These policies were prepared for use by ADB staff and are not necessarily a complete treatment of the subject.

PUBLIC COMMUNICATIONS

A. Introduction

1. The Public Communications Policy aims to enhance stakeholders’ trust in and ability to engage with the Asian Development Bank (ADB) and thereby increase the development impact of ADB operations. The policy promotes transparency, accountability, and participatory development. It establishes the disclosure requirements for documents that ADB produces or requires to be produced.

B. Definitions

2. The following terms, as used in this section (Bank Policies and Operational Procedures), have the following meaning:

- “Affected people” People who may be beneficially or adversely affected by a project or program assisted by the ADB.
- “Board” Unless specified otherwise, refers to ADB’s Board of Directors.
- “Borrower” When applied to a sovereign project, means a recipient of ADB assistance.
- “Client” When applied to a nonsovereign project, means the borrower, guarantee beneficiary, fund manager, investee, or similar entity to which ADB lends or guarantees, or in which it invests.
- “Completion” In reference to a document, means preparation up to and including the stage at which it meets the requirements of the ADB department responsible for its preparation.
- “Final report” 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-assisted project or program, and (iii) requires no further changes.
- “Nonsovereign project” Any project financed by a loan, guarantee, equity investment, or other financing arrangement that is (i) not guaranteed by a member state or a government; or (ii) guaranteed by a member state or a government under terms that do not allow ADB, upon default by the guarantor, to accelerate, suspend, or cancel any
other loan or guarantee between ADB and the related member state.

“Sovereign project” Any project financed by a loan, grant, or other financing arrangement that is (i) extended to a member state, or (ii) guaranteed by a member state.

“Upon” In relation to approval, circulation, completion, endorsement, discussion, issuance, receipt or submission, means as soon as is reasonably practical, and no later than 2 weeks (14 calendar days) following the date of approval, circulation, completion, endorsement, discussion, issuance, receipt, or submission.

C. The Policy

3. **Proactive disclosure.** ADB will proactively share its knowledge and information about its work, as well as its opinions, with stakeholders and the public. The ADB website will be the primary vehicle for proactive disclosure. The policy also calls for other means of disclosure or dissemination, depending on the intended recipient or audience as well as the intended purpose for disclosing the information. Proactive disclosure is important to assure stakeholders that essential information about ADB and its operations will be publicly available following prescribed time limits, thereby facilitating participation in ADB’s decision making. ADB will also disclose information in response to individual requests for information.

4. Unless restricted by other provisions in the policy, documents submitted to the Board for information will be posted on the ADB website upon circulation to the Board. The majority of documents submitted to the Board for consideration will be posted on the ADB website before approval or endorsement by the Board (paras. 4, 27, and 41 of Operations Manual section L3/OP). Other Board documents will be posted on the ADB website upon approval or endorsement by the Board.

5. **Presumption in favor of disclosure.** The policy is based on a presumption in favor of disclosure. Therefore, all documents that ADB produces or requires to be produced may be disclosed unless they contain information that falls within the exceptions of the policy specified in paras. 63 (list of exceptions) and 67 (negative override) of Operations Manual section L3/OP.

6. **Right to access and impart information and ideas.** ADB recognizes the people’s right to seek, receive, and impart information and ideas about ADB-assisted activities. ADB will provide information in a timely, clear, and relevant manner. This will enable ADB to communicate with, listen to, and consider feedback from its stakeholders, including affected people. Information will be given to affected people early enough for them to provide meaningful input into project design and implementation. ADB will not selectively disclose information. People will have equal access to the information that ADB makes available under the policy according to the terms of the policy and its implementation arrangements.

7. **Country ownership.** ADB recognizes the importance of country ownership of the
activities it supports in its developing member countries (DMCs). Thus, before disclosing certain
documents, the views of DMCs will be considered with regard to the contents and timing of their
disclosure.

8. **Limited exceptions.** Full disclosure is not always possible. For example, ADB needs to
explore ideas, share information, hold frank discussions internally and with its members, and
consider the special requirements of its nonsovereign operations.¹ ADB will safeguard the right
to privacy of its staff and protect legitimate business interests of itself and its clients. However,
these exceptions are limited. ADB will disclose all information that it produces or requires to be
produced unless such information falls within the exceptions specified in paras. 63 (list of
exceptions) and 67 (negative override) of *Operations Manual* section L3/OP. ADB reserves the
right to override the policy exceptions if it determines that the public interest in disclosing the
information outweighs the harm that may be caused by such disclosure. ADB also reserves the
right not to disclose, under exceptional circumstances, information that it would normally
disclose, if it determines that such disclosure would or would be likely to cause harm that
outweighs the benefit of disclosure.

9. **Right to appeal.** The policy recognizes the right of those requesting information to a
two-stage appeals process when they believe that ADB has denied their request in violation of
its policy. To enhance the credibility of the appeals process, the second stage will be
independent from ADB. An appeal may also be filed with the Public Disclosure Advisory
Committee (PDAC) to override the policy exceptions that restrict access to the requested
information, on the basis that the public interest in disclosing the information outweighs the
harm that may be caused by such disclosure.

10. **Relation to other policies.** The policy establishes the disclosure requirements for
documents that ADB produces or requires to be produced. It does not set forth the requirements
for producing such documents. References to other ADB policies are made throughout the
Public Communications Policy. Any reference to another ADB policy includes that policy as
amended by ADB from time to time. In the event of conflict between the disclosure provisions
(but not other provisions) of the Public Communications Policy and any other Board-approved
policy, the disclosure provisions of the Public Communications Policy will prevail. Any policy or
strategy developed or revised by ADB after the Public Communications Policy’s effective date
will clearly articulate the disclosure requirements for documents and other information required
to be produced under that policy or strategy. Such disclosure requirements must be consistent
with the fundamentals of the Public Communications Policy.

¹ 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 generally include an exception for the release of commercial information obtained in confidence.
OPERATIONS MANUAL
BANK POLICIES (BP)

Basis: This OM section is based on:


This OM section is to be read with OM Section L3/OP.

For other background information and references, see:


Compliance: This OM section is subject to compliance review.

