

## OPERATIONS MANUAL

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These policies and procedures were prepared for use by ADB staff and are not necessarily a complete treatment of the subject. This *Operations Manual* was prepared by the Office of the Secretary (SEC) and issued by the Strategy, Policy, and Partnerships Department, with the approval of the President. Questions may be directed to the advisor and head, Information Access Unit of SEC.

### ACCESS TO INFORMATION POLICY

#### A. Introduction

1. The objective of the Access to Information Policy (AIP) (endnote i) is to promote stakeholder trust in the Asian Development Bank (ADB) and to increase the development impact of ADB activities. The policy reflects ADB's commitment to transparency, accountability, and participation of stakeholders in ADB-supported development activities in Asia and the Pacific. It also recognizes the right of people to seek, receive, and impart information about ADB's operations.

2. The policy applies to documents and information that ADB produces, that ADB requires its borrowers or clients to produce, or that other parties produce and provide to ADB in the course of ADB operations. The policy will be implemented in accordance with detailed arrangements approved by ADB Management and made publicly available in accordance with ADB's normal procedures.<sup>1</sup>

#### B. Policy Principles

3. The AIP is based on the following principles:

- (i) **Clear, timely, and appropriate disclosure.** ADB discloses information about its operations in a clear, timely, and appropriate manner to enhance stakeholders' ability to meaningfully engage with ADB and to promote good governance.
- (ii) **Presumption in favor of disclosure.** ADB discloses information unless that information falls within the exceptions to disclosure specified in the policy.
- (iii) **Limited exceptions.** Full disclosure of information is not always possible. For example, ADB needs to explore ideas, share information, hold candid discussions, and freely debate ideas internally and with its members or clients. It also needs to consider the special requirements of its nonsovereign operations and clients,<sup>2</sup> protect the right to privacy of its personnel, and safeguard its and its clients' legitimate business interests. The policy provides a limited set of exceptions that balances the rights and interests of various parties. However, ADB reserves the right, under exceptional circumstances, to override the policy exceptions (para. 18

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<sup>1</sup> The implementation arrangements for the AIP are provided in Appendix 1 of this *Operations Manual*.

<sup>2</sup> A legally binding undertaking not to divulge clients' confidential business information is a standard requirement for private sector financial institutions, as well as for ADB's comparators, to engage in business with clients. The need for protection of confidential business information is also widely recognized in freedom of information laws, which include an exception for the release of commercial information obtained in confidence.

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of the AIP) or not to disclose information that it would normally disclose (para. 19 of the AIP).

- (iv) **Proactive disclosure.** ADB proactively shares its knowledge products and information about its operations in a timely manner to facilitate participation in ADB decision-making. Although the ADB website remains the primary vehicle for proactive disclosure, ADB also uses other appropriate means to disclose and communicate information.
- (v) **Sharing of information and ideas.** The AIP includes processes by which people may equally seek, receive, and convey information and ideas about ADB operations. Effective communications and exchange of information and ideas with stakeholders is a vital component of effective and sustainable development.
- (vi) **Providing information to project-affected people and other stakeholders.** ADB works closely with its borrowers and clients to ensure two-way communications about ADB projects with project-affected people and other stakeholders. This is done within a timeframe, using relevant languages,<sup>3</sup> and in a way that allows project-affected people and other stakeholders to provide meaningful inputs into project design and implementation.
- (vii) **Country and client ownership.** ADB borrowers and clients own the projects that ADB supports or in which the bank invests. Thus, in some cases, the views of borrowers and clients regarding the content and timing of disclosure are considered before documents are disclosed.
- (viii) **Clear appeals process.** A clear process to appeal an ADB decision not to disclose requested information is an important part of a meaningful disclosure framework.
- (ix) **Continuous monitoring.** ADB monitors the effectiveness of the policy, learns lessons from its successes and shortcomings, and stays abreast of new technologies and practices.

### C. Exceptions to Disclosure

4. ADB discloses information in its possession that does not fall under any of the policy exceptions. The exceptions are based on ADB's determination that disclosing certain types of information would cause harm to specific parties or interests that would outweigh the benefits of disclosure. A harm–benefit assessment is the process of weighing the likely adverse effects of disclosure against the benefits likely to accrue from disclosure. In the context of ADB's disclosure principles (para. 15 of the AIP), particularly the presumption in favor of disclosure, the harm–benefit assessment and the basis for nondisclosure are limited to the categories of information described in para. 17 of the AIP. If a document or part of a document is not disclosed because it

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<sup>3</sup> ADB's translation guidelines (<https://www.adb.org/documents/adb-translation-guidelines>) allow for materials to be translated into official and national languages. Local languages can be used on a case-by-case basis as determined by the country office.

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contains information that falls under one or more of the policy exceptions, ADB cites the exception(s) for nondisclosure.

5. Subject to the policy's provision regarding the positive override (para. 18 of the AIP), the following categories of information or documents are not disclosed:

### **1. Deliberative and Decision-Making Process**

Information that informs the deliberative or decision-making process of ADB is generally exempt from disclosure. This category of exception is based on the premise that deliberations, debates, and advice that inform decision-making must be free and candid. This comprises the following:

- (i) Internal information that, if disclosed, would or would likely compromise the integrity of ADB's deliberative and decision-making process, by inhibiting the candid exchange of ideas, views, and approaches, and thereby adversely affect the quality of decisions and outcomes for ADB and its stakeholders. Examples include advice and ideas exchanged between Board members, directors' advisors, members of Management, ADB staff, and ADB consultants that are generally deliberative in nature. While ADB typically discloses the results of its decision-making processes, it may not disclose all the ideas, views, and approaches that led to such decisions because stakeholders need to freely present and debate such ideas, views, and approaches.
- (ii) Proceedings of the Board of Directors,<sup>4</sup> except for Board papers,<sup>5</sup> verbatim transcripts,<sup>6</sup> minutes of Board meetings,<sup>7</sup> and chair's summaries of certain Board meetings,<sup>8</sup> because disclosure of such documents would inhibit the frank exchange of ideas, views, and approaches among Board members.

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<sup>4</sup> Proceedings of the Board of Directors are confidential in accordance with Section 9 of the Rules of Procedure of the Board of Directors of the Asian Development Bank. For the purpose of this policy, the term "Proceedings of the Board of Directors" refers to any document or information created for, or in, meetings and deliberations of the Board of Directors and Board committees, and comprise Board papers (documents circulated to the Board of Directors for information, discussion, or consideration) and Board records (e.g., statements made or filed during Board of Directors' meetings or committee meetings, verbatim transcripts, minutes, and/or chair's summaries of committee meetings; and memoranda or other communications between ADB Management, departments, or the Secretary and the Board, Board committees, and/or offices of the executive directors, in all formats, including electronic).

<sup>5</sup> Unless restricted by policy exemptions, documents circulated to the Board of Directors for information are posted on the website upon circulation. Documents circulated to the Board for consideration are generally disclosed upon approval or endorsement by the Board.

<sup>6</sup> Verbatim transcripts of formal meetings of the Board of Directors may be disclosed on request and in their entirety 10 years after the date of their creation, provided that the formal Board meetings were held on or after 2 April 2012 and the Access to Information Committee determines they do not contain or refer to any information that falls within the policy exceptions.

<sup>7</sup> Minutes of each regular Board of Directors meeting are disclosed after approval of the minutes by the Board but no later than 60 calendar days after the original Board meeting. This applies to regular Board meetings held on or after 1 September 2005.

<sup>8</sup> Chair's summaries of each Board of Directors discussion on a country partnership strategy and regional cooperation strategy and each policy or strategy approved or endorsed by the Board at a formal Board meeting are disclosed within 14 days of the date of their final circulation to the Board.

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- (iii) Information exchanged, prepared for, or derived from the deliberative and decision-making process between ADB and its members and other entities ADB cooperates with. If disclosed, this information would or would likely compromise the integrity of the deliberative and decision-making process among ADB and its members or other entities ADB cooperates with by inhibiting the candid exchange of ideas, views, and approaches.

### **2. Information Provided in Confidence**

- (iv) Information provided to ADB by a member or other party in confidence. ADB has an obligation to protect such information and does not disclose the information without the express written permission of that other member or party.
- (v) Proprietary information or any information provided to ADB by a party that, if disclosed, would or would likely materially prejudice the commercial interests, financial interests, or competitive position of the party that was the source of the information or another party that may be affected by the disclosure of the information.
- (vi) Confidential business information covered by a confidentiality agreement or nondisclosure agreement that ADB has entered into with clients or other related parties.

### **3. Personal Information**

- (vii) Any personal information that, if disclosed, would or would likely materially compromise the legitimate privacy interests of the person concerned, except to the extent permitted by the person concerned or by ADB rules. Some examples include information relating to their appointment and selection process, terms of employment, performance evaluations, personal medical information, personal communications, information relating to proceedings of internal conflict resolution and appeal mechanisms, and information related to investigations.

### **4. Financial Information**

- (viii) Financial information that, if disclosed, would or would likely prejudice the legitimate financial or commercial interests of ADB and its operations. Some examples include estimates of ADB's future borrowings, financial forecasts, data on individual investment decisions for ADB's treasury operations, credit assessments, analyses of creditworthiness, credit ratings, risk assessments of its borrowers and other clients, and any information to which capital and financial markets may be sensitive.
- (ix) Financial information that, if disclosed, would or would likely prejudice the ability of a member to manage its economy.

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### 5. Security and Safety

- (x) Information that, if disclosed, would or would likely endanger the life, health, safety, or security of any individual; the safety or security of ADB assets; or prejudice the defense or national security of a member.

### 6. Legal and Investigative Matters

- (xi) Any information subject to attorney–client privilege (including communications to or from ADB counsel or its external legal advisors) or any information that, if disclosed, would or would likely undermine legitimate attorney–client interests or violate applicable law.<sup>9</sup>
- (xii) Information provided to ADB alleging fraud, corruption, or other violation of ADB's Anticorruption Policy<sup>10</sup> or misconduct; or relating to any investigation of alleged fraud, corruption, or other violation of ADB's Anticorruption Policy or misconduct. Any information that, if disclosed, would or would likely materially prejudice an investigation or the administration of justice; except, in either case, to the extent permitted by and in accordance with ADB rules. This also applies to the identity of the party making the allegation (whistleblower), unless such whistleblower consents to the disclosure of his or her identity, or except to the extent permitted by and in accordance with ADB rules.

