

AFRICAN DEVELOPMENT BANK GROUP



BANK GROUP'S POLICY ON DISCLOSURE AND ACCESS TO INFORMATION (DRAFT)

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BANK GROUP'S POLICY ON DISCLOSURE AND ACCESS TO INFORMATION

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LIST OF ACRONYMS

AfDB	African Development Bank
ADF	African Development Fund
Bank Group	African Development Bank, African Development Fund, and the Nigeria Trust Fund.
DFIs	Development Finance Institutions
IADB	Inter-American Development Bank
IRM	Independent Review Mechanism
MDBs	Multilateral Development Banks
PIC	Public Information Centre
RECs	Regional Economic Communities

EXECUTIVE SUMMARY

1. The Management of the African Development Bank Group has decided as a matter of priority to revise the current Bank Group's policy on disclosure of information to further re-affirm its commitment to the principles of good governance, particularly transparency, accountability and sharing of information in its operations. The revision of this policy is also part of the institutional reform commitments made to shareholders during negotiations of the Sixth General Capital Increase (GCI) of the African Development Bank and the Twelfth Replenishment of the African Development Fund in 2010.
2. The revised Policy constitutes a major shift in the information that the Bank Group may disclose - from a policy that listed which information would be made available, to one that allows disclosure of any information in the Bank Group's possession as long as it is not on a list of exceptions. This revised policy aims to (i) Maximise disclosure of information within the Bank Group's possession and limit the list of exceptions; (ii) Facilitate access to and share information on the Bank Group's operations with a broad range of stakeholders; (iii) Promote good governance, transparency, and accountability to set an example to RMCs; (iv) Improve on implementation effectiveness and better co-ordinate the information disclosure processes; (v) Give more visibility to the Bank Group's mission, strategies and its overall activities; (vi) Support the consultative process; and (vii) Ensure harmonization with other Development Finance Institutions (DFIs) on information disclosure.
3. Under the revised Policy, information will be made accessible to the widest external audiences possible and provide opportunity to increase public exposure to and understanding of the Bank Group's activities. The revised Policy is therefore expected to generate maximum disclosure, increased access to information and an open and much strengthened engagement between the Bank Group and its stakeholders. With this in mind, it is proposed that the policy be re-named "The Bank Group's Policy on Disclosure and Access to Information".
4. The revised policy is anchored on the following seven major guiding principles: (i) Maximum disclosure; (ii) Enhanced Access; (iii) Limited list of exceptions; (iv) A Consultative Approach; (v) Right to appeal; (vi) Safe-guarding the deliberative process; and (vii) Provision for review.
5. In providing for transparency and maximized disclosure, the policy seeks to balance between the benefit of openness with the need to safeguard the following: deliberative processes; communications involving Executive Directors; legal, disciplinary or investigative matters; information provided in confidence; selected corporate administrative and financial information; security and personal information. The policy also provides stakeholders with an appeals mechanism for any legitimate concerns about the Bank's level of disclosure. In this regard, the policy provides for the creation of an Information Disclosure Committee and further recourse through an ad hoc Appeals Panel.
6. To effectively deliver on the policy, a clear implementation framework will be developed in the form of an Information Disclosure Handbook. This Handbook will outline the workflow arrangements for making operational information available to the public in accordance with the revised policy. It will ensure the mainstreaming of disclosure of information in all Bank Group activities and entail among others, procedures for disclosure, classification and declassification of documents and archives, for responding to requests for information.
7. The revised policy is expected to have resource and cost implications as the Bank Group increases its volume of communication activities, invests in technologies to enable seamless information disclosure in the context of a decentralized structure, and provides comprehensive training for staff both at Head-Quarters and in the Field Offices. Management will in this regard study the most cost-effective and efficient way to implement this policy.

I. INTRODUCTION

1.1 Background and Rationale

- 1.1.1 The African Development Bank Group (hereinafter referred to as the “Bank Group”) believes that the sharing of information on its operations nurtures openness and transparency that are crucial to its mandate which, as set out in the Agreement establishing the African Development Bank¹, is contributing to the sustainable economic development and social progress of its regional members individually and jointly.
- 1.1.2 The formulation of a revised Information Disclosure Policy has been given high priority by Management, with the goal of meeting the needs of the Bank Group’s shareholders and other stakeholders, and the standards set by partner institutions in developing similar policies of their own. The development of the revised Information Disclosure Policy demonstrates that transparency, accountability and sharing of information are critical to the Bank Group’s response to clients, development effectiveness and, more broadly, poverty reduction.
- 1.1.3 This revised policy supersedes the “The African Development Bank Group Policy on Disclosure of Information” dated October 2005². The Board of Directors of the Bank and the African Development Fund (the “Fund”) approved the first policy for public disclosure of information in 1997, which was subsequently revised in 2004. The main lesson from the implementation of the 1997 policy was that many institutions, civil society groups and individuals have come to understand, appreciate and get involved in the work of the Bank Group and hence increased demand for the Bank’s documents and information on its activities and operations. The 2004 policy revision therefore, aimed to expand the scope and the type of information for public disclosure to meet this new demand, as well as, incorporate changes in the disclosure of the Bank Group’s lending activities and new documents that were not explicitly covered by the 1997 policy. It attempted to cover in a more comprehensive way the documents that would be made available to the public in relation to the Bank Group’s overall activities, including its financial operations.
- 1.1.4 In 2005, pursuant to consultative meetings of the Ninth Replenishment of the Fund, Management responded to Deputies’ request to further revise the Policy on Disclosure of Information and enhance broader stakeholder participation to align with the best practices of other Multilateral Development Banks (MDBs). The main underlying principle of the 2005 policy was to disclose all information on the Bank’s operations and activities unless there were compelling reasons not to do so.
- 1.1.5 While previous Bank Group policies on disclosure by and large matched the standards of other MDBs in the nature and scope of documents made available, they

¹ 6th Edition July 2002, Article 1

² ADB/BD/WP/2003/101/Rev.2 - ADF/BD/WP/2003/117/Rev.2

had three main inherent shortcomings, which constrained comprehensive disclosure: (i) focus on the positive list, (a conclusive list of documents to be disclosed) resulting in constant revision of the policies simply to capture newly generated operational documents; (ii) insufficient follow-up on implementation; and (iii) inadequate supporting infrastructure, particularly IT systems and implementation guidelines to effectively implement the policy. In this connection, in 2010, Management of the Bank Group committed to a further revision of the information disclosure policy as part of the institutional reform measures agreed with shareholders during negotiations of the Bank's Sixth General Capital Increase, and the Twelfth Replenishment of the Fund.

