy (2024) (POL/2024/10), including the associated Environmental and Social Requirements (ESRs) set out in the policy, as amended from time to time
Evaluation Policy	The Evaluation Policy (2023) approved by the EBRD Board of Directors on 9 January 2024, as amended from time to time
Independent Project Accountability Mechanism or IPAM	The independent project accountability mechanism established under the Project Accountability Policy
Information Appeals Panel	The panel established pursuant to Section III, paragraph 5.2 (i) of this Policy
Operations	Any equity, loan, guarantee or borrowing transaction of the EBRD in accordance with the Agreement Establishing the EBRD
Organisation	Has the meaning given to this term in the Project Accountability Policy
Prohibited Practice	Has the meaning given to this term in the Enforcement Policy and Procedures
Project Accountability Policy	The Project Accountability Policy (2019) (POL/2019/04), as amended from time to time
Project	The set of works, goods, services, business activities and/or investment defined in the financing agreements and for which EBRD financing is sought by a client, and approved by the EBRD Board of Directors or, if the Board of Directors has delegated the approval authority, by Bank Management
State sector	Has the meaning ascribed to “state sector” in accordance with Article 11.3 (iii) (a) to (c) of the Agreement Establishing the EBRD
Whistleblowing Policy	The Bank’s Whistleblowing Policy (2021), as amended from time to time

Section III Scope

1. Policy principles

The EBRD is committed to principles of transparency, limited exceptions to disclosure, accountability, good governance, and accessibility in all its operations and activities. These principles are reflected in this Policy as follows.

1.1. Transparency

The EBRD is guided by the presumption that information relating to the Bank's operations and activities shall be disclosed in a clear, timely and appropriate manner unless such information falls under the exceptions to disclosure specified in this Policy.

1.2. Limited exceptions to disclosure

Full information disclosure may not always be appropriate, hence this Policy sets out clear and well-defined exceptions to disclosure that take into account, in a balanced manner, the legitimate interests of the Bank, clients, shareholders, the public (including project-affected people), counterparties and other stakeholders.

The exceptions to disclosure are limited to information where the Bank has determined that there is a reasonably foreseeable harm from disclosure that would outweigh the benefits.

1.3. Accountability

The EBRD shares information on its operations and activities in a timely and appropriate manner to enhance its accountability to stakeholders, facilitate dialogue and understanding, support policy design and implementation, and strategic decision-making, as well as with a view to creating a wider impact beneficial to fostering the transition of its recipient economies towards sustainable market economies.

The EBRD endeavours to identify, raise awareness and engage with a broad range of stakeholders, including project-affected people and communities, civil society groups and members of the public, taking into account the diverse nature and significance of specific interests, including the interests of those who may face barriers in accessing information.

The EBRD respects the right of people to provide input on the Bank's operations and activities and to seek and receive information relating to operations and activities that may affect them or their communities. The EBRD seeks to obtain input from a variety of sources, listens to input from stakeholders and engages in dialogue.

1.4. Client responsibility to affected stakeholders

The EBRD works closely with its clients to provide sufficient information about the environmental and social risks and impacts arising from projects and to engage with stakeholders in a meaningful, effective, inclusive and culturally appropriate manner consistent with the Bank's Environmental and Social Policy.

1.5. Good governance

The EBRD maintains clear processes for receiving and responding to requests for information and for receiving and adjudicating appeals of an EBRD decision not to disclose requested information.

The EBRD monitors compliance with this Policy and its effectiveness, and regularly reports to the public on the implementation of this Policy.

The EBRD reviews (i) the Access to Information Policy, (ii) the Environmental and Social Policy, (iii) the Project Accountability Policy and (iv) the Evaluation Policy on a periodic basis, engages in public consultations on drafts of those policies as part of the review process, and discloses such policies to the public following approval by the EBRD Board of Directors.

1.6. Accessibility

The EBRD will make best efforts to disclose information in a form and manner that is accessible and user friendly. The information should be relevant, reliable and understandable.

While the EBRD website will be the primary vehicle for proactive disclosure, the Bank will also use other appropriate means to disclose and communicate information, taking into account the objective of reaching all relevant stakeholders.