For inquiries: Questions may be directed to the Public Information and Disclosure Unit, Department of External Relations.
These procedures were prepared for use by ADB staff and are not necessarily a complete treatment of the subject.

PUBLIC COMMUNICATIONS

A. Application of the Policy

1. Unless specified otherwise, the documents mentioned in paras. 2–59 below will be posted on the Asian Development Bank (ADB) website according to the time period specified, after consultation with the respective borrower or client as appropriate, and subject to the exceptions to disclosure in para. 63 and the negative override provision in para. 67.

   1. Country Partnership Strategies and Regional Cooperation Strategies

2. A list of new country partnership strategies (CPSs), interim CPSs, and regional cooperation strategies (RCSs) scheduled for preparation in the following year will be posted on the ADB website on a rolling basis.

3. To facilitate consultations with stakeholders¹ and to allow them to contribute to the development of the CPS, interim CPS, and RCS in their country and/or region, initiating papers, subsequent available drafts of these documents, and other useful background information will be shared in-country for stakeholders’ comments during their preparation. Draft consultation plans will be posted on the ADB website as available.

4. The CPS, interim CPS, and RCS will be posted on the ADB website at the same time that they are circulated to the Board for endorsement, subject to the concurrence of the member country concerned (simultaneous disclosure). ADB will seek the concurrence of the government concerned for simultaneous disclosure when requesting government clearance of disclosure of the CPS.² If the country does not consent to simultaneous disclosure, the documents will be posted on the ADB website upon endorsement by the Board. This requirement for simultaneous disclosure will apply to CPSs, interim CPSs, and RCSs that have completed their Management Committee meeting, or its equivalent, on or after the effective date of the policy.

5. Key supporting documents that are referred to in the CPS and RCS through electronic links³ will be posted on the ADB website at the same time as the CPS and RCS. Other thematic and sector analyses and assessments (knowledge products) used to prepare the CPS and RCS, including updates thereto, will be posted on the ADB website as available.⁴

¹ Stakeholders include DMC governments, development partners, the private sector, and civil society, including nongovernment organizations, as appropriate.
³ Key supporting documents include country and portfolio indicators and other documents mentioned in Operations Manual section A2 (Country Partnership Strategy).
⁴ Knowledge products required to be available at the time of CPS preparation include economic, poverty, and gender analyses; private sector and governance risk assessments; and other documents mentioned in
6. The chair’s summary of each Board discussion on CPSs, interim CPSs, and RCSs will be posted on the ADB website upon its final circulation to the Board. If English is not used widely in the relevant country by target stakeholders, ADB will translate the CPS and interim CPS into the relevant national language(s) within 90 calendar days of its endorsement by the Board and post the translated version on its website.

7. Country operations business plans (footnote 2) and regional operations business plans,\(^5\) including electronically-linked documents related to them, will be posted on the ADB website upon their circulation to the Board.

2. **Projects and Programs**

   a. **Project Data Sheet**

8. Project teams will post on the ADB website project data sheets (PDS)\(^6\) with summary information on each project or program under their responsibility. The PDS webpage provides links to related documents produced during the project cycle. PDSs for sovereign and nonsovereign projects will include (i) the project or program name; (ii) sector, and/or subsector and thematic classification and gender mainstreaming category; (iii) project or program number; (iv) type or modality of assistance; (v) country; (vi) project or program description and rationale, including linkage to the country or regional strategy; (vii) impact, outcome, and outputs; (viii) source of funding\(^7\) and amount, financing plan, and loan and/or technical assistance (TA) utilization (for sovereign projects); (ix) executing and, if applicable, implementing agency, or client(s); (x) safeguard categories; (xi) summary of environmental and social aspects; (xii) stakeholder communication, participation, and consultation; (xiii) information for business opportunities on expected procurement and consulting services; (xiv) responsible ADB department, division, and officer; (xv) date of PDS preparation and most recent update; (xvi) status of loan covenants (for sovereign projects); and (xvii) a timetable for the project or program, including design, processing, approval, and implementation. Because the PDS is a work in progress, some information may not be included in its initial version but will be added as it becomes available. The Department of External Relations (DER) may also, in consultation with the project team and as deemed necessary, prepare narrative versions of the PDS.

9. **Project data sheet for sovereign projects.** The initial PDS for a sovereign project or program, including multitranche financing facility (MFF) and TA projects, will be posted on the ADB website upon approval of the concept paper\(^8\) for the project or program. The initial PDS for

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\(^6\) The PDS replaces the project information document required under the 2005 policy.

\(^7\) An external funding source, i.e., bilateral, including Japan Fund for Poverty Reduction, or multilateral (other than ADB) funding source, will be named in the PDS only once the funding is confirmed.

\(^8\) For small-scale TA projects, the PDS will be posted upon TA approval.
the first tranche of an MFF will be posted upon completion of loan fact-finding, and for each subsequent tranche upon completion of fact-finding for such tranche. If no fact-finding mission is held, the PDS will be posted upon receipt by ADB of the signed periodic financing request for the tranche. The responsible project officer will update the PDS at least twice a year, at the end of the first and the third quarter, and whenever necessary, to reflect activities and issues, progress toward outcome, and implementation progress.

10. If ADB terminates its involvement in a sovereign project or program, either before or after approval of the project or program, the corresponding PDS will include the date of termination and a statement indicating the reason for the termination. The PDS for a terminated project will remain on the ADB website for 12 months following termination.

11. **Project data sheet for nonsovereign projects.** The initial PDS for a nonsovereign project will be posted on the ADB website after ADB has determined that the project is likely to be presented to the Board, but no later than 30 calendar days before the date of Board consideration. The PDS for projects classified as category A for environmental safeguard purposes will be posted on the ADB website at least 120 calendar days before Board consideration. The responsible project officer will update the PDS at least twice a year, on 31 March and 30 September (footnote 10), and whenever necessary, to reflect status of development objectives, implementation progress, and status of operation/construction.

12. If ADB terminates its involvement in a nonsovereign project, either before or after approval of the project, the corresponding PDS will include the date of termination and a statement that ADB’s involvement was terminated. The PDS for a terminated project will remain on the ADB website for 12 months following termination.