- 1.1.6 In line with current international best practices on information disclosure, the revised policy constitutes a major change from an approach that spells out what information should be disclosed, to one under which the presumption of disclosure applies to any information in the Bank Group's possession that is not on a list of exceptions. Under this policy, information will be made accessible to the widest external audiences possible to provide opportunity to increase public exposure and broaden stakeholder understanding of the Bank Group's activities. This policy is therefore expected to generate an open and much strengthened engagement between the Bank Group and its stakeholders, including shareholders, the regional economic communities (RECs), the private sector, development partners and the civil society.
- 1.1.7 The revised policy provides the Bank Group with an improved framework within which to disclose information on policies and strategies and key decisions made during project development and implementation. The Bank recognizes that as a custodian of public funds, transparency of operations is a crucial element in ensuring accountability. Maximum disclosure and access to information will increase public support for the Bank Group's mission and enhance the development effectiveness of its operations. The policy allows for better tracking of the use of public funds and better monitoring of Bank Group-supported projects by external agencies, leading to better outcomes.
- 1.1.8 The Policy will contain the following new elements: (i) a strengthened presumption of disclosure, eliminating the positive list and emphasizing a limited negative list; (ii) introduction of an appeals mechanism; (iii) provision for simultaneous disclosure; and (iv) increased access to the broad range of stakeholders.

1.2 Objectives of the Policy

1.2.1 The revised policy aims to:

- Maximise disclosure of information within the Bank Group's possession and limit the list of exceptions to reflect the Bank Group's willingness to disclose information;
- Facilitate access to and share information on the Bank Group's operations with a broad range of stakeholders;
- Promote good governance, transparency, and accountability to set an example to RMCs;

- Improve on implementation effectiveness and better co-ordinate the information disclosure processes;
- Give more visibility to the Bank Group's mission, strategies and activities to its stakeholders;
- Support the Bank Group's consultative process in its activities and stakeholder participation in the implementation of the Bank Group's financed projects; and
- Ensure harmonization with other Development Finance Institutions (DFIs) on disclosure of information.

1.3 Consultation Process

- 1.3.1 The development of the revised Bank Group's Policy on Disclosure and Access to Information is anchored on broad based consultations internally within the Bank Group and externally with key stakeholders, including the RMCs, the RECs, the private sector, development partners and the civil society.
- 1.3.2 The consultation process is conducted in three ways: The first involves internal consultations within the Bank Group; the second involves a stakeholder consultation workshop; and the third involves an on-line comment period during which the draft policy is posted on the Bank Group's website to obtain feedback from stakeholders.
- 1.3.3 The Bank Group will take full advantage of its decentralized structure through optimal use of its Field Offices which are better positioned to carry out consultation workshops to ensure that the views from RMCs are taken into consideration in developing the Policy.
- 1.3.4 A Cross-Complex Technical Working Group under the leadership of Senior Management has been set up to guide the development of the policy.

1.4 Outline of the Report

- 1.4.1 The rest of the document proceeds as follows: Section II discusses the Bank Group's experience as well as that of other development partners and the lessons learnt; Section III presents the revised Policy for the Bank Group on disclosure of information; and Section IV discusses implementation modalities.

II. EXPERIENCES IN INFORMATION DISCLOSURE

2.1 Bank Group Experience and Lessons Learnt

2.1.1 The Board of Directors of the African Development Bank Group approved the first policy for public disclosure of information in 1997.³ This policy established the procedures and the types of information for disclosure in the absence of compelling reasons for confidentiality and was based on the principle that the Bank Group should be open and transparent in its operations. After operating this policy for a period of seven years, the Board approved a revised version of the policy in February 2004.⁴ The revision of the policy was influenced by (i) the Bank Group's desire to expand the scope and broaden the type of information liable for public disclosure to incorporate changes in the Bank Group's lending activities and new documents that were not explicitly covered by the 1997 policy; (ii) the need to further deepen and improve the disclosure of information to increase transparency; and, (iii) the need to harmonize the Bank Group's Policy on Disclosure of Information with the policies of development financing partner institutions. The 2004 policy covered in a more comprehensive way the documents that were available to the public in relation to the Bank Group's activities, financial operations, and institutional information.

2.1.2 During the consultative meetings of the Ninth Replenishment of the African Development Fund, the Deputies requested Management to review and update the Fund's Information Disclosure Policy to ensure that the Fund continued to be at the forefront of international best practices. In October 2005, the policy was thus further revised for the second time in just over one year, mainly to update the list of documents eligible for disclosure.

2.1.3 All three previous policies on Disclosure of Information have had one recurrent shortcoming – the focus on a positive list, that is, a description of the documents the Bank Group was willing to disclose. The use of a positive list was prevalent in development partner institutions before 2010. Though the Bank Group in adopting this practice was increasing transparency, the attempt to explicitly list all the documents that the Bank Group was willing to disclose inherently required the policy to be updated regularly simply to capture new operational documents or reports that the Bank Group was generating. As a result, the proposed revised policy will present a clearer presumption of disclosure by outlining the limited list of documents the Bank Group will not disclose (i.e. negative list) so that beyond this list, the general assumption is that all other documents will be disclosed.

2.1.4 The regular updating of the Bank Group's Disclosure of Information Policy can however be described positively as an effort to keep pace with developments in

³ The African Development Bank Group Policy on Disclosure of Information (ADB/BD/WP/97/13/Rev.3 - ADF/BD/WP/97/11/Rev.3)

⁴ The African Development Bank Group Policy on Disclosure of Information (ADB/BD/WP/2003/101/Rev.1/Approval - ADF/BD/WP/2003/117/Rev.1/Approval)

disclosure of information. Regular review has been identified as a key lesson and is one of the guiding principles upon which the Disclosure Policy is being revised.