### 7. Internal Audit Reports and Trust Fund Audit Reports<sup>11</sup>

- (xiii) (a) Internal audit reports of ADB's Office of the Auditor General, as such reports may contain sensitive information about internal systems, which could be exploited by third parties to the detriment of ADB; and (b) certain audit reports of ADB's external auditors on ADB-administered trust funds, where the applicable auditing standards limit disclosure of these reports and related financial statements.<sup>12</sup>

## D. Public Interest Override (Positive Override)

6. ADB has the right to disclose, under exceptional circumstances, information that falls under the exceptions to disclosure if the bank determines that the public interest in disclosing the information outweighs the harm that may be caused by disclosure. Any recommendation to disclose or deny such information requires the approval of the Board of Directors for Board records and the President for other documents.

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<sup>9</sup> This may include restrictions imposed by securities and banking laws, and copyright law.

<sup>10</sup> *Operations Manual* section C5 (Anticorruption).

<sup>11</sup> Audit opinions and audited financial statements disclosed to the public as part of ADB's *Annual Report* are not covered by this exception.

<sup>12</sup> Certain trust fund financial statements are prepared in accordance with donors' accounting requirements, which may be different from the accounting standards generally accepted in the United States (US), and are audited in accordance with auditing standards generally accepted in the US (which are applicable to ADB). Such auditing standards limit the disclosure of financial statements prepared in accordance with accounting standards other than those generally accepted in the US and the associated audit opinion to those who have a specified interest in the fund, i.e., contributors and those responsible for managing and/or administering the fund.

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### **E. ADB's Prerogative to Restrict Access (Negative Override)**

7. ADB also has the right not to disclose, under exceptional circumstances, information that it would normally disclose if it determines that such disclosure would or would likely cause harm that outweighs the benefit of disclosure. Only the Board of Directors exercises this prerogative.

### **F. Historical Information**

8. Any information concerning ADB operations held by ADB for more than 20 years from the date such information was produced by, or provided to, ADB, is considered historical information. Historical proceedings of the Board of Directors are disclosable on request provided the Access to Information Committee (AIC) determines that such proceedings of the Board do not contain or refer to any information that falls within any of the policy exceptions, taking into consideration the provisions in para. 17(ii) of the AIP. All other historical information is disclosable on request except for information that falls within the exceptions and shall remain exempt from disclosure (information provided in confidence, personal information, security and safety information, and/or legal and investigative matters).

### **G. Requests for Information**

9. All requests for information and documents must be made in writing. Requests may be directed to ADB headquarters, a resident mission, a representative office, or any ADB department or office. Details on where to send information requests are on the ADB website. Requests should indicate with reasonable specificity the information that is being sought to enable ADB to locate the information within a reasonable period.

10. Requests may be submitted to ADB in English or in any of the official or national languages of ADB members.<sup>13</sup>

11. ADB is not required to comply with or respond to unsupported requests, blanket requests, or any request that would require ADB to create, develop, or collate information or data that do not already exist or are not available in its records management system. This also applies to requests for information on the same subject from the same person, organization, or group if ADB has provided such information after a previous request or has given reasons why it cannot provide the information.

12. ADB promptly acknowledges the receipt of a request and communicates its decision on the request.<sup>14</sup> For complex requests,<sup>15</sup> ADB may extend the deadline for responding to the request, provided the requester is notified and acknowledges the extension.

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<sup>13</sup> English is used as the standard language for ADB responses to requests. Responses may be translated depending on local circumstances.

<sup>14</sup> Where ADB uses its prerogative under para. 18 (positive override) or para. 19 (negative override) of the AIP, ADB will communicate to the requester once a final decision has been made. The requester will be notified of any extension, as appropriate.

<sup>15</sup> Complex requests include seeking information from multiple sources and large numbers of documents, collecting information over multiple years, collating and correlating raw data, and providing findings.

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### **H. Access to Information Committee**

13. The AIC is an oversight body established to interpret, monitor, and review the policy and its implementation arrangements. It comprises senior ADB personnel nominated by the President and reports to the President. The AIC convenes as needed to review requests for information that have been denied by ADB departments or offices. The AIC also considers and make decisions concerning appeals (para. 28 of the AIP). The AIC has the authority to (i) uphold or reverse decisions made by ADB departments and offices to deny access to information and (ii) consider requests for disclosure in the public interest of information covered by a policy exception (para. 18 of the AIP).

### **I. Appeals**

14. ADB has a two-stage appeals process that requesters can use when they believe that ADB has denied their request for information in violation of this policy. Details on where to send appeals are on the ADB website. The remedy available to a requester who prevails on any appeal is limited to receiving the information requested.

15. The two-stage appeals process is described below.

#### **1. First Stage: Access to Information Committee**

16. A requester who is denied access to information by ADB may file an appeal with the AIC if the requester can (i) show that an initial request for information was submitted in accordance with the required procedures set forth in the policy and (ii) either provide a reasonable argument that ADB has violated the policy by denying access to the requested information or make a public interest case as described in para. 18 of the AIP to override the policy exception(s).

#### **2. Second Stage: Independent Appeals Panel**

17. If the AIC upholds the initial decision to deny a request for information, and the requester still believes that ADB has violated its policy by withholding the information, the requester may file an appeal with the Independent Appeals Panel (IAP). The IAP has the authority to uphold or reverse the decision of the AIC. The IAP's decision is final.

18. The IAP does not have the authority to consider appeals concerning (i) decisions by the Board of Directors or the President if the appeal is based on the public interest override or (ii) decisions by the Board of Directors to use its prerogative to restrict access to information normally disclosed.

19. The IAP comprises three external experts on access to information, independent from ADB. The ADB President appoints the IAP members with the approval of the Board of Directors.

#### **3. Submission of Appeals and Notification of Decisions**

20. All appeals to the AIC must be filed in writing within 90 calendar days after ADB's initial decision to deny access to the requested information. All appeals to the IAP must be submitted

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in writing within 90 calendar days after the AIC's decision to uphold ADB's initial decision to deny access. Appeals received beyond the 90-day period for filing an appeal are not considered. All appeals should contain the following:

- (i) a description of the information originally requested, and
- (x) an explanatory statement that sets out the facts and the grounds that support the requester's claim that ADB violated the policy or that the public interest override applies.

21. Requesters are notified if the appeal is dismissed (i) for a failure to file within the required time, (ii) for a failure to provide sufficient information that would reasonably support the appeal, or (iii) because the AIC or the IAP does not have authority to consider the matter being appealed.

### **J. Relation of the Access to Information Policy to Other Policies**

22. Any reference in the AIP to other ADB policies includes those other policies as amended from time to time.

### **K. Compliance Review**

23. The AIP is subject to the appeals process (paras. 26–33 of the AIP). The AIP is an “operational policy” within the meaning of the ADB Accountability Mechanism Policy. As such, complaints by project-affected people alleging ADB's violation of the AIP in the course of the formulation, processing, or implementation of a project can also be filed under ADB's Accountability Mechanism Policy.<sup>16</sup>

24. This *Operations Manual* (OM) section, including its appendix, is subject to compliance review.<sup>17</sup>

### **L. Policy Monitoring and Amendments**

25. ADB will monitor the implementation of the AIP and post annual reports on its website. Amendments to the AIP may be made from time to time with approval of the Board of Directors.

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### **Bases**

- i. ADB. 2018. *Access to Information Policy*. Manila (R108-18).
- ii. ADB. 2012. *Accountability Mechanism Policy*. Manila. (R14-12)

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<sup>16</sup> The Accountability Mechanism provides a forum for people who are adversely affected by ADB-assisted projects to voice and seek solutions to problems and report alleged noncompliance with ADB's operational policies and procedures. ADB. *Accountability Mechanism*. <https://www.adb.org/site/accountability-mechanism/main>

<sup>17</sup> *Operations Manual* section L1 (Accountability Mechanism).



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1. In line with the presumption in favor of disclosure in the Access to Information Policy (AIP), ADB discloses information unless that information falls within the exceptions to disclosure. ADB works closely with its borrowers<sup>1</sup> and clients<sup>2</sup> to prepare and implement projects, programs, and policies. In doing so, ADB informs them of the principles and disclosure requirements of the AIP. The AIP applies to documents and information that ADB produces, requires to be produced by its borrowers or clients, or are produced and provided to ADB by other parties in the course of ADB operations.

### A. Disclosure of Documents

2. The following categories of documents are routinely disclosed on the ADB website and/or, if specified, disseminated to stakeholders after consultations with respective borrowers or clients, as appropriate:

- (i) **Policies, strategies, operational rules, and procedures.** Annex 1 provides a list of routinely disclosed information and documents pertaining to these categories of information and their disclosure timelines.
- (ii) **Country partnership strategies and regional cooperation strategies.** Annex 2 provides a list of routinely posted information and documents pertaining to these categories of information and their disclosure timelines.
- (iii) **Projects.** To inform external stakeholders of projects during preparation and implementation, ADB routinely discloses information and documents related to sovereign and nonsovereign projects, including project data sheets and project safeguard documents submitted by the borrower or client. ADB also routinely discloses other information related to projects, including cofinancing information and anticorruption information. Annex 3 provides a list of routinely disclosed project information and documents and their disclosure timelines. Annex 4 provides a list of routinely disclosed evaluation reports produced by ADB's Independent Evaluation Department.
- (iv) **Other information.** ADB routinely posts information related to procurement, country performance assessments of Asian Development Fund recipient countries, information related to Asian Development Fund negotiations, its Annual Report, economic data and research, ADB administrative information, financial information, employment information, and information produced under ADB's Accountability Mechanism. Annex 5 provides a list of other ADB information and documents routinely disclosed and their disclosure timelines.

3. ADB, at its own discretion, appropriately redacts, abbreviates, or withholds documents from disclosure if information or a whole document falls under the AIP's exceptions to disclosure. In the case of a document where only portions are redacted or abbreviated, the explanation is made inside the document unless citing the removed information would itself violate an AIP

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<sup>1</sup> *Operations Manual* section D11 (Sovereign and Sovereign-Guaranteed Financing) refers to "Borrower" as a recipient of ADB financial assistance when applied to sovereign operations.