**b. Translation of Project Data Sheets**

13. DER will translate the PDS for all loan and grant projects, and project preparatory TA projects, for which the concept papers are approved on or after the effective date of the policy, into the relevant national language(s) of the country concerned. The translated versions will be posted on the ADB website at the following key milestones: (i) for sovereign projects, (a) within 6 months after approval of the concept paper; and (b) within 6 months after loan or grant approval; and (ii) for nonsovereign project preparatory TA projects, within 6 months after approval of the project preparatory TA; and (iii) for nonsovereign loans and grants, within 6 months after the PDS has been posted for the first time on the ADB website. Where a narrative version of the PDS exists, this will be translated into the relevant national language(s) of the country concerned instead of the computer-generated PDS. The resident mission or project team will make the translated PDS and the narrative versions, if any, available in-country using appropriate channels.

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9 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 will be completed.

10 There will be at least a 3-month period between the initial PDS posting and the posting of the first update.

11 In countries where English is widely spoken, the PDS will only be translated on request.
c. Information to Affected People and Other Interested Stakeholders

14. To facilitate dialogue with affected people and other interested stakeholders, including women, the poor, and other vulnerable groups, the project team will work closely with the borrower or client to ensure that (i) information about sovereign and nonsovereign projects and programs (including environmental and social issues) is disseminated to them in a manner, form, and language(s) understandable to them and in an accessible place; and (ii) feedback on the proposed project design is actively sought and responded to, and a project focal point is designated for regular contact with affected people and other interested stakeholders. During preparation of the project concept paper, the operations department will involve relevant departments. Among others, DER will participate in determining the communication needs that will allow stakeholders’ views to be adequately considered in the project design. Review of project communication needs will continue at each stage of project or program preparation, processing, and implementation. The operations department will ensure that the project or program design allows for stakeholder feedback during implementation. The project team will also ensure that relevant information about major changes to the project and likely impacts is also shared with affected people and other interested stakeholders.

15. To support the requirements in para. 14, the project team will assist DMC governments and private sector clients in developing a project or program communications strategy for the project cycle. This will be an integral part of consultation and participation by affected people and other interested stakeholders. Such a strategy would help borrowers and clients to involve affected people in the design and implementation of ADB-assisted activities, and increase involvement of grassroots and civil society organizations in the development process by detailing how to engage in dialogue with affected people and broaden public access to information. The communications strategy will not be a separate document, but will be reflected in the project administration manual and other project documents, such as the consultation and participation plans that form part of the project safeguard documents. At a minimum, relevant project documents will specify (i) the types of information to be disclosed; (ii) the mechanisms for public notice, including language and timing; and (iii) who is responsible for implementing and monitoring of information disclosure and dissemination. The project focal point will also be included in the documentation, once appointed by the borrower or client.

d. Project Safeguard Documents

16. ADB’s environmental and social safeguard requirements on information disclosure to affected people are the same for sovereign and nonsovereign projects.

17. The borrowers and/or clients are required to engage with affected people and other stakeholders through information disclosure, consultation, and informed participation in a manner commensurate with project risks and impacts. The project team will work closely with the borrower or client to ensure that relevant safeguard information, including information from the documents mentioned in paras. 18–20, is provided to affected people in a timely manner, in an accessible place, and in a form and language(s) understandable to them. This information from the borrower and/or client can be made available as brochures, leaflets, or booklets in language(s) understandable to the affected people. For illiterate people, other suitable communications methods will be used.
18. **Environment.** In accordance with the requirements under the Safeguard Policy Statement, ADB will post on its website the following documents submitted by the borrower and/or client:12

(i) a draft environmental impact assessment (EIA) report for an environment category A project, at least 120 days before Board consideration;
(ii) a draft EIA report for an environment category A subproject under a sector project or a financial intermediary project, at least 120 days before approval of the subproject;
(iii) a draft EIA report for an environment category A tranche of an MFF, at least 120 days before approval of the periodic financing request;
(iv) a draft strategic environmental assessment for an environment category A program, at least 120 days before Board consideration;
(v) a draft, or, if available, final initial environmental examination (IEE) for an environment category B project, upon Board approval of the project;13
(vi) a draft environmental assessment and review framework,14 if required, before appraisal;15
(vii) the final or updated EIA or IEE, upon receipt thereof by ADB;16
(viii) environment monitoring reports, and corrective action plans, if any, prepared during project implementation, upon receipt thereof by ADB;
(ix) in case of a major project change classified as environment category A, a new or updated EIA, at least 120 days before approval of the change; and
(x) in case of a major project change classified as environment category B, a new or updated IEE, upon receipt thereof by ADB.

19. **Resettlement.** In accordance with the requirements under the Safeguard Policy Statement, ADB will post on its website the following documents submitted by the borrower and/or client (footnote 12):

(i) a draft resettlement plan and/or resettlement framework,17 as required, before appraisal (footnote 15);
(ii) a draft resettlement plan for a resettlement category A subproject under a sector project or a financial intermediary project, before approval of the subproject;
(iii) a draft resettlement plan for the first tranche of an MFF, before appraisal (footnote 15);
(iv) a draft resettlement plan for each tranche after the first tranche of an MFF, before Management’s consideration of the periodic financing request;
(v) the final or updated resettlement plan, upon receipt thereof by ADB (footnote 16);

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13 For the first tranche of an MFF, the IEE, if required, must be posted on the website upon Board approval of the MFF, and for subsequent tranches, upon approval of the related periodic financing request.
14 Disclosure of an environmental assessment and review framework is also required for an MFF.
15 If an appraisal mission is not proposed, the document will be posted before the Management Review meeting, or the first staff review meeting for sovereign projects, or before the final Investment Committee meeting for nonsovereign projects, as applicable.
16 This also applies to all MFF tranches.
17 Disclosure of a resettlement framework is also required for an MFF.
vii) resettlement monitoring reports, and corrective action plans, if any, prepared during project implementation, upon receipt thereof by ADB; and
(vii) in case of a major project change, new or updated resettlement plans, upon receipt thereof by ADB.