- 2.1.5 The Bank Group has made progress in making information public particularly through the creation and development of the website and opening of the Field Offices. The Bank's website continues to experience increased traffic and is stimulating greater awareness and demand for Bank products. However, adoption of previous policies was not accompanied by a commensurate level of both human and financial resources for effective implementation. As a result, the Bank Group has not been at par with other development finance institutions in terms of the scope and depth of the information made available. The Bank Group has yet to further tap into the full benefits of disclosing information through the website and Field Offices. Therefore, knowledge about the Bank Group's development role on the continent has been limited by a gap in information.
- 2.1.6 Generally, the Bank Group has demonstrated willingness to disclose information but the challenge lies in ensuring adequate systems and capacity to translate the Bank Group's intentions into action by implementing systematic and timely disclosure of information. The Bank Group's Medium Term Strategy 2008-2012 (MTS) identifies "communication" as a fundamental corporate instrument to make the Bank Group's operations more visible, intelligible and understood by all its stakeholders.
- 2.1.7 To complement the MTS, the Bank Group's Communication and External Relations Medium Term Strategy (the "Communication Strategy") was developed in 2009. The overall goal of the Communication Strategy is to demonstrate to key stakeholders and the general public that the Bank Group is the premier development finance institution in Africa. The revision of the Disclosure of Information Policy facilitates the realization of this goal.

2.2 Experiences of Development Partners

- 2.2.1 In recent years, a number of Multilateral Development Banks (MDBs) have embarked on the revision of their information disclosure policies and their overall approach to making information on their operations accessible to the stakeholders. The World Bank and the Inter American Development Bank in particular, unveiled their revised policies in 2010. Annex II provides a comparative analysis of the key features of the proposed Bank Group's policy against those of selected MDBs.
- 2.2.2 There has been a shift across the institutions towards the use of a negative list rather than a positive list. By establishing a limited list of the documents that will not be disclosed, the general presumption is that the unlisted documents will be disclosed in the absence of a compelling reason for confidentiality.
- 2.2.3 In addition, due to enhanced engagement of MDBs with stakeholders, there is increased opportunity for timely access to information and for stakeholders to respond to disclosed information.

2.3 Key Emerging Issues

2.3.1 An analysis of the experiences of MDBs (including the Bank Group) in information disclosure reveals the following issues, which have further informed the need for revision of the Bank Group's policy on disclosure of information:

- (i) MDBs are expected to operate under the “presumption of disclosure” but in practice they largely disclose documents which their internal policies explicitly require them to.
- (ii) Rather than improving access to information more generally, previous revisions of information disclosure policies have only led to incremental reform because of their emphasis on the positive list.
- (iii) Insufficient time and resources have been invested in technologies to enable adequate disclosure capacity. Serious effort and planning are required to effectively implement even the very best information disclosure policies.
- (iv) MDBs have in recent years increased consultation with key stakeholders which has resulted in greater interest in the work of MDBs and more requests for information.
- (v) Country offices and local country communication networks should increasingly be used as means for disseminating information as widely as possible to complement websites which have been the preferred mode of dissemination of information by MDBs.
- (vi) Partly due to the lack of an appeals mechanism to ensure proper recourse for dissatisfied stakeholders, grounds for refusal to access information are often arbitrary and inconsistent.
- (vii) Information disclosure policies should constantly be aligned with best practices in approaches to disclosure of information and therefore require constant review accompanied by adequate resources for implementation.

III. THE BANK GROUP'S POLICY ON DISCLOSURE AND ACCESS TO INFORMATION

3.1 Presumption of Disclosure

- 3.1.1 As a development finance institution owned by sovereign states and entrusted with financial resources to achieve its mandate to reduce poverty and advance socio-economic development in its RMCs, the Bank Group is accountable to its stakeholders for the proper management of the resources put at its disposal. The Bank Group must therefore be ready to provide access to information. With this in mind, the Policy is re-named: "The Bank Group's Policy on Disclosure and Access to Information".
- 3.1.2 To eliminate ambiguity on what information the Bank Group can disclose, the Bank Group will aim to maximize access to information that it produces by disclosing any information not contained on the list of exceptions (negative list). In effect, over a sufficient time horizon, most information will systematically be made public.

3.2 Guiding Principles

- 3.2.1 **Maximum Disclosure** - The policy is premised on the principle of maximum disclosure. The Bank Group recognizes that how effectively it engages with key stakeholders is crucial to the attainment of its development mandate. Higher accountability based on information sharing will raise the Bank Group's credibility, development effectiveness and its attractiveness as a partner.
- 3.2.2 **Enhanced Access** - The Bank Group will, in implementing this Policy, ensure more outreach to the countries, capitalizing on its African character and presence; and maximizing on existing communication channels in RMCs.
- 3.2.3 **Limited List of Exceptions** - As a general rule, restrictions on disclosure to the public of categories of Bank Group information will be limited and based on the general principle that the Bank Group will refrain from disclosing information when it determines that the potential harm of doing so outweighs the benefit of disclosure.
- 3.2.4 **A Consultative Approach** - The Bank Group will engage actively with its stakeholders and make information disclosure to stakeholders an obligation. Information disclosure will as a principle be mainstreamed into all Bank Group operations.
- 3.2.5 **Right to Appeal** - The policy will provide persons with legitimate concerns about the Bank Group's level of disclosure the means to appeal decisions denying access to information and with time bound responses through an appeals mechanism.
- 3.2.6 **Safe-Guarding Deliberative Processes** - The policy will strike an appropriate balance between the need to grant the public maximum access to information in the

Bank's possession, and the Bank's obligation to respect confidentiality, particularly during deliberative processes.

- 3.2.7 **Provision for Review** - The policy will be subject to follow-up and revision to ensure that best practices are followed and that the policy remains relevant to stakeholders and is comparable to similar policies of partner development institutions.

3.3 List of Exceptions

- 3.3.1 Categories of information on which there will be restrictions on public disclosure are outlined below. This list of exceptions is similar to that of the World Bank and other MDBs which revised their policies in 2010 (see Annex III).

A. Deliberative information and Incomplete Reports

- (i) All correspondence, draft reports, or other documents prepared for, or exchanged during the course of the Bank Group's deliberations with member countries or other entities with which the Bank Group cooperates;
- (ii) All correspondence, draft reports or other documents prepared for, or exchanged during the course of its own internal deliberations including documents pertaining to Board deliberations;
- (iii) Statistics prepared or analyses carried out solely to inform the Bank Group's internal decision-making processes (such as analyses of country creditworthiness, credit ratings and risk, and aide memoires);
- (iv) Information related to procurement processes which involves pre-qualification information submitted by prospective bidders, proposals or price quotations, or records of deliberative processes; and
- (v) Audit reports prepared by Internal Audit, except the finalized Annual and Quarterly Activity Reports.