<sup>2</sup> *Operations Manual* section D10 (Nonsovereign Operations) refers to "Client" as an entity that has a commercial interest in any transaction undertaken, or to be undertaken, by ADB or as an arrangement under which it will perform transaction advisory services pursuant to *Operations Manual* section D15 (Transaction Advisory Services).

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exception. If an entire document is withheld, the website refers to the title of the document unless citing the document would itself violate an AIP exception.

4. The categories of routinely disclosed documents is updated as necessary. Although a document is deemed disclosed when it appears on the ADB website, other methods may be used to reach stakeholders.

5. Unless restricted by other provisions in the AIP, documents submitted to the Board of Directors for information are posted on the ADB website upon<sup>3</sup> circulation to the Board. Board documents submitted to the Board for consideration are posted on the ADB website upon approval or endorsement by the Board.

### **B. Providing Information to Project-Affected People and Other Stakeholders**

6. To facilitate dialogue with project-affected people and other interested stakeholders, including women, the poor, and other vulnerable groups, ADB works closely with the borrower or client to ensure that information about sovereign and nonsovereign projects is provided in a timely manner, form, and language(s) understandable to them<sup>4</sup> and in an accessible place. This process starts early in the project preparation phase to support consultations and allow stakeholders' views to be adequately considered in the project design and continue at each stage of project preparation, processing, and implementation. Relevant information about major changes to project scope and likely impacts is also shared.

7. ADB assists borrowers and clients in developing a project communications strategy. This is an integral part of consultation and participation by affected people and other interested stakeholders. The communications strategy is not a separate document but is presented in the dedicated section of the project administration manual and/or by cross-referencing relevant information included in the project administration manual or other project documents. Communications strategies should describe two-way communications and include, at a minimum, (i) the types of information to be communicated; (ii) the mechanisms for public notice, including language and timing; and (iii) the responsibility for implementing and monitoring information disclosure and dissemination.

8. The communications strategy helps borrowers and clients to involve project-affected people in the design and implementation of ADB projects, and increases involvement of grassroots and civil society organizations in the development process by broadening and ensuring their access to information.<sup>5</sup>

9. ADB ensures that a project information focal point is designated for regular contact with project-affected people and other interested stakeholders. This is done as early as possible during project preparation and continues through to the end of the project. For ADB, the information focal

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<sup>3</sup> "Upon" means within 14 calendar days of the given milestone (e.g., approval, circulation, completion, endorsement, discussion, issuance, receipt, or submission).

<sup>4</sup> This could include making information available through various formats—e.g., brochures, graphics, dramatizations – and channels—as appropriate.

<sup>5</sup> The requirements for consultations and participation in projects are found in other policies and documents. The AIP provides the background for consultation and participation with project-affected people and stakeholders.

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point is always the project officer. The borrower or client needs to appoint its own information focal point(s) according to the project's needs.

### C. Translation

10. English is the working language of ADB.<sup>6</sup> However, documents and other information is often translated into other languages to encourage project-affected people and other stakeholders to understand, support, and participate in ADB operations. The type and extent of translation of documents or information depends on the context and the need but may include information that (i) addresses ADB's overall business, policies, and strategic thinking targeted to a wide international audience; (ii) is for public consultation, particularly with project-affected people; (iii) relates to specific countries and projects; and (iv) is intended for the ADB website. Documents that should be translated are (i) country partnership strategies, where English is not widely spoken; (ii) project data sheets; and (iii) other project or safeguard information, as needed. ADB's translation guidelines provide more guidance.<sup>7</sup>

### D. Responding to External Requests for Information

11. External requests for information are sent to ADB through (i) the online request for information form, (ii) e-mail contact forms on the website, (iii) directly to staff e-mail addresses, and (iv) mail or fax. Contact details are found on the ADB website ([www.adb.org](http://www.adb.org)).

12. When a request for information is received, the ADB department, office, or staff concerned determines whether the requested document or information is already publicly available. If so, the link or copy of the document is sent to the requester. If not, ADB determines (i) if it has the requested document or information and (ii) whether all or part of it contains information that falls under any of the AIP exceptions. If part of the information contained in it falls under an exception, ADB removes the information before providing it and informs the requester why it was removed. ADB consults with the borrower, client, or cofinancier, as appropriate. The Information Access Unit in the Office of the Secretary provides guidance to ADB staff, as necessary.

13. ADB acknowledges external requests for information within 7 calendar days of receiving the request and responds within 30 calendar days of receiving the request. In its response, ADB either provides the requested information or the reason(s) why the request has been denied, indicating the provision(s) in the AIP that justifies the refusal. In case ADB denies the request, the requester has the right to appeal in accordance with the appeals process described in the AIP. ADB may extend the deadline for responding to complex requests or requests for historical information,<sup>8</sup> provided the requester is notified and acknowledges the extension. When historical information is requested, the document owner or the originating department of the document ascertains whether it contains information that falls under any of the AIP exceptions. ADB monitors information requests and post details on its website.

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<sup>6</sup> In case of any discrepancy between the English version of the document and its translation into another language, the English version prevails.

<sup>7</sup> ADB. 2019. *Translation Guidelines*. Manila. <https://www.adb.org/documents/adb-translation-guidelines>.

<sup>8</sup> Historical information is any information concerning ADB operations held by ADB for more than 20 years from the date such information was produced by, or provided to, ADB.

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### E. Appeals Mechanism

14. **First stage.** An external requester who is denied access to information by ADB may file a written appeal with the Access to Information Committee (AIC)<sup>9</sup> if the requester can (i) make a public interest case to override the exception(s) to disclosure of such information, and/or (ii) provide a reasonable argument that ADB has violated the AIP or its implementation arrangements by restricting access to the requested information. Contact details are found on the ADB website ([Appeals | Asian Development Bank \(adb.org\)](#)).

15. Appeals must be sent to the AIC within 90 calendar days of ADB's initial decision to deny access to the requested information. Appeals received beyond the 90-day period are deemed out of time and are not considered. An appeal should contain (i) a description of the information originally requested, and (ii) an explanatory statement setting out the facts and the grounds that apply to the public interest override or that support the requester's claim that ADB violated the AIP or its implementation arrangements.

16. The AIC considers appeals for disclosure of information in the public interest. Any recommendation by the AIC to disclose or deny disclosure of information in the public interest requires the approval of (i) the Board of Directors for Board records, or (ii) the President for other documents. Their decisions on public interest appeals are final.

17. The AIC also considers appeals alleging violation(s) of the AIP or its implementation arrangements. The AIC acknowledges receipt of an appeal within 7 calendar days of receiving the appeal. It notifies the requester of ADB's decision within 30 calendar days of receiving the appeal except for cases that require approval of the Board of Directors. In such cases, the AIC notifies the requester within 14 calendar days of the Board of Directors' decision.

18. **Second stage.** If the AIC upholds the initial decision to deny a request for information, the requester may file a written appeal with the Independent Appeals Panel (IAP).<sup>10</sup>

19. Appeals to the IAP must be submitted within 90 calendar days of the AIC's decision to uphold ADB's initial decision to deny access. Appeals received beyond the 90-day period are deemed out of time and are not considered. An appeal should contain (i) a description of the information originally requested, and (ii) an explanatory statement setting out the facts and the grounds that support the requester's claim that ADB violated the AIP or its implementation arrangements.

20. In reviewing an appeal from the AIC, the IAP considers the AIP exceptions and statements, if any, filed by ADB and/or any concerned third party regarding disclosure of the requested information. The IAP rules on appeals and informs the requester of its decision no later than 45 calendar days after receiving the appeal. The IAP has the authority to uphold or reverse the decision of the AIC on allegations of violation of the AIP or its implementation arrangements. The IAP decision is final.

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<sup>9</sup> Annex 7 provides the Terms of Reference and Practices of the AIC.

<sup>10</sup> Annex 8 provides the Terms of Reference and Practices of the IAP.

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21. The IAP does not consider appeals concerning (i) requests for the public interest override or (ii) the negative override prerogative of the Board of Directors.

22. The remedy available to a requester who prevails in an appeal is limited to receiving the information requested. ADB posts on its website a list of all appeals received, the nature of each appeal, and the decision taken in each case. Annex 6 shows the appeals process.

### **F. Monitoring**

23. ADB staff regularly monitor compliance with disclosure requirements. ADB reports on policy implementation, challenges and proposed solutions, and/or changes to policy implementation in the AIP annual report. The report is circulated to the Board of Directors at about the same time as other ADB annual reports and posted on the ADB website upon circulation to the Board of Directors.

### **G. Amendments**

24. Changes to the AIP's implementation arrangements are posted on the ADB website. Major changes that substantially alter the disclosure requirements, information request process, or appeals processes will undergo appropriate consultation. This does not apply to revisions that reflect changes in other ADB policies.

# ANNEX 1: POLICIES, STRATEGIES, OPERATIONAL RULES, AND PROCEDURES

ADB Document and/or Information		Responsible Department/Office, Timing, and Mode of Disclosure	Notes
1	List of safeguard, sector, and thematic policies and strategies; and other policies or strategies that will undergo public consultation to be developed or reviewed over the next 12 months	SPD 12-month rolling list on ADB.org	ADB seeks the participation of its shareholders and other interested stakeholders during the development and review of these policies and strategies.
2	Consultation plans	Responsible department or office Posted on ADB.org upon <sup>a</sup> completion <sup>b</sup> of such plans	
3	Consultation draft of a policy or strategy paper that will undergo public consultation	Responsible department or office Posted on ADB.org upon <sup>a</sup> completion <sup>b</sup> of the consultation draft	
4	Working papers and final policy or strategy papers that will undergo public consultation	Responsible department or office (Simultaneous disclosure) Posted on ADB.org at the same time the document is circulated to the Board of Directors	
5	ADB policy or strategy papers that do not undergo public consultation	Responsible department or office Posted on ADB.org upon <sup>a</sup> approval or endorsement by the Board of Directors	
6	Chair's summary of a formal Board of Directors' meeting to approve or endorse a policy or strategy	SEC Posted on ADB.org upon <sup>a</sup> circulation of the final Chair's summary to the Board of Directors	
7	Operational plans	CCSD and Sector Groups Posted on ADB.org	
8	<i>Operations Manual</i>	SPD Posted on ADB.org upon <sup>a</sup> issuance to ADB staff	
9	Project Administration Instructions	PPFD Posted on ADB.org upon <sup>a</sup> issuance to ADB staff	
10	Handbooks on ADB operations	Responsible department or office	Some examples are the <i>Loan Disbursement Handbook</i> , <i>Handbook on Project</i>

		Posted on ADB.org upon <sup>a</sup> issuance to ADB staff	<i>Implementation, and the Handbook on Anti-Money Laundering and Combating the Financing of Terrorism for Nonbank Financial Institutions.</i>
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ADB = Asian Development Bank.