20. **Indigenous peoples.** In accordance with the requirements under the Safeguard Policy Statement, ADB will post on its website the following documents submitted by the borrower and/or client (footnote 12):

(i) a draft indigenous peoples plan (IPP) and/or draft indigenous peoples planning framework, as required, before appraisal (footnote 15);
(ii) a draft IPP for the first tranche of an MFF, before appraisal (footnote 15);
(iii) a draft IPP for each tranche after the first tranche of an MFF, before Management’s consideration of the periodic financing request;
(iv) a draft IPP for an indigenous peoples category A subproject under a sector project or a financial intermediary project, before approval of the subproject;
(v) the final or updated IPP, upon receipt thereof by ADB (footnote 16);
(vi) indigenous peoples monitoring reports, and corrective action plans, if any, prepared during project implementation, upon receipt thereof by ADB; and
(vii) in case of a major project change, new or updated IPPs, upon receipt by ADB.

21. **Existing facilities.** For projects involving facilities that already exist or are under construction before ADB’s involvement, and if an upgrade or expansion of the facilities is not foreseen, the environment and/or social audit report (including a corrective action plan, if required) prepared by the borrower or client constitutes the EIA, IEE, resettlement plan, and/or IPP. Such audit reports will be posted on the ADB website in accordance with the requirements in paras. 18–20 for posting of the EIA, IEE, resettlement plan, and/or IPP.

22. **Country safeguard systems.** In accordance with the requirements under the Safeguard Policy Statement for the application of country safeguard systems in ADB-supported projects, ADB will post on its website:

(i) for public comment, the draft equivalence and acceptability assessments at the national, subnational, sector, or agency level, upon completion;
(ii) the final equivalence and acceptability assessment reports, upon completion; and
(iii) updated assessments to reflect changes in country safeguard systems, if any, upon completion.

23. Disclosure related to acceptability assessments at the project level will follow the usual safeguard document disclosure process undertaken for project preparation and referred to in paras. 18–20.

e. **Initial Poverty and Social Analysis**

24. The initial poverty and social analysis for a sovereign project or program will be posted

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18 Disclosure of the indigenous peoples planning framework is also required for an MFF.
on the ADB website as a stand-alone document upon approval of the project or program concept paper. For nonsovereign projects, the initial poverty and social analysis will be posted on the ADB website upon completion of the credit approval process.

f. Technical Assistance Reports and Documents Produced Under Technical Assistance

25. TA reports will be posted on the ADB website upon approval by the relevant authority (Board, President, or Vice President). For project preparatory TA projects up to $1.5 million, the TA report appended to the concept paper for the project will be posted on the ADB website upon approval of the concept paper.¹⁹

26. Final consultants’ reports generated from a TA project²⁰ will be posted on the ADB website upon completion. As policy and advisory TA and capacity development TA may cover sensitive matters, the government concerned will be given the opportunity to object to disclosure of final reports produced under such TA. Consistent with the policy’s presumption in favor of disclosure, any redaction or withholding of such documents will be based on the exceptions in para. 63.

g. Report and Recommendation of the President and Supporting Documents

27. Reports and recommendations of the President (RRPs) for sovereign projects will be posted on the ADB website at the same time the RRP is circulated to the Board, subject to the concurrence of the member country concerned (simultaneous disclosure). During loan and/or grant negotiations, the borrower will be requested to confirm whether it consents to such simultaneous disclosure of (i) the RRP; and (ii) the supporting (linked) documents to the RRP, including the project administration manual, or facility administration manual for MFFs, describing implementation details, and the framework financing agreement for MFFs. The country’s consent will be reflected in the minutes of loan and/or grant negotiations. If the country does not consent to such simultaneous disclosure, the RRP will be posted on the ADB website upon approval of the RRP by the Board. This requirement for simultaneous disclosure will apply to ADB projects and programs for which loan negotiations are conducted on or after the effective date of the policy. Supporting documents (other than legal agreements, disclosure of which is described in para. 28) will be disclosed as stand-alone, electronically linked documents at the same time that the RRP is posted on the ADB website.²¹ Updates to any supporting documents will be posted on the ADB website upon completion. An abbreviated version of the RRP for nonsovereign projects will be posted on the ADB website upon Board approval; this version will exclude confidential business information and ADB’s assessment of project or transaction risks.

²⁰ This para. refers to grant-financed TA.
g. Legal Agreements

28. All legal agreements, including all tranches of MFFs, entered into on or after the effective date of the Public Communications Policy will be posted on the ADB website upon their signing, after removing any confidential information identified as falling within the exceptions to disclosure in para. 63 at the time of negotiations. ADB may disclose on request draft legal agreements if the borrower consents. If the legal agreements are amended, ADB will post such amendments on its website within 2 weeks of their effectiveness, after removing any information identified as falling within the exceptions to disclosure in para. 63 at the time of negotiations.

29. Legal agreements for sovereign projects entered into between 1 January 1995 and 1 September 2005, and any amendments to such agreements, will be made available on request, after any confidential information contained in such agreements and amendments, and specified as such by the government concerned at the time of negotiation of such agreements and amendments, has been removed.

30. For legal agreements for sovereign projects and amendments to them entered into by ADB before 1 January 1995, ADB will seek the consent of the government concerned before making such documents available, when requested. Unless the government concerned informs ADB of its objection to disclosure of such documents within 30 calendar days of ADB’s request for consent, ADB will make such agreements available to any requester within 60 days of the request for the agreement.

h. Audited Project Financial Statements

31. ADB will post on its website annual audited project financial statements for sovereign projects for which the invitation to negotiate is issued on or after the policy effective date. The procedures for the disclosure of annual audited project financial statements will be discussed and agreed with each borrower and made part of the legal agreement for each project.

i. Major Changes

32. Documents submitted to the Board for approval related to a major change of a project will be posted on the ADB website upon approval of such a change. For nonsovereign projects, an abbreviated version will be posted on the ADB website, excluding confidential business information.

j. Progress Reports on Tranche Releases of Policy-Based Loans and Grants

33. Progress reports on tranche releases of policy-based loans and grants will be posted on the ADB website upon Board or Management approval of the reports.