B. Communications involving the Bank Group's President and Executive Directors

- (i) Communications between the Bank Group's President and RMCs or other entities except to the extent that the President, RMCs and other entities authorize their disclosure;
- (ii) Communications to and from Executive Directors and the Bank Group's President, except to the extent that the Boards of Directors and the President authorize their disclosure;
- (iii) Communications within and between individual Executive Directors' offices;

- (iv) Communications between individual Executive Directors' offices and the member country or countries;
- (v) Communications between individual Executive Directors' offices and third parties; and
- (vi) Records of Board deliberative processes including Board statements, documents and proceedings are protected by the Rules of Procedure of the Boards of Directors of the AfDB and the Fund, except to the extent that the Boards of Directors authorize their disclosure.

C. Legal, disciplinary or investigative matters

- (i) The Bank Group will not provide access to information subject to attorney-client privilege, including, among other things, communications provided and/or received by the General Counsel, the Bank Group's legal counsel, and other legal advisors.
- (ii) The Bank Group will not provide access to disciplinary and investigative information generated in or for the Bank Group, except redacted reports procured for concerned parties at the discretion of the Bank Group's Integrity and Anti-corruption Department.
- (iii) The Bank Group will not provide access to information subject to protection of its sources of information, or disclose the identity of a Whistle Blower or those cooperating with Bank Group's investigations of fraud, corruption or misconduct in its financed activities, including information subject to protection and remedies granted to Whistle Blowers facing retaliation. The Bank will maintain as confidential this information unless as allowed for under the Revised Whistle Blowing and Complaints Handling Policy.⁵
- (iv) The Bank will not release information about any investigation conducted by the Independent Review Mechanism (IRM) as such information shall be released or published in accordance with the IRM Operating Rules and Procedures.⁶

D. Information provided in confidence by member countries, private-sector entities or third parties

- (i) The Bank Group will not provide access to information provided to it by a member country or a third party that has indicated in writing that such information be kept confidential.
- (ii) The Bank Group will also not make publicly available documents that contain proprietary information, such as trade secrets or pricing information, without the express permission of the owner of such information. Materials held by the Bank

⁵ ADB/BD/WP/2006/49/Rev.2 - ADF/BD/WP/2006/43/Rev.2

⁶ The IRM provides people adversely affected by a project financed by the Bank Group with an independent mechanism through which they can request the Bank Group to comply with all its own policies and procedures. IRM Operating Rules and Procedures are available at: <www.afdb.org/irm>

Group in which other parties hold the copyright may be made available for review, but copying or distributing of such material may be limited to respect the rights of the copyright holder.

- (iii) Financial, business or proprietary information of private entities received by the Bank Group in the analysis or negotiation of loans will not be disclosed unless permission is given by those private entities to release such information.

E. Internal administrative information

- (i) Information dealing entirely with internal administration or operating systems which has no direct effect outside the institution, or internal documents written by staff to their colleagues, supervisors or subordinates, unless those documents are intended for public circulation in accordance with Bank Group policies.
- (ii) The Bank Group will not provide access to information relating to the Bank Group's corporate administrative matters, including, but not limited to, corporate expenses and real estate, except as contained in the Bank Group's Program and Budget Document.
- (iii) The process of bid evaluation shall be confidential until the publication of contract award, in accordance with the Bank Group's Rules and Procedures for the Procurement of Goods and Works, and the Bank Group's Rules and Procedures for the Use of Consultants⁷ which require that:
 - a. After the public opening of bids, information relating to the examination, clarification, and evaluation of bids and recommendations concerning awards shall not be disclosed to bidders or other persons not officially concerned with this process until the publication of contract award.
 - b. Information relating to evaluation of proposals and recommendations concerning awards shall not be disclosed to the consultants who submitted the proposals or to other persons not officially concerned with the process, until the publication of the award of contract, except for the disclosure of the technical points assigned to each consultant and the disclosure to consultants of the reasons for termination of negotiations.

F. Financial information

The Bank Group will not provide access to the following financial information:

- (i) ADB's estimates of future borrowings, details in terms of tranches of payments, encashment profiles and timing of payments by ADF contributors,, financial forecasts and credit assessments, and data on investment, hedging, borrowing, and

⁷ 2008 version of the Bank's Rules and Procedures for the Procurement of Goods and Works and the Bank's Rules and Procedures for the Use of Consultants.

cash management transactions generated by or for the Bank Group's treasury operations for the Bank Group entities and other parties;

- (ii) Documents, analyses, correspondences, or other information used or produced to execute financial and budgetary transactions, or to support the preparation of internal and external financial reports;
- (iii) Details of individual transactions under loans and trust funds, information regarding amounts overdue from borrowers of a short-term nature, or actions taken before any loans are declared impaired; and
- (iv) Banking or billing information of Bank Group entities, member countries, clients, donors, recipients, or vendors, including consultants.

G. Safety and security

The Bank Group will not provide access to:

- (i) Information whose disclosure would compromise the safety or security of staff and their families, consultants, other individuals, and Bank Group's assets.
- (ii) Information on the Bank's transportation arrangements related to the Bank's assets and documents; and transportation of personal effects of staff, the Bank Group President, Board Members and/or their Advisors.
- (iii) Information whose disclosure is likely to endanger the life, health, or safety of staff, the Bank Group President, Board Members and/or their Advisors, or the environment.

H. Personal information

The Bank Group will not provide access to the following information, except to the extent expressly permitted by the Staff Rules:

- (i) Personal information, including personal staff records, medical information, and personal communications (including through e-mails that are not classified as "public" according to the Bank Group's classification system) of the following individuals and their families: Executive Directors, their Alternates, and their Advisers; the President of the Bank Group; other Bank Group officials; staff; consultants and business partners.
- (ii) Information relating to processes of staff appointment and selection;
- (iii) Information relating to proceedings of the Bank Group's internal conflict resolution mechanisms; and
- (iv) Information relating to investigations of allegations of staff misconduct and personal conflicts of interest.