<sup>a</sup> “Upon” means within 14 calendar days of the given milestone (e.g., approval, circulation, completion, endorsement, discussion, issuance, receipt, or submission).

<sup>b</sup> “Completion” in reference to a document means preparation up to and including the stage at which it meets the requirements of the ADB department, borrower, or client responsible for its preparation.

## ANNEX 2: COUNTRY PARTNERSHIP STRATEGIES AND REGIONAL COOPERATION STRATEGIES

ADB Document and/or Information		Responsible Department/Office, Timing, and Mode of Disclosure	Notes
1	List of new country partnership strategies and regional cooperation strategies scheduled for preparation over the next 12 months	SPD 12-month rolling list posted on ADB.org	
2	Background information on the CPS being prepared and a draft of the CPS (if available)	Regional department Disseminated to in-country stakeholders before consultations, when appropriate, during preparation of the CPS	To facilitate consultations with in-country stakeholders <sup>a</sup> and to allow them to contribute to the development of the CPS, these documents are shared for stakeholders' comments in the course of their preparation, if available. If ADB and the government agree, CPS drafts may be posted on ADB.org if it is determined to be the best mechanism to disseminate to in-country stakeholders.
3	Final CPS and RCS	Regional department (Simultaneous disclosure) Posted on ADB.org at the same time these are circulated to the Board of Directors for endorsement, subject to the concurrence of the member country concerned;  or  Posted on ADB.org upon <sup>b</sup> Board of Directors endorsement of the final CPS and RCS	The ADB country team should discuss concurrence for early disclosure with the government early in the process and document it in a memorandum of understanding or aide-mémoire.
4	Supporting electronic linked documents referred to in the CPS and RCS (i) Inclusive and Sustainable Growth Assessment (ii) Development Coordination Matrix	Regional department Posted on ADB.org at the same time as the CPS and RCS, subject to the AIP exceptions	
5	Translated final CPS into relevant national language(s)	Regional department Posted on ADB.org within 90 calendar days of its endorsement by the Board of Directors	Generally done only in countries where English is not widely spoken. The ADB project officer determines the translation



ADB Document and/or Information		Responsible Department/Office, Timing, and Mode of Disclosure	Notes
			needs of a CPS, in consultation with the relevant country director, as necessary.
6	Chair's Summary of Board of Directors' discussions on the CPS and RCS	SEC Posted on ADB.org upon <sup>b</sup> circulation to the Board of Directors for information	

ADB = Asian Development Bank, AIP = Access to Information Policy, CCSD= Climate Change and Sustainable Development Department ,CPS = country partnership strategy, PPFd = Procurement, Portfolio, and Financial Management Department, RCS = regional cooperation strategy, SEC = Office of the Secretary, SPD = Strategy, Policy, and Partnerhsip Department.

<sup>a</sup> Stakeholders include developing member country governments, development partners, the private sector, and civil society (including nongovernment organizations), as appropriate.

<sup>b</sup> "Upon" means within 14 calendar days of the given milestone (e.g., approval, circulation, completion, endorsement, discussion, issuance, receipt, or submission).

### ANNEX 3: PROJECTS

ADB Document and/or Information	Responsible Department/Office, Timing, and Mode of Disclosure	Notes
1	Project Data Sheet	
	PDS contains summary information on the project or program. Because the PDS is a work in progress, some information not included in its initial version may be added as it becomes available. Termination of a project requires an agreement between the relevant country director and sector director and should be reflected in the annual country programming mission memorandum of understanding or aide memoire. If ADB terminates its involvement in a project, the PDS shall include the date of termination. ADB shall keep the PDS for a terminated project on its website for 3 months following termination. The PDS web page provides links to related documents produced during the project cycle.	
	Initial PDS for sovereign loans, including MFF, grants, and TA projects	For projects without a concept paper (e.g., countercyclical support), the initial PDS is disclosed upon <sup>a</sup> completion of SRM or MRM; for emergency loans, upon <sup>a</sup> approval of the loan; for small-scale TA, upon <sup>a</sup> approval of the TA; for transaction TA, upon <sup>a</sup> completion of the TA fact-finding mission or, if no fact-finding mission, after loan reconnaissance or any time prior to TA approval.
	Initial PDS for the first tranche of an MFF and for each subsequent tranche <sup>b</sup>	If no fact-finding mission is held, the PDS shall be posted upon <sup>a</sup> receipt by ADB of the signed periodic financing request for the tranche.
	Initial PDS for nonsovereign projects	Disclosure requirements for nonsovereign projects apply to any project with a nonsovereign component, such as public-private partnerships.
	Initial PDS for nonsovereign projects classified <i>category A</i> for environmental safeguards	PSOD Posted on ADB.org after ADB has determined that the project is likely to be presented for ADB approval, no later than 30 calendar days before consideration by the Board of Directors or other approving authority  Posted on ADB.org no later than the posting of the draft environmental impact assessment

ADB Document and/or Information		Responsible Department/Office, Timing, and Mode of Disclosure	Notes
	Initial PDS for nonsovereign operations TA	Posted on ADB.org within 30 calendar days of approval of the TA	
	Updated PDS	Sectors Group Posted on ADB.org whenever necessary as material information becomes available or any major changes are made to a project. PDSs are updated at least once a year	PDS updates describe processing or project implementation progress and/or the status of activities. Staff report on the progress of the project every time a review mission is completed.  For MFFs, it is sufficient to update only the PDS for the respective tranches, unless the PDS of the facility needs to be updated (i.e., in case of a major change), and when the facility is completed.  Consideration is given to ensuring content is user-friendly and easily understandable to project-affected people and other stakeholders.
	Translated PDS	Regional department (sovereign), PSOD (nonsovereign)	Generally done only in countries or project areas where English is not widely spoken but contextual to the project. The ADB project officer determines the translation needs.
	(i) Sovereign loans, grants, and transaction TA projects	Posted on ADB.org within 6 months after concept paper approval and within 6 months after approval of the loan or grant	
	(ii) Nonsovereign transaction TA	Posted on ADB.org within 6 months of approval of the transaction TA	
	(iii) Nonsovereign loans and grants	Posted on ADB.org within 6 months of the initial PDS posting on ADB.org	
2	Project Safeguard Documents		
	ADB shall post safeguard documents on its website in accordance with the requirements under the Safeguard Policy Statement (2009). <sup>c</sup> Refer to the Safeguard Policy Statement for the complete requirements.		

ADB Document and/or Information		Responsible Department/Office, Timing, and Mode of Disclosure	Notes
	Project information, including environmental and social safeguard issues, shall be made available to project-affected people and other interested stakeholders in a timely manner, form, and language(s) understandable to them <sup>d</sup> and in an accessible place.		
3	Preliminary Poverty and Social Analysis  (i) Sovereign projects  (ii) Nonsovereign projects	CCSD/Safeguards Office  Included in the PDS posted on ADB.org upon <sup>a</sup> approval of the project concept paper  Posted on ADB.org before the Investment Committee's final endorsement	Disclosure requirements for nonsovereign projects apply to any project with a nonsovereign component, such as public-private partnerships.
4	TA framework agreement, if any	Responsible department Posted on ADB.org after receipt of the government's no-objection clearance	ADB gives the developing member country at least 20 calendar days from the date of the notification letter to inform ADB of any information or data contained in the TA framework agreement that falls within any of the exceptions to presumed disclosure. Such information or data shall be removed from the document prior to its disclosure on ADB.org.
5	TA letter of agreement	Responsible department Posted on ADB.org subject to the government's no-objection and request to remove information that falls under the AIP exceptions	
6	TA reports  (i) Sovereign projects  (ii) Nonsovereign TA	Responsible department  Posted on ADB.org upon <sup>a</sup> approval by the relevant authority  Redacted version posted on ADB.org within 30 calendar days from TA approval	The TA report appended to the concept paper for the project shall be posted on ADB.org upon <sup>a</sup> approval of the TA.  Disclosure requirements for nonsovereign projects apply to any project with a nonsovereign component, such as public-private partnerships.

ADB Document and/or Information		Responsible Department/Office, Timing, and Mode of Disclosure	Notes
7	Small-scale TA monthly and quarterly report	PPFD Posted on ADB.org upon <sup>a</sup> circulation to the Board of Directors	
8	Final consultants' reports generated from TA projects	Responsible department Posted on ADB.org upon <sup>a</sup> completion <sup>e</sup>	<p>Applies to grant-financed TA projects only.</p> <p>TA projects may cover sensitive matters, so ADB shall give governments the opportunity to object to the disclosure of final consultants' reports produced under TA projects. Consistent with the AIP's presumption in favor of disclosure, any redaction or withholding of such documents is based on the AIP exceptions.</p> <p>"Final report" means a report that (i) has been formally submitted to ADB as a final report, (ii) ADB has determined to be of sufficient quality to be used in preparing an ADB project, and (iii) requires no further changes.</p>
9	RRP, including annexes  (i) Sovereign projects           (ii) Nonsovereign projects	Sectors Group (sovereign), PSOD (nonsovereign)  (Simultaneous disclosure) Posted on ADB.org at the same time the RRP is circulated to the Board of Directors, subject to the concurrence of the member country concerned  If the country does not consent to simultaneous disclosure, ADB shall post the RRP on its website upon <sup>a</sup> approval of the RRP	<p>Annexes are posted on ADB.org at the same time as the RRP, as applicable, and unless the AIP states otherwise for certain types of documents (e.g., legal agreements), subject to the AIP exceptions. Updates to annexes are posted on ADB.org upon<sup>a</sup> completion<sup>e</sup> (e.g., updated project administration manual and/or facility administration manual).</p> <p>Staff discuss early disclosure of the RRP and its annexes with the borrower during loan negotiations and records the borrower's decision in the minutes of loan and/or grant negotiations. Early disclosure improves transparency in ADB operations.</p>