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22 This would include loan agreements, project or program agreements, grant agreements, guarantee agreements, and financing agreements.

23 Legal agreements for nonsovereign projects, including commercial cofinancing agreements, are not disclosed.
k. Framework Financing Agreement under Multitranche Financing Facility and Annual Reports

34. For each MFF, the framework financing agreement will be posted on the ADB website at the time of disclosure of the RRP for the MFF. The annual report on MFF operations will be posted on the ADB website upon circulation to the Board.\textsuperscript{24}

l. Completion Reports

35. Project, program, MFF, and TA completion reports will be posted on the ADB website upon circulation to the Board. The completion report for a nonsovereign project (called an extended annual review report) will be posted on the ADB website upon circulation to the Board in a redacted form excluding commercially sensitive and confidential business information.\textsuperscript{25}

3. Other Information Pertaining to Projects and Programs

a. Independent Evaluations

36. A list of independent evaluations planned by the Independent Evaluation Department (IED) will be posted on the ADB website. This list is based on a 3-year rolling work program approved by the Board.

37. All independent evaluation reports will be posted on the ADB website upon circulation to Management and the Board except for IED annual evaluation reports, which will be posted on the ADB website upon discussion by the Board’s Development Effectiveness Committee (DEC). For evaluations of nonsovereign operations, a redacted version will be posted on the ADB website upon circulation to Management and the Board, excluding commercially sensitive and confidential business information.

38. For evaluation reports discussed by the DEC, the chair's summary of the DEC meeting will be posted on the ADB website upon its final circulation to the Board. Management responses to independent evaluations and IED comments on the Management response, if any, will be posted at the same time.

b. Cofinancing Information

39. A summary of projects requiring cofinancing will be posted on the ADB website. Information on official cofinancing of projects, if any, such as major terms and conditions, will be available in respective TA reports or RRPs posted on the ADB website. ADB will make available on request cofinancing agreements for such official cofinancing, including project-specific cofinancing agreements, framework agreements, and trust fund agreements between ADB and any bilateral or multilateral cofinancier, unless the cofinancier objects.

c. Anticorruption Information

40. Annual reports of ADB’s Office of Anticorruption and Integrity (OAI) and reports of project procurement-related reviews conducted by OAI will be posted on the ADB website upon their completion. OAI’s reports will be redacted to remove information that falls under exceptions to presumed disclosure in para. 63. OAI will post on the ADB website a list of (i) debarred entities that have breached their sanction; (ii) debarred parties that have violated ADB’s Anticorruption Policy (1998, as amended to date) for a second or subsequent time; (iii) debarred parties who cannot be contacted despite reasonable efforts; and (iv) parties debarred pursuant to ADB’s agreement with other multilateral development banks on cross-debarment.

4. Policies and Strategies

41. A list of safeguard, sector, and thematic policies and strategies to be developed or reviewed over the following 12 months will be posted on the ADB website on a rolling basis. Plans for consultations, including any anticipated face-to-face meetings with external audiences, will be posted on the ADB website upon completion of such plans. At least one consultation draft of such policy or strategy paper will be posted on the ADB website. Working papers and final proposals of policies and strategies that have undergone a public consultation process will be posted on the ADB website at the same time that they are circulated to the Board (simultaneous disclosure). This requirement will apply to working papers and final proposals of such policies and strategies that are circulated to the Board on or after the effective date of the policy. Other policy or strategy papers will be posted on the ADB website upon their approval or endorsement. A chair’s summary for each policy or strategy approved or endorsed by the Board at a formal Board meeting will be posted on the ADB website upon its final circulation to the Board.

5. Operational Rules and Procedures

42. The Operations Manual sections (bank policies and operational procedures), the Project Administration Instructions, and staff handbooks on ADB operations will be posted on the ADB website upon their issuance to staff.

6. Other Information

a. Procurement

43. The following information and documents will be posted on the ADB website:

(i) a listing of business opportunities for each sovereign project being prepared for ADB financing, from project identification through approval by the Board;

(ii) the borrower’s procurement plan for a project as part of the project administration manual, 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

26 See para. 27 for timing of disclosure of RRPCs and supporting documents, including the project administration manual.
proposed methods of procurement for each contract; and (c) the applicable ADB review procedure;

(iii) the borrower’s updates to the procurement plan (at least annually over the duration of the project);

(iv) all invitations issued as specific notices by executing agencies and ADB to express interest, to prequalify, or to bid for international competitive bidding procurement and consulting assignments;

(v) all contract awards entered into ADB’s books of account, detailing the name of the contractor, a description of the contract, the contract award amount financed by ADB, and the name of each competing bidder; and

(vi) in respect of ADB’s institutional procurement, invitations to submit bids or proposals, and contract awards for major procurement exercises.

b. Country Performance Assessment of Asian Development Fund Recipient Countries

44. For each country with access to Asian Development Fund resources, an annual country performance assessment, including numerical performance ratings, will be posted on the ADB website upon its completion. The guidelines for country policy and institutional assessments will also be posted on the ADB website upon their completion.

c. Annual Report, Economic Data and Research

45. ADB’s Annual Report, as well as the Asian Development Outlook, the Asian Development Outlook Update, and Key Indicators containing economic and social data, analyses, and forecasts will be posted on the ADB website upon their completion. An extensive catalog of online books, conference papers, periodicals, reports, studies, and technical briefs containing research, reports, and analyses will also be posted on the ADB website.

d. Administrative and Other Information

46. The following documents and information will be posted on the ADB website:

(i) the Agreement Establishing the Asian Development Bank (The Charter);
(ii) the by-laws of ADB;
(iii) the Rules of Procedure of the Board of Governors of the Asian Development Bank;
(iv) the Rules of Procedure of the Board of Directors of the Asian Development Bank;
(v) the Agreement Between the Asian Development Bank and the Government of the Republic of the Philippines Regarding the Headquarters of the Asian Development Bank;
(vi) host country agreements between ADB and its member countries, subject to concurrence of the member country concerned;
(vii) the list of ADB’s members, their subscribed capital, and voting power;
(viii) ADB’s organizational structure;
(ix) the list of members of the Board of Governors;
(x) the list of members of the Board of Directors and their voting groups;
(xi) the list of committees of the Board of Directors and their members;
(xii) the list of members of ADB Management and senior staff; and
(xiii) contact information for each of the above.