3.4 Bank Group's Prerogative to Disclose or Withhold Information

- 3.4.1 The Bank Group maintains the right to disclose information on the list of exceptions earlier than as required under this Policy. As a general rule, the Bank Group presumes that disclosure and maximum access to information is inherently beneficial, so restrictions on disclosure to the public of categories of information will be limited. The Bank Group will refrain from disclosing information only when it determines that doing so would result in significant material, financial, or reputational harm to the Bank Group, Bank Management, or Bank Staff; and would compromise the interest(s) protected by the exceptions in this Policy or the Bank Group's ability to achieve its development mandate.
- 3.4.2 Disclosure of information earlier than as required by the type of classification of such document will require various levels of approval as follows:
- (i) Board approval, for early disclosure of Board papers or Board records;
 - (ii) The written consent of the party concerned for early disclosure of information provided to the Bank Group in confidence; and
 - (iii) The approval of the Bank Group's proposed Information Disclosure Committee for early disclosure of any other documents on the negative list.
- 3.4.3 The Bank Group also reserves the right not to disclose, under exceptional circumstances, information which it would otherwise make public. This prerogative will be exercised by: the Board, with respect to Board records; the relevant Vice President concerned, with respect to Board papers; and the relevant Director, with respect to any other information.

3.5 Policy Effectiveness and Review

- 3.5.1 Management intends to implement this Policy progressively. Following approval and before the coming into effect of the Policy, Management will adopt an Implementation Plan rolled out in phases, to immediately start putting in place administrative and operational measures necessary for the successful implementation of the revised policy.⁸ This Policy will therefore come into effect, nine (9) months after approval by the Board of Directors and will be implemented in phases.
- 3.5.2 Documents which were not eligible for disclosure under the 2005 Bank Group Disclosure Policy will be made available to the public in accordance with this Policy and the declassification arrangements herein. Specific permission of member governments or any third party directly affected will be required before the release of documents which were obtained under promise of confidentiality.

⁸ The World Bank's new policy was approved by the Board of Directors in November 2009 and the policy's effective date was 1st July 2010. Similarly, the IADB allowed a 9-month period between approval of its new policy in May 2010 and effectiveness of the policy in January 2011.

- 3.5.3 Three years following the coming into effect of this Policy, Management will carry out a review on its implementation. In addition, Management will, on an annual basis, submit a report to the Boards of Directors of its observations on the implementation of the Policy.

IV. IMPLEMENTATION OF THE POLICY

4.1 Critical Success Factors

4.1.1 For the Policy to be successful, disclosure of information must be every staff member's responsibility. Information disclosure must be mainstreamed into all Bank Group operations; that is, it should be a mandatory obligation on all staff in their daily operations. The development of an Information Disclosure Handbook is pertinent for the implementation of this Policy. Inter-departmental collaboration, greater use of partnerships, capacity building, effective IT systems and commensurate resource allocations will also be critical for successful implementation of this policy. In addition, there will be need for alignment of the Policy with the Bank Group's existing policies, strategies, related administrative rules, procedures and guidelines.

4.1.2 Success of the Policy will also depend on how effectively the Bank Group discloses information to its stakeholders, particularly in RMCs. In this regard, the Bank Group will, in implementing this Policy, explore various communication approaches and channels to effectively disseminate information. The Bank Group will further capitalize on its African character and presence, its decentralized structure, in-country partnerships with the media and development partners, and make use of domestic information channels to routinely reach its key audiences.

4.2 Institutional Arrangements

4.2.1 Increased access to information will effectively require an institutional arrangement that allows for all Departments and Units to take responsibility and be accountable for implementing the policy.

4.2.2 The Secretary General's Office will take the lead role in the implementation of the Disclosure and Access to Information Policy and its responsibilities shall include amongst others, the following:

- Monitoring the disclosure of documents as per the Policy;
- Mainstreaming and raising awareness on the obligation to disclose information;
- Ensuring compliance with the Policy;
- Reporting on the implementation of the Policy;
- Receiving and dealing with requests for disclosure of information;
- Liaising with the Board Members on issues concerning the disclosure of Board documents; and
- Serving as the Secretariat for the Information Disclosure Committee.

4.2.3 In carrying out these responsibilities, the Secretary General's Office shall be supported by other departments of the Bank Group, particularly the following:

- External Relations and Communication Unit which shall be responsible for providing guidance and support for selection and best usage of appropriate communication tools to implement the Policy, in accordance with the Bank Group's communication strategy;
- The Security Unit shall provide guidance on information security issues;
- General Counsel and Legal Services Department, which shall provide legal advisory services and assist with policy interpretation relating to the application of this Policy;
- The Public Information Centre (PIC) shall receive documents eligible for disclosure from departments and provide such information to the Field Offices for further dissemination. PIC shall also monitor the volume and nature of requests for information and periodically report to the Secretary General; and
- The Field Offices will play a critical role in policy dialogue and dissemination and will serve as the first point of contact with stakeholders.

4.3 The Information Disclosure Committee

4.3.1 This Policy provides for the establishment of an Information Disclosure Committee representing Management of the Bank Group. The Committee will be created before the Policy on Disclosure and Access to Information becomes effective. The Secretariat of the Committee will reside in the Office of the Secretary General.

4.3.2 The core members of the Information Disclosure Committee will be:

- The Secretary General who shall chair the Committee;
- The General Counsel;
- The Head of the External Relations and Communication Unit;
- The Head of the Security Unit; and
- The core members may consult with any Regional, Sector Director or any other Director, Head of Unit or Resident Representative as needed.

4.3.3 The Information Disclosure Committee will have the following main responsibilities:

- Dealing with legitimate appeals for access to information and determining the criteria for legitimate concerns;
- Issuing procedural provisions for implementing information requests and appeals;

- Advising Management and staff on the application of the policy including providing guidance on classification, de-classification and archiving of information;
- Determining the pricing modality for provision of hard copies of documentation in response to requests;
- Exercising the Bank's prerogative for early disclosure of some documents on the negative list (see section 3.4.2); and
- Deciding upon requests to override the provisions of the Policy.

4.3.4 The Information Disclosure Committee will also have the authority to reject unreasonable, multiple, blanket requests for information; and any request that would require the Bank Group to develop and compile information or data that does not already exist.

4.4 Appeals Mechanism

4.4.1 Persons with legitimate concerns about the Bank Group's omission or refusal to disclose information in accordance with this Policy will have access to effective and responsive appeals mechanisms within the Bank Group. "Restricted" documents specified in section 3.3 above ("List of Exceptions") as not eligible for disclosure will not be subject to the appeals procedure.