1.7. Proactive disclosure

The EBRD will proactively share information, recognising that routine disclosure reduces the burden on both the Bank and those wishing to access information. Such information will include documentation relating to the environmental and social risks and impacts of projects during their preparation and implementation. Details about information routinely published by the Bank will be set out in the Directive on Access to Information.

Information should be published or disclosed in line with the timeframes set out in the Directive on Access to Information.

2. Exceptions to disclosure

The exceptions to disclosure are based on the EBRD's determination that the disclosure of certain types of information would cause harm to specific parties or interests that would outweigh the public interest of disclosure. Subject to the possibility of a public interest override, the following categories of information are not disclosed:

2.1. Information associated with deliberation and decision-making

Deliberation, advice and decision-making need to be based on material information and/or discussion that is shared or conducted in a free and candid manner, so that frank exchanges of views, ideas, analysis and approaches are not inhibited. Exceptions to disclosure under this category are:

i. Information, if disclosed, would or would likely compromise the integrity of the EBRD's decision-making process by inhibiting the candid exchange of ideas, views and approaches and which would thereby adversely affect the quality of decisions and outcomes for the Bank and its stakeholders. This includes, but is not limited to, information such as memoranda, advice, analyses or assessments and other information intended for internal deliberations or information relating to audit matters.

ii. Information related to or documents approved by the Board of Directors and Board of Directors Committees, except for agendas and minutes of Board of Directors meetings and documents expressly approved for disclosure by the Board of Directors, as the disclosure of such information and documents would inhibit the frank exchange of ideas, views and approaches among members of the Board of Directors.

iii. Information related to the Board of Governors and Board of Governors Committees, except for agendas and summary records of proceedings of Board of Governors meetings, Governors' statements and Governors' resolutions, as the disclosure of such information and documents would inhibit the frank exchange of ideas, views and approaches among members of the Board of Governors.

iv. Information connected to deliberations, advice and decision-making between the EBRD, EBRD members and/or donors or other parties with which the EBRD co-operates, and any other information which, if disclosed, in the Bank's view, would seriously undermine policy engagement and dialogue with a member.

v. Communications issued by or between members of the Board of Directors or Board of Governors, advisers and staff employed in the offices of members of the Board of Directors, members of EBRD Management, Bank staff, its consultants, legal advisers or agents, as the disclosure of such information would or would likely compromise the integrity of the deliberative decision-making process amongst the EBRD and its members or other entities EBRD cooperates with.

2.2. Financial information and information provided in confidence

i. Financial, commercial or proprietary information created or received by the Bank in the analysis, negotiation, conclusion, implementation and/or reporting of, or under, any proposed or actual investment authorised under Article 11 of the Agreement Establishing the Bank, any treasury operation, any guarantee under any of the Bank's facilities or any donor-funded or technical assistance operation, unless permission is given to release this information by the entity or entities concerned. This category includes information that would, in the EBRD's view, be detrimental to the legitimate financial or commercial interests of the EBRD or EBRD counterparties if disclosed.

ii. Information in the Bank's possession, which was not created by the Bank and which is identified by its originator as being sensitive or confidential, or the release of which the originator has legitimately requested to be restricted, will not be disclosed by the Bank without the express authorisation of the information provider. Where access to such information has been requested, the EBRD will contact the relevant third party, inform it of the request and seek consent for disclosure.

iii. Financial, commercial or proprietary information related to procurement processes, including pre-qualification information submitted by prospective tenderers, tenders, proposals or price quotations (other than the total contract price) or records of deliberative processes which, if disclosed, would or would likely prejudice the commercial interests, financial interests or competitive position of the EBRD or the party that was the source of the information, or another party that may be affected by the disclosure of the information.

The exceptions set out in Section III, paragraph 2.2 (i) to (iii) above apply to any information created or received by the Bank in relation to, from or on behalf of any private- or state-sector entity or its representatives, or any external consultant(s) in the analysis of any operation considered or financed by the Bank or in the negotiation of any investment, loan or other operation.

The Bank does not disclose legal documentation, including all contractual documentation relating to a Bank operation or activity, or correspondence pertaining to any such Bank operations and activities, including documents or information relating to negotiations between the Bank and its clients, donors, co-financiers and other counterparties relating to a Bank operation or activity.