47. The summary proceedings of ADB’s annual meetings, including decisions taken by the Board of Governors and the statements of the governors, will be posted on the ADB website within 60 calendar days of each annual meeting. Other resolutions of the Board of Governors adopted after the effective date of the policy will also be posted on the ADB website, if the Board of Directors authorizes disclosure. Authorization regarding such disclosure will be sought by ADB at the time of recording votes of resolutions of the Board of Governors.

48. The work program and budget framework for each fiscal year will be posted on the ADB website upon discussion by the Board.

49. The results of country classification of DMCs will be posted on the ADB website upon approval by the Board.

50. ADB will post on its website (i) the provisional schedule of items for Board consideration for the forthcoming 3 weeks on a rolling basis, and (ii) the minutes of each regular Board meeting, upon approval of those minutes by the Board and no later than 60 calendar days after the Board meeting.

51. Reports of Board committees to the full Board will be posted on the ADB website if the committee so recommends and the Board approves.

52. ADB will disclose on request verbatim transcripts of formal Board meetings held on or after the effective date of the policy with respect to any agenda item specified in the request. Such transcript for the specified agenda item will be disclosed in its entirety 10 years after the date of its creation, provided it does not contain or refer to any information that falls within the exceptions in para. 63. Requests for transcripts are treated following the provisions in paras. 72–75.28 After such request has been received and after confirming that the 10-year time limit for withholding the information has lapsed, the Office of the Secretary (OSEC) will provide the document to the department(s) involved in the relevant Board meeting. The department(s) will then inform OSEC and the Public Information and Disclosure Unit (InfoUnit) in DER whether any of the information contained in the transcript falls under any policy exception. OSEC will determine based on consultations with all concerned whether the requested transcript can be disclosed.

e. Financial Information

53. The audited financial statements for ADB’s ordinary capital resources and Special Funds will be posted on the ADB website before each annual meeting.

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27 This provision only applies to regular Board meetings.
28 Transcripts of Board meetings are not redacted. If a transcript for the specified agenda item contains information that falls under any exception, it is not disclosed. In cases where two agenda items are discussed together, they will be treated as one agenda item for the purpose of this policy.
54. The following will be posted on the ADB website upon approval by the Board:

   (i) Management’s discussion and analysis of ADB's ordinary capital resources and Special Funds, including financial data on each of the funds;
   (ii) unaudited condensed quarterly financial statements;
   (iii) the annual report on loan servicing of DMCs; and
   (iv) the budget of ADB for each fiscal year.

55. ADB will post on its website any documents related to public offerings when the laws or regulations governing the financial market concerned require that they be filed with a government agency.

f. Employment Information

56. ADB will post on its website (i) ADB’s basic salary structure; (ii) the methodology used to determine Management and staff salary levels and benefits; (iii) annual base salaries of Management and Board members; and (iv) ADB’s broad objectives and strategy in recruiting, placing, redeploying, and retaining staff. Descriptions of positions for staff recruitment will also be posted on the ADB website at least 2 weeks before a position is expected to be filled. Each decision of ADB’s Administrative Tribunal will be posted on the ADB website upon the tribunal's notification to the Secretary to post a decision.

g. Information Produced under the ADB Accountability Mechanism

57. ADB will post on its website information produced under the Accountability Mechanism as provided in the Accountability Mechanism policy and its related Operations Manual section, as amended from time to time.

h. Information Related to Asian Development Fund Negotiations

58. Generally, ADB posts on its website information related to negotiations for ADF replenishments and midterm reviews. Nonfinancial discussion papers for donors’ meetings will be posted on the ADB website upon circulation of such discussion papers to the donors. The chair’s summary will be posted on the ADB website following each meeting. The donors’ report will be posted on the ADB website upon endorsement by the Board.

i. Other Documents Presented to the Board

59. Documents circulated to the Board for information or approval not cited in the Public Communications Policy will be posted on the ADB website, unless Management informs the Board otherwise and the Board agrees.

7. Exceptions to Presumed Disclosure

60. The exceptions to ADB’s presumption in favor of disclosure of information are set forth in paras. 63 (list of exceptions) and 67 (negative override). The list of exceptions is based on a determination by ADB that the harm disclosure might cause to specific parties or interests
outweighs the benefit of disclosure.

61. If a document (or part of it) subject to posting on the ADB website is not posted because the information contained in the document falls under an exception, the document or the information removed from it will be referenced on the website, unless citing the document or the removed information would itself violate an exception. If part of the information contained in a document to be provided upon request falls under an exception, such information will be removed from the document and the requester will be informed of the reason of such removal (footnote 28).

62. ADB is not required to comply with, or respond to, repeated or unreasonable 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.

a. Current Information

63. Any information concerning ADB-assisted projects, programs, policies, strategies, and general operations held by ADB for 20 years or less from the date such information was produced by, or provided to, ADB is considered current information. Subject to the provision in para. 65, ADB will not disclose the following information:

**Deliberative and Decision-Making Process**

(i) Internal information that, if disclosed, would or would be likely to compromise the integrity of ADB’s deliberative and decision-making process by inhibiting the candid exchange of ideas and communications, including internal documents, memoranda, and other similar communications to or from governors and their alternates, Board members, director’s advisors, members of Management, ADB staff, and ADB consultants.

(ii) Information exchanged, prepared for, or derived from the deliberative and decision-making process between ADB and its members and other entities with which ADB cooperates that, if disclosed, would or would be likely to compromise the integrity of the deliberative and decision-making process between and among ADB and its members and other entities with which ADB cooperates by inhibiting the candid exchange of ideas and communications, particularly with respect to policy dialogue with DMCs.

(iii) Proceedings of the Board of Directors with the exception of verbatim transcripts

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29 The reference to the removed document or information would be made on the relevant web page, which would still include the title of the removed or redacted document.