4.4.2 The Information Disclosure Committee will be the first stage of appeal. Its role will include considering and responding to legitimate appeals regarding failure or denial to provide information eligible for disclosure.

4.4.3 This Policy also provides for the establishment of an Ad-hoc Appeals Panel⁹. The Ad-hoc Appeals Panel will operate independently from the Information Disclosure Committee and will report directly to the President of the Bank Group.

4.4.4 In situations where a complainant is dissatisfied with the decision of the Information Disclosure Committee, the complainant may lodge a further appeal within a stipulated time frame to the Ad-hoc Appeals Panel. This is the second and final stage of appeal. The decisions of the Ad-hoc Appeals Panel will not be re-considered by any other Appeals Committee, authority or jurisdiction of the Bank Group.

4.4.5 All appeals must be submitted in writing to the Secretariat of the Information Disclosure Committee. The Bank will acknowledge receipt of written requests for information within 5 working days, and provide a more comprehensive response within 15 working days. However, more time may be needed in some special

⁹ The Ad-hoc Appeals Panel will comprise of three Members (who will either be staff of the Bank, or external experts, or a combination of both as appropriate) appointed by the President of the Bank Group. Its membership will be on an Ad-hoc basis and will operate independently of the Information Disclosure Committee to guarantee its objectivity.

circumstances and in cases of complex requests, or requests requiring review by or consultations with internal Bank units, external parties, the Information Disclosure Committee, or the Board.

- 4.4.6 The remedy available to a complainant who prevails on appeal to either the Information Disclosure Committee or the Appeals Panel is limited to receiving the information requested.

4.5 Documents Management System

- 4.5.1 To facilitate access, the Bank Group will develop a documents management system before the coming into effect of this Policy. This system will provide mechanisms and procedures for filing, classification, declassification and archiving of documents. The modalities of this system will be elaborated in the Information Disclosure Handbook to support the implementation of this Policy.

4.6 Classification and Filing¹⁰

- 4.6.1 ***Internally generated information*** – In the spirit of disclosure, majority of the information will be disclosed subject to the “List of Exceptions”. Information on this List may however, at some stage be subject to disclosure as its sensitivity diminishes. This approach will require the Bank Group to adopt a classification system for classifying information according to its accessibility over time. This system would require designation and clear labelling of all information produced by the Bank Group at the time of its creation as either “Public” or “Restricted.” Restricted information may at a later stage be subject to de-classification. In this case, the document will clearly indicate the date on which such a document can eventually be disclosed upon declassification.
- 4.6.2 ***Information the Bank Group receives*** - Information received by the Bank Group from its clients and development partners will on receipt be classified according to the Bank Group’s classification system on the basis of the classification level (“Public” or “Restricted”) provided by the information provider. If the Bank Group receives information in confidence from a member country or a third party, the recipient department or unit ensures that such information is appropriately classified in accordance with the provider’s expectation, using the Bank Group’s information classification levels and the Bank Group will not make public such information without the written consent of the concerned party.

4.7 Declassification and Archiving

- 4.7.1 In recognition of the fact that the sensitivity of information under the list of exceptions may change over time, Management of the Bank Group will adopt a system for declassification to make most information that was once classified as “Restricted” available at a later date.

¹⁰ The Disclosure Handbook will provide guidance on procedures for classification, filing, de-classification and archiving of documents.

- 4.7.2 Under the declassification system, “Restricted” information may be made public after 5 years, 10 years, 20 years or more depending on its sensitivity and harmful effect, as defined in the Information Disclosure Handbook. Some “Restricted” information will not be declassified.
- 4.7.3 The Information Disclosure Handbook will provide a list of the documents falling under each level of classification together with the timelines and procedures for classification and de-classification.
- 4.7.4 A list of “Restricted” documents and considered not eligible for de-classification will also be provided and the Disclosure Committee will update this list as and when necessary.
- 4.7.5 In addition, a systematic way of archiving will be elaborated in the Disclosure Handbook to facilitate smooth de-classification, and to protect information that should not be disclosed. The archiving process will involve scanning documentation to ensure information is stored in both soft and hard copy. Guidelines will set out the type and age of documents whose hard copies can be destroyed after a certain period of time. The approval of the Disclosure Committee will be required before any old documents are destroyed.

4.8 Electronic Mail

4.8.1 Noting that information exchanged through e-mail may contain information that is either “Public” or “Restricted”, this Policy provides for the treatment of e-mails as follows:

- (i) E-mails that contain information on decisions or outcomes and that are filed in the Bank Group’s documents management system and classified as “Public” will be eligible for disclosure (Also see paragraph 3.3.1 (H. (i)) of this Policy)..
- (ii) E-mails that are filed in the Bank’s documents management system but classified as “Restricted” will not be eligible for disclosure unless the information content of the e-mail becomes eligible for declassification over time.
- (iii) Access will not be provided to e-mails that are not filed in the Bank Group’s documents management system (including e-mails that do not relate to official matters and e-mails containing personal information or communications of Bank Group’s staff and other officials (Also see paragraph 3.3.1 (H. (i)) of this Policy).

4.9 Simultaneous Disclosure

4.9.1 Simultaneous disclosure of information to the Public shall apply to the following:

- (i) Documents classified as “Public” under the Bank Group’s documents management system and provided by Management to the Board of Directors for information would be simultaneously disclosed to the Public at the time of their distribution to the Board of Directors.
- (ii) Operational Policies and Sector Strategies provided to any committee of the Board of Directors would be simultaneously disclosed to the Public if some earlier version of the document had been previously considered by the Board of Directors.
- (iii) Country and Regional Strategy Papers and Loan Proposals for sovereign-guaranteed operations, would be disclosed simultaneously with their distribution to the Board of Directors, subject to the non-objection of the country/s concerned.

4.10 Strengthening the Information Technology System

4.10.1 The existing Information Technology (IT) system will need to be strengthened in two major ways: Internally, to accommodate the new processes surrounding classification, de-classification and archiving of documents. Externally, to ensure that the web-site is user-friendly and new information is posted in a timely and organized fashion.

4.10.2 The strengthened IT system should enable staff to track disclosure obligations and receive notifications of disclosure deadlines.