ADB Document and/or Information		Responsible Department/Office, Timing, and Mode of Disclosure	Notes
		Redacted version posted on ADB.org within 30 calendar days from ADB's approval	The redacted version excludes confidential business information and ADB's assessment of project or transaction risks.  Disclosure requirements for nonsovereign projects apply to any project with a nonsovereign component, such as public-private partnerships.
10	GAR	Sectors Group and CCSD Posted on ADB.org upon <sup>a</sup> approval of the GAR	Applicable to JFPR-funded projects and other projects fully financed by ADB-administered cofinancing grants
11	PFR report	Sectors Group Posted on ADB.org upon <sup>a</sup> approval of the PFR report	Applicable to tranches under the MFF
12	SEFF activity report	Sectors Group Posted on ADB.org upon <sup>a</sup> approval of the SEFF activity report	Annexes are posted on ADB.org at the same time as the Activity Report, as applicable, and unless the AIP states otherwise for certain types of documents (e.g., legal agreements), subject to the AIP exceptions.
13	Tranche report	Sectors Group Posted on ADB.org upon <sup>a</sup> Board of Directors' consideration  Posted on ADB.org at the same time as the PFR report	Applicable to subsequent tranches under MFFs classified under environmental impact <i>category A</i>  Applicable to subsequent tranches not classified under environmental impact <i>category A</i>
14	PRF report	Sectors Group Posted on ADB.org upon <sup>a</sup> approval of the PRF report	Applicable to small-scale PRF
15	FAST report <sup>f</sup>	PSOD Redacted version posted on ADB.org within 30 calendar days from ADB's approval	Linked documents are posted on ADB.org at the same time as the FAST report, as applicable, and unless the AIP states otherwise for certain types of documents (e.g., legal agreements), subject to the AIP exceptions. Updates to electronically linked

ADB Document and/or Information		Responsible Department/Office, Timing, and Mode of Disclosure	Notes
			documents are posted on ADB.org upon completion.  Redacted versions exclude confidential business information.
16	Report to the President	PSOD Redacted version posted on ADB.org within 30 calendar days from ADB's approval	Applicable to nonsovereign transactions
17	Additional financing report	Sectors Group Posted on ADB.org upon <sup>a</sup> approval of the additional financing report	Applicable to additional financing proposals, which are funded fully by ADB-administered cofinancing
18	Legal agreements  (i) Legal agreements for sovereign projects  (ii) Amended legal agreements  (iii) Legal agreements for sovereign projects entered into between 1 January 1995 and 1 September 2005, and any amendments to such agreements  (iv) Legal agreements for sovereign projects and amendments to them entered into by ADB before 1 January 1995	Responsible department  Posted on ADB.org upon <sup>a</sup> signing, after removing any information identified during negotiations as falling within the exceptions of the AIP  Posted on ADB.org within 2 weeks of the effectiveness of the amendment, after removing any information identified at the time of negotiations as falling within the exceptions of the AIP  Available on request, after removing any information specified as confidential by the government concerned at the time of negotiation of such agreements and amendments  Available on request. ADB shall seek the consent of the government concerned before making such documents available, when requested	ADB may disclose on request draft legal agreements if the borrower consents.       Unless the government concerned informs ADB of its objection to disclosure of such documents within 30 calendar days of ADB's request for such consent, ADB shall make such agreements available to any requester within 60 calendar days of the request for the agreement.

ADB Document and/or Information		Responsible Department/Office, Timing, and Mode of Disclosure	Notes
	(v) Legal agreements for nonsovereign projects		ADB shall not disclose legal agreements for nonsovereign projects entered into by ADB or the Office of Public–Private Partnership Transaction Advisory Services mandates (or other legal agreements entered into in connection with Transaction Advisory Services mandates) or amendments to such agreements. This also includes commercial cofinancing agreements
19	APFS	<p>Sectors Group and Regional Departments Posted on ADB.org</p> <p>Upon<sup>a</sup> ADB's confirmation of the APFS's acceptability<sup>g</sup></p> <p>or</p> <p>Within 30 calendar days of ADB's receipt<sup>h</sup></p>	<p>The procedures for the disclosure of annual APFSs are discussed and agreed with each borrower and made part of the loan agreement for each project.</p> <p>Applies to the following:</p> <ul style="list-style-type: none"> <li>(i) all sovereign loans that commenced fact-finding mission on or after 15 October 2015, and</li> <li>(ii) PFRs of second and subsequent tranches of ongoing MFFs that were submitted to the Management or the Board of Directors for approval on or after 1 October 2015 (in cases where there is no fact-finding mission).</li> </ul> <p>Applies to sovereign projects</p> <ul style="list-style-type: none"> <li>(i) where the invitation to negotiate was issued on or after 2 April 2012,</li> <li>(ii) where the fact-finding mission commenced before 15 October 2015, and</li> <li>(iii) where the PFRs of the second and subsequent tranches of ongoing MFFs</li> </ul>



ADB Document and/or Information		Responsible Department/Office, Timing, and Mode of Disclosure	Notes
			<p>were submitted to the Management or the Board of Directors for approval before 1 October 2015.</p> <p>For additional financing, if the funding source is the same as the original financing, the loan agreement is amended, and the financial statements are integrated. For such cases, it depends on the date of the original financing and when the invite to negotiate went out. For any additional financing where a new loan number is assigned, there will be a new loan agreement and separate financial statements.</p>
20	Major changes of project scope	Sectors Group Posted on ADB.org upon <sup>a</sup> approval of such change	For nonsovereign projects, a redacted version that excludes confidential business information is disclosed.
21	Progress reports on tranche releases of policy-based loans and grants	Sectors Group Posted on ADB.org upon <sup>a</sup> approval of the progress report on the tranche release	Progress reports on tranche releases review and assess implementation and compliance with conditions of policy-based loans and grants.
22	<p>Completion reports (project, program, TA, MFF, MFF tranche, PRF, and SEFF post-project completion activity)</p> <p>Extended annual review reports for nonsovereign projects</p>	<p>Sectors Group Posted on ADB.org upon<sup>a</sup> circulation to the Board of Directors</p> <p>Redacted form posted on ADB.org within 30 calendar days from circulation to the Board of Directors, excluding commercially sensitive and confidential business information<sup>i</sup></p>	Disclosure requirements for nonsovereign projects apply to any project with a nonsovereign component, such as public-private partnerships.
23	Quarterly status of project completion reports and TA completion reports prepared by the Procurement, Portfolio, and Financial Management Department	PPFD Posted on ADB.org upon <sup>a</sup> circulation to the Board of Directors	

ADB Document and/or Information		Responsible Department/Office, Timing, and Mode of Disclosure	Notes
24	Monthly report and annual report on approved MFFs <sup>b</sup>	PPFD Posted on ADB.org upon <sup>a</sup> circulation to the Board of Directors	
25	Annual portfolio performance report	PPFD Posted on ADB.org upon circulation to the Board of Directors	
26	Cofinancing agreement for official cofinancing, including project-specific cofinancing agreements, framework agreements, and trust fund agreements between ADB and any bilateral or multilateral cofinancier	SPD/CCSD Available on request after removing any information specified as confidential by ADB or the cofinancier concerned at the time of negotiation. The consent of the cofinancier must be obtained before making such documents available.	Information on official cofinancing of projects, if any, such as major terms and conditions, shall be available in respective TA reports or RRP that ADB posts on its website.
27	Anticorruption information (i) Annual report of ADB's OAI <sup>j</sup> (ii) Project procurement-related review (iii) Information on debarments, including a list of (a) debarred entities that have breached their sanction, (b) debarred parties that have violated ADB's Anticorruption Policy (1998, as amended to date) for a second or subsequent time, (c) debarred parties who cannot be contacted despite reasonable efforts, and (d) parties debarred pursuant to ADB's agreement with other multilateral development banks on cross-debarment <sup>k</sup>	OAI Posted on ADB.org upon <sup>a</sup> completion <sup>e</sup>  Posted on ADB.org upon <sup>a</sup> completion <sup>e</sup>  Posted on ADB.org	OAI reports shall be redacted to remove information that falls under the AIP exceptions. ADB may share the results of investigations with the governments of ADB members.  Agreement for Mutual Enforcement of Debarment Decisions between ADB, African Development Bank, Inter-American Development Bank, European Bank for Reconstruction and Development, and the World Bank Group (9 April 2010).

ADB = Asian Development Bank, AIP = Access to Information Policy, APFS = audited project financial statement, FAST = Faster Approach to Small Nonsovereign Transactions, GAR = grant assistance report, JFPR = Japan Fund for Prosperous and Resilient Asia and the Pacific, MFF = multitranchise financing facility, MRM = Management review meeting, OAI = Office of Anticorruption and Integrity, PDS = project data sheet, PFR = periodic financing request, PRF = project readiness

financing, PSOD = Private Sector Operations Department, RRP = report and recommendation of the President to the Board of Directors, SEFF = small expenditure financing facility, SRM = Staff review meeting, TA = technical assistance.

<sup>a</sup> “Upon” means within 14 calendar days of the given milestone (e.g., approval, circulation, completion, endorsement, discussion, issuance, receipt, or submission).

<sup>b</sup> ADB. 2023. Multitranche Financing Facility. Operations Manual. OM D14. Manila.

<sup>c</sup> ADB. 2013. Safeguard Policy Statement. Operations Manual. OM F1/BP. Manila.

<sup>d</sup> This could include making information available through various formats (e.g., brochures, graphics, dramatizations, and channels, as appropriate).

<sup>e</sup> “Completion” in reference to a document means preparation up to and including the stage at which it meets the requirements of the ADB department, borrower, or client responsible for its preparation.

<sup>f</sup> ADB. 2015. *Faster Approach to Small Nonsovereign Transactions*. Manila; and ADB. 2016. Nonsovereign Operations. Operations Manual. OM D10. Manila.

<sup>g</sup> ADB. 2023. Project Financial Reporting and Auditing. Operations Manual. OM J7/BP. Manila; and ADB. 2015. Financial Reporting and Auditing of Loan- and Grant-Financed Projects. *Project Administration Instructions. PAI 5.07. Manila.*

<sup>h</sup> Disclosure requirement for APFSs prior to the 2015 *Operations Manual J7* and *Project Administration Instruction 5.07*.