30 For the purpose of this policy, proceedings of the Board of Directors refers to proceedings of the Board of Directors and of Board committees, and comprises all statements made or filed during Board meetings or committee meetings and records regarding such meetings, such as verbatim transcripts, minutes of committee meetings, and memoranda or other communications between ADB Management, departments, or the Secretary and the Board, in all formats, including electronic.
(as provided in para. 52), minutes of Board meetings (para. 50), and chair’s summaries of certain Board meetings (paras. 6 and 41).

Information Provided in Confidence

(iv) Information provided to ADB in confidence by a member or international organization and that, if disclosed, would or would be likely to materially prejudice ADB’s relations with that party or any other member.

(v) Information (including proprietary information) provided to ADB by a party, which, if disclosed, would or would be likely to materially prejudice the commercial interests, financial interests, and/or competitive position of such party or another party that was the source of the information, or any confidential business information (information covered by a confidentiality agreement or nondisclosure agreement that ADB has entered into with clients and/or other related parties).

(vi) Information provided to ADB in confidence, alleging fraud, corruption, or other violation of ADB’s Anticorruption Policy, or misconduct, except to the extent permitted by and in accordance with ADB staff rules and rules on investigations, as well as the identity of the party making such allegation (whistleblower), unless the whistleblower consents to disclosure of his or her identity.

Personal Information

(vii) Personal information relating to Board members, director’s advisors, members of Management, and ADB staff and consultants, as disclosure of such information would or would be likely to compromise the legitimate privacy interests of the person concerned. This includes terms of employment, performance evaluations, and personal medical information of Board members, director’s advisors, members of Management, and ADB staff and consultants; information relating to staff appointment and selection processes; personal communications; and information relating to proceedings of internal conflict resolution and appeal mechanisms and information related to investigations, except to the extent permitted by the staff concerned or staff rules and Board of Directors rules and regulations.

Financial Information

(viii) Financial information that, if disclosed, would or would be likely to prejudice the legitimate financial or commercial interests of ADB and its activities, or financial information to which capital and financial markets may be sensitive. This may 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, and risk assessments of its borrowers and other clients.

31 For example, a bidder in a procurement process.
(ix) Financial information that if disclosed would or would be likely to prejudice the ability of a member to manage its economy.

Security and Safety

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

Legal or Investigative Matters

(xi) Any information subject to attorney-client privilege (including communications to or from ADB counsel or its external legal advisors); information relating to any investigation of alleged fraud, corruption, or misconduct, except to the extent permitted by and in accordance with ADB’s rules on such investigations; or any information that, if disclosed, would or would be likely to materially prejudice an investigation or the administration of justice or violate applicable law.32

Internal Audit Reports and Trust Fund Audit Reports

(xii) (a) Internal audit reports prepared by ADB’s Office of the Auditor General,33 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 public disclosure of these reports would violate the applicable auditing standards.34

b. Historical Information

64. Any information concerning ADB-assisted projects, programs, policies, strategies, and general 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 information, other than information relating to Board proceedings, will be disclosed upon request,35 except for information that falls within the exceptions listed in para. 63 (iv)–(vii), (ix)–(xi), and (xii)(b).

32 This may include restrictions imposed by securities and banking laws, and copyright laws.
33 Audit opinions and audited financial statements disclosed to the public as part of ADB’s Annual Report are not covered by this exception.
34 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 US) and are audited in accordance with auditing standards generally accepted in the US (which are applicable to ADB). Such auditing standards limit 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.
35 Proceedings of the Board will be disclosed in accordance with the provisions in paras. 6, 41, 50, and 52.
c. Public Interest Override (Positive Override)

65. Notwithstanding the policy exceptions in para. 63, external stakeholders may request ADB to override such policy exceptions in the public interest. The Public Disclosure Advisory Committee (PDAC) will consider such requests. ADB may disclose requested information if it determines that the public interest in disclosing the information outweighs the harm that may be caused by disclosure. Any recommendation of the PDAC to disclose or deny such information will require the approval of the Board for Board records and the President for other documents.

66. However, the public interest override provision will not apply if ADB has given an express legal commitment to a party to keep such information confidential and not to disclose such information, unless such party consents.

d. ADB’s Prerogative to Restrict Access (Negative Override)

67. ADB also reserves the right not to disclose, under exceptional circumstances, information that it would normally disclose if it determines that such disclosure would or would be likely to cause harm that outweighs the benefit of disclosure. This prerogative may be exercised only by the Board.

B. Roles and Responsibilities

68. All departments and offices will be responsible for implementing the Public Communications Policy. DER will bear overall responsibility for its implementation and consistent application. DER’s InfoUnit will provide advice to all ADB departments and monitor the disclosure requirements of the policy. DER’s web team will work with the InfoUnit, operations departments, and other offices in posting documents and improving the information search functions of the ADB website. Staff from operations departments and resident missions will play a key role in communicating with project-specific stakeholders, and in ensuring the disclosure requirements are met (paras. 14, 15, and 17). They will work with the borrower or client, which should provide focal points in project areas to provide information to and dialogue with affected people about the project (para. 14). Project focal points may use the ADB website to access project and country-related information, and to disclose such information to interested parties using locally and culturally appropriate delivery mechanisms.

69. Public Disclosure Advisory Committee. The PDAC will interpret, monitor, and review the disclosure requirements of the policy. The PDAC will be composed of the managing director general (serving as chair), the principal director of DER, the secretary, and the general counsel. It will report directly to the President. The PDAC will convene as needed to review requests for information that have been denied by other ADB departments or offices. It has the authority to uphold or reverse decisions to deny access to information, with the exception of decisions by the Board to restrict access (negative override). The PDAC will also consider requests for disclosure in the public interest of information covered by a policy exception (public interest override). The InfoUnit will provide secretariat support to the PDAC. The PDAC will review and endorse the annual report on the Public Communications Policy assessing the implementation of the disclosure requirements under the policy. The annual report will include a summary of
refusals to provide information to the public, as well as any recommendations for changes to the policy and its related Operations Manual section, or the organizational structure supporting ADB’s public disclosure of information.