4.10.3 The website, managed by the External Relations and Communication Unit should have a link to a dedicated e-mail address to cater for requests for information and ensure timely response.

4.11 Policy Alignment

4.11.1 Where applicable, the Bank Group’s policies, strategies, and related administrative rules, procedures and guidelines would be aligned with this Policy to support the Policy implementation requirements.

4.12 Information Disclosure Handbook

4.12.1 To effectively deliver on the policy, a clear implementation framework will be developed in the form of an Information Disclosure Handbook. The Information Disclosure Handbook is key to optimum implementation of the revised Policy to guide staff and stakeholders on all issues related to information disclosure. It will outline the workflow arrangements for making operational information available to

the public in accordance with the revised policy. It will clarify processes and procedures for classification and declassification of documents, and the appeals mechanism. It would elaborate on best practice for disclosure of information in a systematic and timely manner. Various methods and processes of disseminating information will also be described for different target groups, including better use of the Field Offices to disseminate information. All departments and units will have a role to play in the implementation process and disclosure of information will be mainstreamed into work programmes.

4.13 Budgetary and Resource Implications

- 4.13.1 In view of the anticipated surge in volume of requests, the subsequent availing of the documents eligible for disclosure, and the Bank Group's need to invest in technologies to enable seamless disclosure capacity, it is important to implement the Policy in the most cost-effective manner. There will be resource implications linked to developing and updating the Disclosure Handbook, IT systems, staffing, training, information dissemination, policy alignment, and other requirements for effective implementation of the Policy. Management will in this regard study the most cost-effective and efficient way to implement this policy. Also, lessons from other MDBs which have recently adopted new information disclosure policies will be drawn to further inform budgetary implications for this Policy.

ANNEXES

ANNEX I**BUDGETARY IMPLICATIONS****1. Resource Implications**

- 1.1 In view of the anticipated surge in volume of requests, the subsequent availing of the documents eligible for disclosure, and the Bank Group's need to invest in technologies to enable seamless disclosure capacity, it is important to implement the Policy in the most cost effective manner taking into consideration the Bank Group's decentralized structure. In this connection, there is need to highlight the cost implications for the following crucial activities:
- a. Information Disclosure Handbook – the development and regular updating of the Information Disclosure Handbook is a critical success factor for the implementation of this Policy. Resources will be required to engage external expertise to fast-track the development of the Handbook.
 - b. Information technology - increased investment in and maintenance of IT systems will be required for implementing the Policy. The IT system must integrate the new framework for classification, de-classification and archiving while tracking compliance with the policy and requests for information. The content, utility, and navigational ease of the Bank Group's website must be improved.
 - c. Staffing - additional human resources will be required to implement this Policy both at Headquarters and in the Field Offices. The number of staff members in charge of posting documents on the website will need to be increased so that there is at least one Infomaster for each Vice Presidency. The Secretariat of the Information Disclosure Committee will also need dedicated staff to support the Secretary General's office in handling incoming requests.
 - d. Training – Bank Group departments and units will incur additional costs for staff training in readiness for the coming into effect of the Policy and thereafter periodic training to keep abreast with any new developments in information disclosure processes.
 - e. Dissemination - dissemination modalities for this Policy will go beyond current practice to take full advantage of the Field Offices. The Public Information Centre based at the Headquarters of the Bank Group will need to be better equipped to store and disseminate hard copies of current information to Field Offices.

ANNEX II
COMPARATIVE ANALYSIS OF INFORMATION DISCLOSURE POLICIES OF MDBs

KEY FEATURES	AfDB	WB	AsDB	IADB
Policy title	Disclosure and Access to Information	Access to Information	Disclosure and exchange of information	Access to Information
Year	2011	2010	2005	2010
Main Objective/s	To Maximise disclosure of information; To Facilitate access to information; and To Promote good governance, transparency, and accountability.	To enhance transparency and accountability.	To enhance stakeholders' trust and ability to engage with AsDB.	To enhance accountability and development effectiveness.
Key guiding principle	Maximum disclosure; Enhanced Access; Limited list of exceptions; A Consultative Approach; Right to appeal; Safe-guarding the deliberative process; and Provision for review.	Maximizing access to information.	In the absence of a compelling reason for confidentiality, AsDB will presume information can be disclosed.	Maximize access to information.
Stated presumption in favor of disclosure	YES	YES	YES (but with prescription of what is to be disclosed).	YES
Policy contains positive list	NO	NO (List of examples included as annex)	YES (Included as part of policy)	NO (List of examples included as annex)
Policy contains negative list	YES	YES	YES	YES
Confidentiality for "deliberative processes" (e-mail, verbatim transcripts of Management and Board meetings, internal audit department reports?)	YES	YES	YES	YES
Multiple-category	YES	YES	NO	YES

KEY FEATURES	AfDB	WB	AsDB	IADB
Information Security classification System				
Declassification of archived information	YES	YES	NO	YES
Ability to deny Blanket Request	YES (With explanation)	YES (With explanation)	YES	YES (With explanation)
Review/Appeal Mechanism when information denied	YES	YES	YES	YES
Special budget for implementation	YES	YES	NO	YES

ANNEX III
Summary of the Negative List of select MDBs

African Development Bank (2005)	African Development Bank (2011) - Draft Policy	European Bank for Reconstruction and Development (2008)	World Bank (2010)	Inter-American Development Bank (2010)
The Bank' Group's Principles of Staff Employment require the Bank Group to maintain appropriate safeguards to respect the personal privacy of staff members and protect the confidentiality of personal information about them. The individual records and personal medical information of Bank Group staff, as well as proceedings of internal appeal mechanisms and investigations, are not disclosed outside the Bank Group, except to the extent permitted by the Staff Rules.	Personal Information.	Information regarding staff members, former staff members or prospective staff members (except as provided for in Section D, paragraphs 1.6 and 1.7), including staff records and medical information, as well as proceedings of internal grievance and appeals mechanisms, investigations into suspected misconduct, and disciplinary procedures.	Personal Information.	Personal information.
Records of internal deliberative processes including Board documents and	Communications of the Bank Group President and Executive Directors.	Documents intended for internal purposes only, or classified under the Bank's internal	Communications of Executive Directors' Offices.	Communications involving Executive Directors.