<sup>i</sup> ADB. 2011. Project Performance Management System. Operations Manual. OM J1/BP. Manila; and ADB. 2013. Independent Evaluation. Operations Manual. OM K1/BP. Manila.

<sup>j</sup> OAI is ADB’s designated focal point for receiving and investigating allegations of fraud, corruption, or other violations of ADB’s Anticorruption Policy pertaining to ADB-financed activities or staff members.

<sup>k</sup> ADB. 2010. *Agreement for Mutual Enforcement of Debarment Decisions*. Manila.

## ANNEX 4: INDEPENDENT EVALUATION

Evaluation reports produced by ADB's IED <sup>a</sup> ADB shall post evaluation documents on its website in accordance with the requirements of the Evaluation Policy. <sup>b</sup>		
Document and/or Information	Timing and Mode of Disclosure	Notes
(i) 3-year work program including a list of planned evaluations	Posted on ADB.org	For evaluations and validations of nonsovereign operations, a redacted version is posted on ADB.org excluding commercially sensitive and confidential business information. For redactions, the Private Sector Operations Department is responsible for coordinating with the project sponsor as needed.
(ii) All completed independent evaluation reports	Posted on ADB.org upon <sup>c</sup> circulation to Management and the Board of Directors  IED reports not circulated to Management or the Board of Directors are disclosed upon <sup>c</sup> completion <sup>d</sup> of the document	
(iii) IED annual evaluation review	Posted on ADB.org upon <sup>c</sup> discussion by the Board of Directors	
(iv) Chair's summary of the Board of Directors Development Effectiveness Committee meeting	Posted on ADB.org upon <sup>c</sup> completion <sup>d</sup>	
(v) Management responses to the evaluation report	Posted on ADB.org upon <sup>c</sup> IED's receipt of Management's response	
(vi) IED comments on Management's response, if any	Posted on ADB.org upon <sup>c</sup> completion <sup>d</sup>	

ADB = Asian Development Bank, IED = Independent Evaluation Department.

<sup>a</sup> ADB. 2013. *Independent Evaluation. Operations Manual*. OM K1/BP. Manila.

<sup>b</sup> ADB. 2008. *Review of the Independence and Effectiveness of the Operations Evaluation Department*. Manila.

<sup>c</sup> "Upon" means within 14 calendar days of the given milestone (e.g., approval, circulation, completion, endorsement, discussion, issuance, receipt, or submission).

<sup>d</sup> "Completion" in reference to a document means preparation up to and including the stage at which it meets the requirements of the ADB department, borrower, or client responsible for its preparation.

## ANNEX 5: OTHER INFORMATION

ADB Document and/or Information		Responsible Department/Office, Timing, and Mode of Disclosure	Notes
1	<b>Procurement</b>		
	(i) Listing of business opportunities for each sovereign project being prepared for ADB financing	PPFD Posted on ADB.org	
	(ii) Borrower's procurement plan for a project as part of the project administration manual, <sup>a</sup> detailing (a) each contract for goods, works, and consulting and other services required to carry out the project during the first 18 months; (b) the proposed methods of procurement for each contract; and (c) the applicable ADB review procedure	Sectors Group/PPFD Posted on ADB.org	
	(iii) Borrower's updated procurement plan	Sectors Group/PPFD Posted on ADB.org at least annually over the duration of the project	
	(iv) All invitations issued as specific notices by executing agencies and ADB to express interest, prequalify, or bid for international competitive bidding and/or open competitive bidding procurement and consulting assignments	Sectors Group/PPFD Posted on ADB.org	
	(v) Contract awards for consulting services and goods and/or works and related services entered into ADB's books of account detailing the name of the contractor, a description of the contract, and the contract award amount financed by ADB	Sectors Group/PPFD Posted on ADB.org	Contracts awarded for consulting services with contract values above \$100,000 and above \$1,000,000 for goods and civil works
	(vi) Regarding ADB's corporate or institutional procurement, invitations to submit bids or proposals, and contract	Sectors Group/PPFD Posted on ADB.org	

ADB Document and/or Information		Responsible Department/Office, Timing, and Mode of Disclosure	Notes
	awards for major procurement exercises		
2	<b>Country Performance Assessment of ADF Recipient Countries</b>		
	(i) Annual report on country performance assessments, including numerical performance ratings	SPD Posted on ADB.org upon <sup>b</sup> completion <sup>c</sup>	For each country with access to ADF resources
	(ii) Guidelines for country policy and institutional assessments	SPD Posted on ADB.org upon <sup>b</sup> completion <sup>c</sup>	
3	<b>Annual Report, Economic Data, and Research</b>		
	(i) ADB <i>Annual Report</i>	DOC Posted on ADB.org	
	(ii) AIP annual report	SEC Posted on ADB.org upon circulation to the Board	The report is circulated to the Board of Directors at about the same time as other ADB annual reports.
	(iii) <i>Asian Development Outlook</i> , the <i>Asian Development Outlook Update</i> , and supplements	ERDI Posted on ADB.org	
	(iv) Development Effectiveness Review	SPD Posted on ADB.org upon discussion by the Board of Directors	
	(v) Others: <i>Asian Economic Integration Report</i> Country Diagnostic Studies <i>Asia Bond Monitor</i> ADB working papers <i>Basic Statistics</i> <i>Key Indicators</i>	ERDI Posted on ADB.org	
4	<b>Administrative and Other Information</b>		
	(i) <i>Agreement Establishing the Asian Development Bank</i> (the Charter)	SEC Posted on ADB.org	
	(ii) By-laws of ADB	SEC Posted on ADB.org	
	(iii) Rules of Procedure of the Board of Governors of the Asian Development Bank	SEC Posted on ADB.org	

ADB Document and/or Information		Responsible Department/Office, Timing, and Mode of Disclosure	Notes
	(iv) Rules of Procedure of the Board of Directors of the Asian Development Bank	SEC Posted on ADB.org	
	(v) Agreement Between the Asian Development Bank and the Government of the Republic of the Philippines Regarding the Headquarters of the Asian Development Bank	SEC Posted on ADB.org	
	(vi) Host country agreements between ADB and its member countries	SEC Posted on ADB.org, subject to concurrence of the member country concerned	
	(vii) List of ADB's members with their subscribed capital and voting power	SEC Posted on ADB.org	
	(viii) ADB's organizational structure	SEC Posted on ADB.org	
	(ix) List of members of the BOG	SEC Posted on ADB.org	
	(x) List of members of the Board of Directors and their voting groups	SEC Posted on ADB.org	
	(xi) List of committees of the Board of Directors and their members	SEC Posted on ADB.org	
	(xii) List of members of ADB Management and senior staff	SEC Posted on ADB.org	
	(xiii) Contact information for the BOG, Board of Directors, ADB Management, and Senior Staff	SEC Posted on ADB.org	
	(xiv) Summary proceedings of ADB's annual meetings, including decisions by the BOG and the speeches of the governors	SEC Posted on ADB.org within 60 calendar days of each annual meeting	
	(xv) Other resolutions of the BOG adopted after 2 April 2012, if the Board of Directors authorizes disclosure	SEC Posted on ADB.org	Management seeks the Board of Directors' authorization for disclosure or nondisclosure of other BOG resolutions. ADB seeks authorization regarding such disclosure at

ADB Document and/or Information		Responsible Department/Office, Timing, and Mode of Disclosure	Notes
			the time of recording votes of resolutions of the BOG.
	(xvi) Work program and budget framework for each fiscal year	SPD and BPMSD Posted on ADB.org upon <sup>b</sup> discussion by the Board of Directors	
	(xvii) Country classifications	SPD Posted on ADB.org upon <sup>b</sup> approval by the Board of Directors	
	(xviii) Verbatim transcripts of formal Board of Directors meetings regarding any agenda item specified in the request	SEC ADB may disclose 10 years after the date of their creation, on request and in their entirety	Applies to formal Board of Directors meetings held on or after 2 April 2012 and disclosed in full if the verbatim transcripts do not contain or refer to any information that falls within the AIP exceptions. <sup>d</sup>  Requests for these documents should be forwarded to SEC-IAU. SEC-IAU reviews and confirms if the 10-year time limit for withholding the information has lapsed. SEC-IAU provides the document to the department(s) involved in the relevant Board of Directors meeting. The department(s) then informs SEC-IAU whether any of the information contained in the transcript falls under any policy exception. SEC-IAU recommends to the Access to Information Committee whether the requested transcript can be disclosed, as determined by concerned department(s) and based on consultations with all concerned.
	(xix) Provisional schedule of items for consideration of the Board of Directors	SEC Posted on ADB.org for the forthcoming 3 weeks on a rolling basis	Applies only to regular Board of Directors' meetings
	(xx) Minutes of each regular Board of Directors meeting	SEC Posted on ADB.org upon <sup>b</sup> approval of those minutes and within 60 calendar days of the original Board of Directors meeting	



ADB Document and/or Information		Responsible Department/Office, Timing, and Mode of Disclosure	Notes
	(xxi) Annual reports of Board committees to the full Board of Directors	SEC Posted on ADB.org if the committee so recommends and the Board of Directors approves	
5	<b>Financial Information</b>		
	(i) ADB's audited financial statements <sup>e</sup> for ADB's ordinary capital resources and Special Funds	CTL Unapproved version is posted on ADB.org as part of the ADB <i>Annual Report</i> before ADB's annual meeting of the BOG	
	(ii) Management's discussion and analysis of ADB's ordinary capital resources and Special Funds, including financial data on each of the funds	CTL Posted on ADB.org upon <sup>b</sup> approval by the Board of Directors	
	(iii) Unaudited Management's discussion and analysis and condensed quarterly financial statements	CTL Posted on ADB.org upon <sup>b</sup> approval by the Board of Directors	
	(iv) Annual report on loan servicing of developing member countries	CTL Posted on ADB.org upon <sup>b</sup> approval by the Board of Directors	
	(v) Budget of ADB for each fiscal year	BPMSD Posted on ADB.org upon <sup>b</sup> approval by the Board of Directors	
	(vi) Documents related to public offerings when the laws or regulations governing the financial market concerned require that they be filed with a government agency	CTL/OGC Posted on ADB.org	
6	<b>Employment Information</b>		
	(i) ADB's basic salary structure	BPMSD Posted on ADB.org	
	(ii) Methodology used to determine Management and staff salary levels and benefits	BPMSD Posted on ADB.org	
	(iii) Annual base salaries of Management and Board of Directors	BPSMD Posted on ADB.org	