2.3. Legal, investigative and integrity information

i. Privileged information, such as legal advice and correspondence with legal advisers, or other information subject to professional secrecy, including any information the disclosure of which might legitimately prejudice an investigation or any legal or regulatory proceedings, or legitimately subject the Bank to undue risk in any contested matter, such as any litigation or arbitration.

ii. Information relating to any investigation of a Prohibited Practice, allegations of staff misconduct or other violation of the EBRD's applicable policies, or information relating to any integrity due diligence checks, integrity-related review, or any advice and correspondence in connection with any integrity-related matter, as disclosure of such information and documents may compromise investigative processes and inhibit deliberative decision-making.

iii. Information relating to any matter falling under the Whistleblowing Policy, including information that may compromise the identity of a whistleblower and/or third party (as defined by the Whistleblowing Policy), or any information relating to protection measures.

2.4. Personal information

Any personal information (such as stakeholder names, home addresses, telephone numbers, emails and signatures) which, if disclosed, would or would likely compromise the legitimate privacy interests of the person concerned, except to the extent permitted by the person concerned or by EBRD rules. Such information includes information relating to appointment and selection processes, terms of employment, medical information, personal communications and information relating to proceedings of the EBRD's internal dispute resolution system and information relating to investigations into improper workplace behaviour and/or suspected misconduct and disciplinary procedures.

2.5. Security, safety and compliance

i. Information which, if disclosed, could violate applicable law or prove a threat to the national security of a member.

ii. Information which, if disclosed, would contravene the Agreement Establishing the European Bank for Reconstruction and Development, the By-Laws of the European Bank for Reconstruction and Development, the Rules of Procedure of the Board of Governors or the Rules of Procedure of the Board of Directors.

iii. Information which might compromise the security of any individual, including those seeking access to information, or which that would put the safety and security of any EBRD assets at risk, as well as information about logistical or transport arrangements relating to EBRD asset or document shipments and the shipment of any personal property of any individual.

2.6. Deferred disclosure

Where the Secretary General, in consultation with the General Counsel, determines that the legitimate interests protected by these exceptions to disclosure can be given appropriate protection by deferring the disclosure of information, then the disclosure of such information shall be deferred accordingly.

3. Public interest override

In exceptional circumstances, the Bank reserves the right to disclose information that it would ordinarily not release under this Policy.

Public interest override determinations shall be made as follows:

a. Where the information is contained within a document approved by the Board of Directors or the Board of Governors, the positive override determination shall be made by the Board of Directors, following a recommendation by the President.

b. For all information other than information under Section III, paragraph 3(a) above, the positive override determination shall be made by the President.

The Bank may exercise this right where it determines that the disclosure of certain confidential information would be likely to avert imminent and serious harm to public health, safety or security and/or imminent and significant adverse impacts on the environment.

4. Severability of information not subject to an exception

If requested information contained in a document or other form of existing record falls under any of the exceptions listed above, the exception(s) shall apply only to those parts of the document or record containing the confidential information. In such a case, the document or record will be redacted so that the remainder of the document or record, excluding the confidential information, can be disclosed in accordance with this Policy, to the extent that such severability of the document or record is reasonable.

5. Information requests and appeals

5.1. Making a request for information

i. All requests for information shall be made in writing. Requests shall be submitted in English, in any of the official languages of the EBRD, or national languages of EBRD recipient countries or economies of operation.

ii. Requests shall be as clear and precise as possible to enable the EBRD to identify and locate the specific information sought. Where a request is insufficiently clear or precise to identify the information required, the Bank reserves the right to ask the requester to provide clarifications.

iii. The Bank is not required to comply with any request that would require the Bank to create or develop information or data that do not already exist or are not available in the Bank's record-keeping systems.

This also applies to any requests for information on the same subject from the same person, group or organisation if the Bank has previously provided such information or has given reasons why it cannot provide the information.

iv. The Bank shall acknowledge receipt of a request for information pursuant to this Policy promptly. The timeframe for responses to requests made in accordance with this Policy shall be set out in the Directive on Access to Information. The Bank reserves the right to respond collectively on its website to petitions, e-mail chains and similar multiple requests rather than individually, in which case the Bank shall inform the requester(s) accordingly. The Bank's response shall either provide the requested information or deny the request in whole or in part. In the case of a denial, including a partial denial, the reasons for the decision shall be given in writing and the applicant shall be informed of the EBRD's appeal procedure for Access to Information requests. The Bank shall not impose fees or charges for responding to requests for information in accordance with this Policy.