African Development Bank (2005)	African Development Bank (2011) - Draft Policy	European Bank for Reconstruction and Development (2008)	World Bank (2010)	Inter-American Development Bank (2010)
proceedings protected by Rules 11 and 12 of the Rules of Procedure of the Boards of Directors of the Bank and the Fund (the "Board of Directors"), respectively, as well as, communications to and from Executive Directors, their Alternatives, their Advisors as well as the President, except to the extent that the Boards of Directors authorize their disclosure, will not be available to the public.		classification regime and Board documents, unless Board approval for release is given.		
Privileged information such as legal advice and matters in dispute or under negotiation including, disciplinary and investigatory information generated in or for the Bank, other than documents intended for public release. This will also include information	Legal, disciplinary or investigatory matters.	Privileged information such as legal advice and correspondence with legal advisers; any information the disclosure of which might prejudice an investigation or any legal or regulatory proceedings, or subject the Bank to an undue risk in any contested matter, e.g. litigation or arbitration.	Proceedings of the Ethics Committee for Board Officials	Legal, disciplinary or investigatory matters

African Development Bank (2005)	African Development Bank (2011) - Draft Policy	European Bank for Reconstruction and Development (2008)	World Bank (2010)	Inter-American Development Bank (2010)
<p>provided to the Bank Group on the explicit or implied understanding that it will not be disclosed outside the Bank Group, or that it may not be disclosed without the prior consent of the source, or with other restrictions on its use. The Bank Group will also not make publicly available documents that contain proprietary information, such as trade secrets or pricing information, without the express permission of the owner of such information. Materials held by the Bank Group in which other parties hold the copyright may be made available for review, but copying or distributing of such material may be limited to respect the rights of the copyright holder.</p>				
	Under Legal, disciplinary		Information	

African Development Bank (2005)	African Development Bank (2011) - Draft Policy	European Bank for Reconstruction and Development (2008)	World Bank (2010)	Inter-American Development Bank (2010)
	or investigative matters.		subject to attorney-client privilege	
	Under Legal, disciplinary or investigative matters.		Information Restricted Under Separate Disclosure Regimes of the Independent Evaluation Group, the Inspection Panel, the Integrity Vice Presidency, and the Bank's sanctions process or any Other Investigative Information or other information that would prejudice an investigation that is not addressed under such separate disclosure regimes.	
	Safety and security.	Information that, if disclosed, could violate the law, or prove a threat to the national security of a member country; information, the disclosure of which would contravene the Agreement Establishing the Bank.	Information whose disclosure would compromise the safety and security of any individual, the Bank assets, or the environment.	Information that may affect safety or security.
	Information provided in confidence by member countries, private-sector entities or third parties.	Information in the Bank's possession which was not created by the Bank and is identified by its originator	Information Provided by Member Countries or Third Parties in Confidence.	Information provided in confidence by member countries, private-sector entities or third parties.

African Development Bank (2005)	African Development Bank (2011) - Draft Policy	European Bank for Reconstruction and Development (2008)	World Bank (2010)	Inter-American Development Bank (2010)
		as being sensitive and confidential, or when the originator legitimately has requested that its release be restricted.		
Information dealing entirely with internal administration or operating systems which has no direct effect outside the institution, or internal documents written by staff to their colleagues, supervisors or subordinates, unless those documents are intended for public circulation in accordance with Bank Group policies.	Internal administrative information.		Corporate Administrative Matters.	Corporate administrative information.
There is also need to preserve the integrity of the deliberative process and to facilitate and safeguard the free and candid exchange of ideas between the Bank Group and its members. For this reason, analysis of country	Deliberative information and Incomplete Reports.	Information which, if disclosed, in the Bank's view would seriously undermine the policy dialogue with a member country.	Deliberative Information.	Deliberative information.

African Development Bank (2005)	African Development Bank (2011) - Draft Policy	European Bank for Reconstruction and Development (2008)	World Bank (2010)	Inter-American Development Bank (2010)
<p>creditworthiness and credit ratings, aide memoirs and supervision reports will not be publicly available. The Bank also cooperates with various international organizations, bilateral aid agencies, and private commercial banks and institutions in the context of its operations. In this context, documents exchanged with such entities on matters of common interest which are related to the decision-making processes of the Bank Group and such entities are not publicly available. Financial, business or proprietary information of private entities received by the Bank Group in the analysis or negotiation of loans unless permission is given by</p>				

African Development Bank (2005)	African Development Bank (2011) - Draft Policy	European Bank for Reconstruction and Development (2008)	World Bank (2010)	Inter-American Development Bank (2010)
those private entities to release such information.				
Internal financial information which may affect the Bank Group's activities in capital and financial markets or to which such markets may be sensitive, including, but not limited to: liquidity; investments; estimates of future borrowings and redemptions of borrowings; expected rates of interest; rates of return and financial ratios; and documents dealing with financial matters not yet approved by the relevant Bank Group authorities.	Financial information.	Financial, business or proprietary information received by the Bank in the analysis or negotiation of any investment, any treasury operation or any donor funded or technical assistance project, unless permission is given by the entity or entities concerned to release this information.	Financial Information.	Financial information.
	Under Information provided in confidence by member countries, private-sector entities or third parties.		Country-specific operational documents may be made publicly available if both the Bank and the country/borrower/partner agrees.	Country-specific information to which the borrower or beneficiary objects to.

African Development Bank (2005)	African Development Bank (2011) - Draft Policy	European Bank for Reconstruction and Development (2008)	World Bank (2010)	Inter-American Development Bank (2010)
		The Bank does not disclose legal documentation, including all contractual documentation relating to a project, operation or technical assistance project, or correspondence pertaining to Bank-financed projects (whether financed by donors in whole or in part), including documents or information relating to negotiations between the Bank and its clients, donors, co-financiers and other contractual counterparties relating to a project.		Information relating to non-sovereign guaranteed operations other than information with respect to which the respective borrower has expressly consented to disclosure and information listed here: Initial Project Abstracts, Environmental and Social Strategies, Environmental Impact Assessments, Strategic Environmental Analyses, Environmental Analyses, Environmental and Social Management Reports, and Abstracts of Approved Projects.
Information related to procurement processes which involve pre-qualification information submitted by prospective bidders, proposals or price quotations, or records of deliberative processes.	Under Internal administrative information.	Information related to procurement processes, including pre-qualification information submitted by prospective bidders, tenders, proposals or price quotations (other than the total contract price), or records of deliberative processes.		