ADB Document and/or Information		Responsible Department/Office, Timing, and Mode of Disclosure	Notes
	(iv) ADB's broad objectives and strategy in recruiting, placing, redeploying, and retaining staff	BPMSD Posted on ADB.org	
	(v) Descriptions of positions for staff recruitment	BPMSD Posted on ADB.org for a duration of at least 2 weeks before a position is expected to be filled	
	(vi) Decisions of the ADB Administrative Tribunal	SEC Posted on ADB.org upon <sup>b</sup> notification from the Administrative Tribunal to the Secretary to post a decision	
7	<b>Information Produced Under the ADB Accountability Mechanism</b> ADB shall post on its website information produced under the Accountability Mechanism as provided in ADB's Accountability Mechanism policy and its related <i>Operations Manual</i> section, <sup>f</sup> as amended from time to time. The requirements are provided in the <i>Accountability Mechanism Policy 2012</i> .		
8	<b>Information Related to ADF Negotiations</b> ADB generally posts on its website information related to negotiations for ADF replenishments and midterm reviews.		
	(i) Nonfinancial discussion papers for donors' meetings	SPD Posted on ADB.org upon <sup>b</sup> circulation of such discussion papers to the donors	
	(ii) Chair's summary	SPD Posted on ADB.org following each meeting	
	(iii) Donors' report	SPD Posted on ADB.org upon <sup>b</sup> adoption by the Board of Directors	
9	<b>Other documents presented to the Board of Directors</b>		
	Documents circulated to the Board of Directors for information or consideration (approval or endorsement) not cited above	SEC Posted on ADB.org upon <sup>b</sup> circulation or consideration unless Management informs the Board of Directors otherwise and the Board of Directors agrees	In cases where the originating department of a Board paper believes that an exception to presumed disclosure applies, it indicates to the Management prior to Board circulation that the document is confidential, including a reference to the relevant exception(s) in the

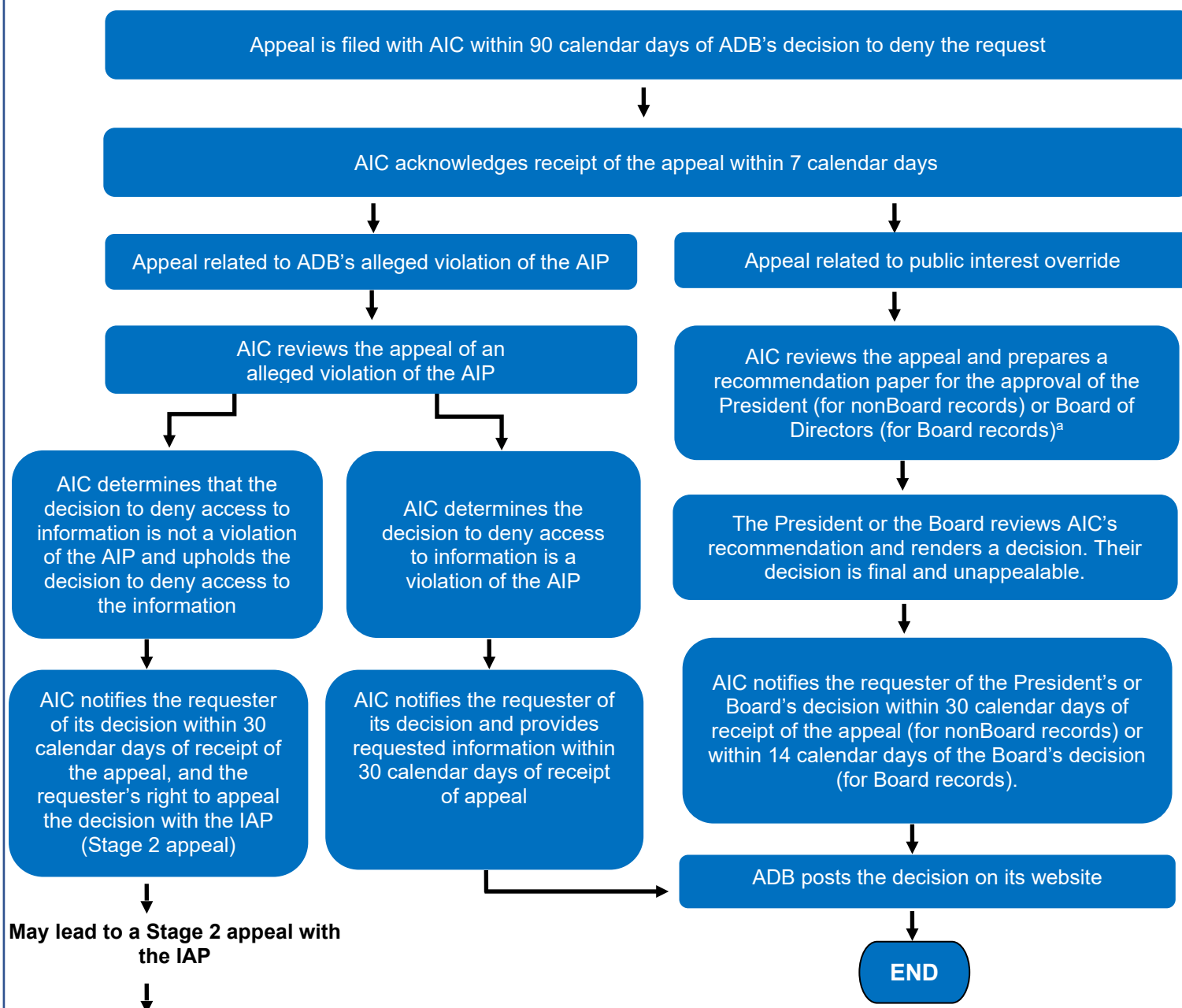
ADB Document and/or Information	Responsible Department/Office, Timing, and Mode of Disclosure	Notes
		AIP. Should a department determine that it does not wish to disclose a Board paper where no exception applies but such disclosure would or would be likely to cause harm that outweighs the benefit of disclosure, Board of Directors' approval must be sought by invoking the negative override prerogative.

ADB = Asian Development Bank, ADF = Asian Development Fund, AIP = Access to Information Policy, BOG = Board of Governors, SEC-IAU = Office of the Secretary's Information Access Unit.

- <sup>a</sup> Annex 3 (item 9) for the timing of disclosure of the reports and recommendations of the President to the Board of Directors and supporting documents (sovereign projects), including the project administration manual.
- <sup>b</sup> "Upon" means within 14 calendar days of the given milestone (e.g., approval, circulation, completion, endorsement, discussion, issuance, receipt, or submission).
- <sup>c</sup> "Completion" in reference to a document means preparation up to and including the stage at which it meets the requirements of the ADB department, borrower, or client responsible for its preparation.
- <sup>d</sup> Transcripts of Board meetings are not redacted. If a transcript for the specified agenda item contains information that falls under any of the Access to Information Policy's exceptions, it is not disclosed. In cases where two agenda items are discussed together, they will be treated as one agenda item for this policy.
- <sup>e</sup> The BOG approves the audited financial statements at the annual meeting.
- <sup>f</sup> ADB. 2012. Accountability Mechanism. *Operations Manual*. OM L1/BP. Manila.

## ANNEX 6: FLOWCHART OF THE APPEALS MECHANISM

**Figure 1: Appeal to the Access to Information Committee (Stage 1)**

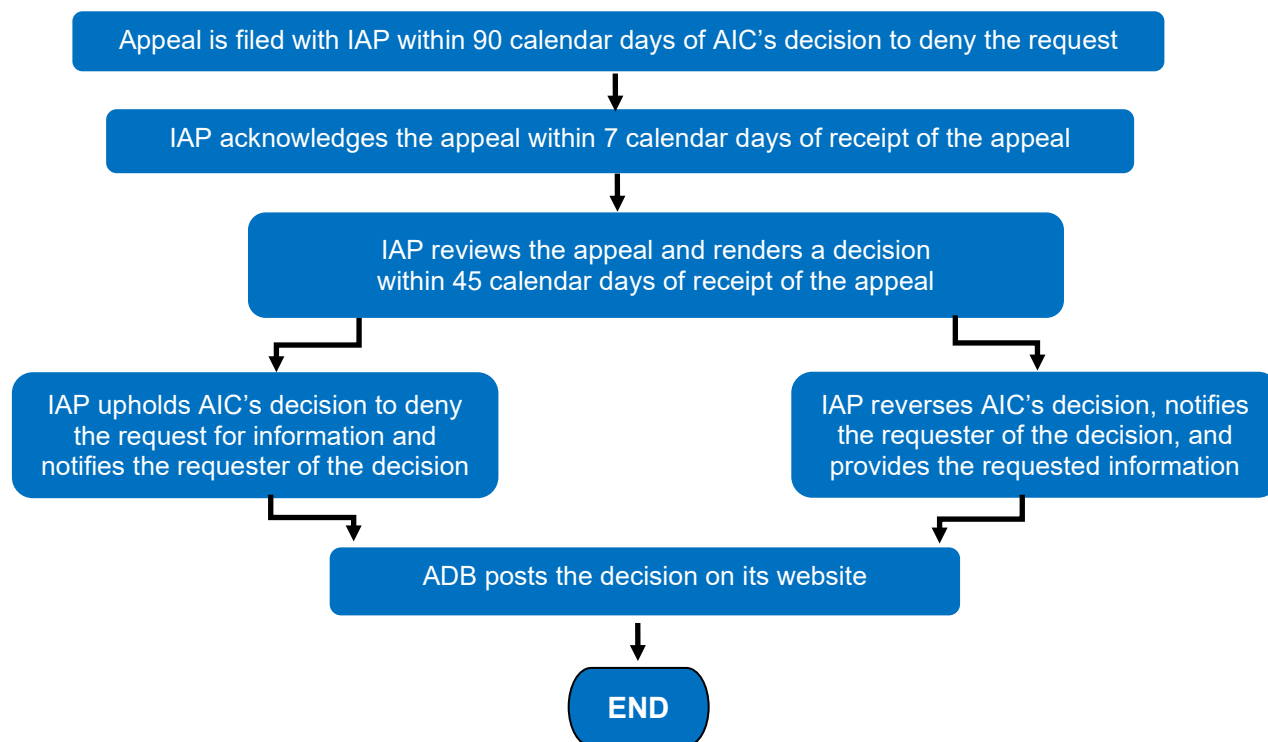


ADB = Asian Development Bank, AIC = Access to Information Committee, AIP = Access to Information Policy, IAP = Independent Appeals Panel.