5.2. Appeals

i. A requester whose request for information has not been satisfied and who believes that this has been contrary to this Policy and/or the Directive on Access to Information, as applicable, may submit an appeal to the Information Appeals Panel consisting of the Secretary General, the General Counsel and another member of the Bank's Executive Committee designated by the President. Details on how to submit an appeal shall be made available on the EBRD website.

ii. The appellant shall confirm that their initial request for information was submitted in accordance with this Policy and/or the Directive on Access to Information, as applicable, and shall provide a reasonable argument as to why, in their opinion, the EBRD has breached the Policy and/or the Directive on Access to Information, as applicable, by failing to supply the requested information.

iii. The Information Appeals Panel shall consider the appeal and shall issue a decision. Except as set out in Section III, paragraph 5.3, the decision of the Information Appeals Panel shall be final.

iv. The Secretary General or their designated delegate shall notify the appellant in writing of the decision within the timeframe specified in the Directive on Access to Information and shall provide reasons for the decision where the appeal is not upheld by the Information Appeals Panel and, where the appeal is not upheld, shall also inform the President and the Board of Directors.

5.3. Recourse in accordance with the Project Accountability Policy

i. In cases where a person or organisation who believes they are affected, or likely to be affected, by a project alleges that the Bank has failed to disclose project-specific information in accordance with this Policy and/or the Directive on Access to Information, as applicable, that person or organisation may submit a request to the Independent Project Accountability Mechanism. Information on how to submit such a request shall be provided on the EBRD website.

ii. The applicable version of the Access to Information Policy and/or the Directive on Access to Information that is subject to IPAM review with regard to disclosure of project information is the version of the policy and/or directive, as applicable, that was in force at the time the project was approved by the Board of Directors or, if the Board of Directors has delegated approval authority, by Bank Management.

6. Policy monitoring

The Secretary General, advised as necessary by the General Counsel, shall monitor implementation of this Policy and report on implementation in accordance with this Policy.

Section IV Waivers, exceptions and disclosure

1. Waivers

The Board of Directors may grant a deviation from a requirement of this Policy.

2. Exceptions

Not applicable.

3. Disclosure

This Policy will be disclosed on the Bank’s website promptly following its approval by the Board of Directors.

Section V Transitional provisions

The President may determine that implementation of disclosure of certain information in accordance with this Policy requires (i) changes to the operational processes of the Bank or (ii) the development and/or deployment of enabling information technology systems. In such cases, the President may determine that the implementation of such disclosure shall become effective within an appropriate timeframe after the effective date of this Policy set out in Section VI.

Any appeals received by the Bank on or after the date of entry into force of this Policy that relate to information requests received by the Bank prior to the date of entry into force of this Policy shall be governed by the provisions of the previous version of this policy.

Section VI Effective date

This Policy becomes effective on 1 January 2025.

Section VII Decision-making framework

The Secretary General is accountable for this Policy.

The Director, Shareholder Relations is responsible for this Policy.

Section VIII Review and reporting

1. Review

The Policy shall be subject to review by the Board of Directors, with a public consultation process, by the end of 2029.

The Board of Directors may approve revisions to the Policy at any stage without the need for public consultations where revisions are non-substantive in nature or arise as a result of changes to another Bank policy that has been the subject of public consultations.

2. Reporting

The Secretary General shall report to the Board of Directors on the implementation of the Policy on an annual basis. The annual report on Policy implementation shall set out a summary of any prospective changes, consistent with this Policy, to the Directive on Access to Information. This summary of prospective changes to the Directive on Access to Information, if any, shall be disclosed on the EBRD website at the time when the annual implementation report is submitted to the Board of Directors.

Subsequent to discussion by the Board of Directors, the annual implementation report shall be published on the EBRD website, together with any updated version of the Directive on Access to Information (as approved by the President).

Section IX Related documents

Project Accountability Policy (POL/2019/04)

Environmental and Social Policy (POL/2024/10)

Notes

1789 Access to Information Policy

EBRD contacts

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For requests and enquiries, please go to
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