<sup>a</sup> The recommendation of the AIC on public interest appeals concerning Board records is circulated to the Board of Directors on a no-objection basis.

Source: ADB.

**Figure 2: Appeals to the Independent Appeals Panel for an Alleged Violation of the Access to Information Policy (Stage 2)<sup>a</sup>**



ADB = Asian Development Bank, AIC = Access to Information Committee, AIP = Access to Information Policy, IAP = Independent Appeals Panel.

<sup>a</sup> ADB. 2018. *Access to Information Policy*. Manila. The IAP does not consider appeals against decisions taken by the Board or the President, as the case may be, if the appeal is based on the public interest override or appeals against decisions taken by the Board using their prerogative to deny access to information normally disclosed (negative override). Source: ADB.

## **ANNEX 7: TERMS OF REFERENCE AND PRACTICES OF THE ACCESS TO INFORMATION COMMITTEE**

1. The Access to Information Policy (AIP) of the Asian Development Bank (ADB) calls for the creation of the Access to Information Committee (AIC). This committee is an oversight body that interprets, monitors, and reviews the AIP and its implementation arrangements.

### **A. Composition**

2. The AIC is composed of Senior Staff of the Office of the Secretary (SEC), Office of the General Counsel (OGC), and the Department of Communications and Knowledge Management (DOCK). The chair and members of the AIC are appointed by the President and report directly to the President. The President may revise the composition of the AIC as deemed necessary.

3. The AIC members shall be free from any relationship that, in the opinion of the President, would interfere with the exercise of their judgment as members of the committee. The AIC members shall inform the President of any circumstances that may be reasonably perceived to interfere with the exercise of their judgment as members of the committee.

### **B. Responsibilities**

4. The AIC has the following responsibilities:

- (i) respond to requests for policy interpretations;
- (ii) consider first-stage appeals to decisions made by ADB departments, offices, and staff to deny requests for access to information, except for decisions by ADB's Board of Directors under ADB's prerogative to restrict access (negative override);
- (iii) consider requests for disclosure in the public interest of documents or information covered by a policy exception (positive override);
- (iv) review and endorse for approval recommendations to amend provisions of the AIP and/or change and/or update sections of the related *Operations Manual*;<sup>1</sup> and
- (v) review and endorse to the President for approval the annual report on the implementation of the AIP.

### **C. Meetings**

5. The AIC convenes as needed to perform its responsibilities. The AIC may invite other staff to sit as part of the responsibilities above if their expertise would be useful or if a member recuses himself or herself or cannot attend. Other ADB staff may attend the meetings of the AIC.<sup>2</sup>

### **D. Administrative Arrangements**

6. SEC's Information Access Unit (SEC-IAU) is responsible for providing administrative services for the AIC.

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<sup>1</sup> Amendments to the AIP are submitted to ADB's Board of Directors for approval, and major changes to the *Operations Manual* on the AIP are submitted to the ADB President.

<sup>2</sup> Observers may participate in the deliberations at the invitation of the AIC.

**E. Procedures for Addressing First-Stage Information Appeals**

7. An external requester may approach the AIC if he or she believes that a request for information has been unreasonably denied because (i) the AIP has been interpreted improperly by ADB staff or because (ii) disclosure is in the public interest.
8. The AIC acknowledges receipt of the request within 7 calendar days.
9. The AIC convenes as soon as possible to consider the request. In considering denials of requested information, the AIC considers the AIP's exceptions to disclosure, as well as the public's interest in disclosure of the requested information.
10. The AIC notifies the requester of ADB's decision in writing, giving its reasons, as soon as a decision has been made and, in any event, within 30 calendar days of receiving the request.

**F. Procedures for Oversight of the Positive and Negative Overrides**

**1. Public Interest (Positive) Override**

11. Requests for ADB to disclose documents and/or information that is covered by the AIP exceptions to disclosure are filed with the AIC through SEC-IAU. A decision to disclose a document or information that ADB would normally withhold requires the approval of the Board of Directors for Board records and the ADB President for other documents or information.
12. The AIC acknowledges the request within 7 calendar days of receipt of the request. The AIC consults with the owner of the requested document and/or information and determines whether the public interest in disclosing the information outweighs the harm that may be caused by such disclosure.
13. The AIC makes a recommendation to disclose or withhold the requested document and/or information to the Board of Directors for Board records and the ADB President for other documents or information.
14. The Board of Directors or the ADB President approves or overturns the recommendation of the AIC. The recommendation of the AIC on public interest concerning Board records is circulated to the Board of Directors on a no-objection basis.
15. The AIC, through SEC-IAU, informs the requester of ADB's decision within 20 days of receipt of the request.

**2. Negative Override: ADB's Prerogative to Withhold Documents and/or Information Normally Disclosed**

16. A decision to withhold from disclosure a document or information that is normally disclosed (negative override) can only be taken by the Board of Directors.
17. The AIC prepares a paper containing an ADB recommendation to withhold a document for consideration by the Board of Directors. This is provided on a no-objection basis. The AIC conveys the Board of Directors' decision to relevant ADB staff.

**G. Procedures for Responding to a Request for a Board of Directors Meeting Verbatim Transcript**

18. Verbatim transcripts of formal Board of Directors' meetings may be disclosed on request and in their entirety 10 years after the date of the meeting in question, providing the formal Board meeting was held on or after 2 April 2012.

19. The AIC considers verbatim transcript requests. The AIC's decision on whether to disclose the transcript takes into account feedback on the content from departments, the Board of Directors and, if necessary, other parties.

20. The AIC, through SEC-IAU, informs the requester within 30 calendar days of the original request.

**H. Procedures for Reporting to Management and the Board of Directors on Policy Implementation**

21. The AIC reviews and approves the annual reports on the implementation of the AIP for circulation to the Board of Directors and public disclosure. The AIC promptly informs the staff, the Board of Directors, and the public of any changes to the implementation arrangements.



## **ANNEX 8: TERMS OF REFERENCE AND PRACTICES OF THE INDEPENDENT APPEALS PANEL**

1. The Independent Appeals Panel (IAP) is an external body that serves as part of the two-stage appeals process for information requests denied by the Asian Development Bank (ADB).

### **A. Composition and Tenure**

2. The IAP comprises three external experts on access to information matters. The President of ADB nominates and the ADB Board of Directors approves the appointment of the IAP members.

3. The IAP members could be (i) a representative of an ADB developing member country with adequate experience in access to information matters; (ii) an expert on access to information, independent of any government; and/or (iii) an expert on access to information in a commercial setting.

4. Each member of the IAP is appointed for an initial 3-year term, which may be renewed.

### **B. Responsibilities**

5. The IAP considers appeals against decisions made by ADB's Access to Information Committee (AIC) alleging that ADB violated the Access to Information Policy (AIP) and/or its related *Operations Manual* by restricting access to information that it would normally disclose.

6. Specifically, the IAP has the authority to uphold or reverse the AIC's decision in the first-stage appeal to deny access to information. The IAP cannot consider (i) requests for information made to ADB under the public interest (positive override) and (ii) appeals against the Board of Directors' use of the negative override.

### **C. Meetings**

7. The IAP members are engaged to work on an intermittent basis and only when called to consider an appeal against a decision made by the AIC. To the extent possible, the IAP will hold its deliberations by telephone, e-mail, and/or videoconference. Face-to-face meetings of the IAP members can be arranged in exceptional cases.

8. The IAP members are remunerated for time spent carrying out their responsibilities.

### **D. Administrative Arrangements**

9. The Office of the Secretary (SEC) is responsible for providing administrative services for the IAP.

### **E. Eligibility of Appeals**

10. The IAP considers an appeal only when the following requirements have been met:

- (i) the appeal is a matter that the IAP has authority to consider under the AIP;

- (ii) the appeal is against a decision made by the AIC to uphold an initial decision by ADB to deny access;
- (iii) the appeal is filed within 90 calendar days of the AIC's decision;
- (iv) the appeal contains sufficient information to reasonably support the requester's claim that ADB has violated the AIP by restricting access to information; and
- (v) the appeal does not concern a decision taken by ADB's President or Board of Directors, as the case may be, if the appeal is based on the public interest override or negative override set out in the AIP.

11. The IAP shall dismiss on procedural grounds and without considering the merits of the case of any appeal that does not meet the requirements set forth in para. 10.

## **F. Decisions**

12. The IAP considers all appeals within 45 calendar days of receipt of the appeal. In case the IAP members cannot reach a unanimous decision, the decision is taken by majority vote. All decisions of the IAP are final.

13. In reviewing appeals, the IAP considers the appeal, opposing statements, if any, and the AIP exceptions to disclosure. On request of a third party, based on special circumstances, the IAP may decide to extend the period for a third party to file its statement.

14. Members of the IAP shall provide inputs toward finalizing the written decision of the IAP for each appeal, which will indicate the justification for either affirming or reversing the decision of the AIC in its entirety or in part.

15. Requesters are notified if the appeal is dismissed (i) for failure to file within the required time, (ii) for failure to provide sufficient information that would reasonably support the appeal, or (iii) because the IAP does not have the authority to consider the matter being appealed.

16. If the IAP upholds the prior decision to deny access to the information requested, ADB notifies the requester of the decision and specifies the reasons. If the IAP reverses the prior decision to deny access, ADB notifies the requester of the decision and provides the requested information. ADB posts on its website a list of all appeals received, the nature of each appeal, and the decision taken in each case. The list is updated following issuance of a decision.

## **G. Remedy**

17. If the IAP reverses a decision of the AIC to deny access, the IAP's decision will list the information to be made available to the requester. The only remedy available to a requester who prevails on appeal is the receipt of the information requested.