70. Independent Appeals Panel. The Independent Appeals Panel (IAP) will consider appeals alleging that ADB violated the policy by restricting access to information that it would normally disclose under the policy. The IAP will have three members nominated by the President and approved by the Board. The members could comprise (i) a representative of a DMC with adequate experience in freedom of information matters; (ii) an expert on access to information, independent of any government; and (iii) an expert on access to information in a commercial setting. The IAP has the authority to uphold or reverse PDAC decisions to deny access to information. It has no authority to consider appeals on any decision made by ADB under paras. 65 and 67 (public interest override and negative override). The IAP members will be engaged to work on an intermittent basis and only when called upon to consider an appeal of a decision made by the PDAC. To the extent possible, the IAP will hold its deliberations by telephone, e-mail, and/or video link. OSEC will provide secretariat support to the IAP.

C. Procedures for Accessing Information

1. Proactive Disclosure

71. The ADB website will be the primary vehicle for proactively disclosing information and documents as required in the Public Communications Policy. Other means of proactive disclosure of information and documents (e.g., information to support a consultation process) will be used by ADB as well as borrowers and clients, depending on the intended recipient or audience, and the intended purpose for disclosing the information.

2. Requests for Information

72. All requests for information and documents must be made in writing (e-mail, mail, internet feedback form, or fax). Requests may be directed to ADB’s InfoUnit: (i) by mail at Asian Development Bank, 6 ADB Avenue, Mandaluyong City, 1550 Metro Manila, Philippines; (ii) by e-mail to disclosure@adb.org; or (iii) by fax to +63 2 636 2649. Requests may also be directed to the resident mission, representative office, or department or office concerned. Requests may be submitted to ADB in English or in any of the official or national languages of ADB’s members. Requests for current information should indicate with reasonable specificity the information that is being sought, to enable ADB, within a reasonable period of time, to locate the information. Requests for historical information (para. 64) must identify the specific information requested; blanket requests for access to historical information will not be accepted.

73. The operations department or office concerned will determine whether a document contains information that may not be disclosed in accordance with the policy exceptions set out in para. 63 and will consult with the borrower, client, or cofinancier, as appropriate, on whether disclosure of the requested information would or would be likely to cause any harm to their interests. When certain information in a document falls under any policy exception, the department concerned will either withhold the document or remove the confidential information
before disclosing the document, while leaving reference to the removed material (with the reason for its removal). The InfoUnit will provide guidance to ADB staff on the policy as necessary.

3. Time Limits for Responses to Requests

74. Requests for information will be handled by the department or office that receives the request, or the InfoUnit in consultation with other departments concerned. If a department other than DER handles the request, it will promptly copy the InfoUnit of the request and its response(s) to the requester. The department concerned or the InfoUnit, as the case may be, will acknowledge receipt of a request within 5 working days of receiving the request. The department concerned or the InfoUnit, as the case may be, must then inform the requester as soon as a decision has been made, and, in any event, no later than 20 working days after receiving the request. This period may be extended in the case of a request for historical information, if the information requested is difficult to retrieve. In its response, the department concerned or the InfoUnit, as the case may be, will either provide the requested information or the reasons why the request has been denied, indicating the particular provision(s) in the policy that justifies the refusal, and, as applicable, the harm that could be caused by disclosing the information. The InfoUnit will post on the ADB website a list of requests reviewed, and the corresponding decisions, i.e., fulfilled or denied, with the reason for the latter.

75. Each response denying a request for information must be discussed with the InfoUnit before it is sent (as denials of requests could possibly be appealed to the PDAC or the IAP).

4. Appeals

76. All appeals to the PDAC (first stage of appeal) or the IAP (second stage of appeal) must be submitted in writing within 90 calendar days of the decision to deny the request for information. Appeals to the PDAC may be submitted: (i) by mail addressed to the PDAC through the InfoUnit at Asian Development Bank, 6 ADB Avenue, Mandaluyong City, 1550 Metro Manila, Philippines; (ii) by e-mail to disclosure@adb.org; or (iii) by fax to +63 2 636 2649. Appeals to the IAP may be submitted: (i) by mail addressed to the IAP through OSEC at Asian Development Bank, 6 ADB Avenue, Mandaluyong City, 1550 Metro Manila, Philippines; (ii) by e-mail to iap_secretariat@adb.org; or (iii) by fax to +63 2 636 2481. Appeals received beyond the 90-day period for filing an appeal will be deemed out of time and will not be considered. All appeals should be set out in a brief letter and contain the following:

(i) a description of the information originally requested, and
(ii) 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 (para. 65) applies.

77. The InfoUnit (for the PDAC) or the IAP secretariat (for the IAP) will notify requesters if the appeal is dismissed (i) for a failure to file within the required time, (ii) for a failure to provide

36 If ADB uses its prerogative not to disclose information it would normally disclose (“negative override”), this time line will not apply. In that case, ADB will submit the matter to the Board for final decision.
sufficient information that would reasonably support the appeal, or (iii) because the PDAC or the IAP do not have authority to consider the matter being appealed. The InfoUnit or the IAP secretariat, as the case may be, will notify the requester of the decision and provide the requested information, or the reasons for denial, as the case may be. ADB will post on its website a list of all appeals received, and the decision taken in each case. The list will be updated upon issuance of a decision.

a. First Stage of Appeal: Public Disclosure Advisory Committee

78. When a request for information is denied, the requester will be informed of the right to file an appeal to the PDAC. If the appeal is based on the public interest override set out in para. 65, the provisions of para. 81 will apply. The PDAC will acknowledge receipt of an appeal within 5 working days. It will convene as soon as possible to consider the appeal. In reviewing appeals, the PDAC will consider the policy exceptions specified in para. 63. The PDAC will notify the requester of ADB’s decision in writing, giving the reasons, as soon as a decision has been made and, in any event, no later than 20 working days after receiving the appeal.

b. Second Stage of Appeal: Independent Appeals Panel

79. If the PDAC upholds the initial decision to deny a request for information, the requester may file an appeal to the IAP through OSEC. The IAP will consider whether ADB violated the policy by restricting access to information. OSEC will, on behalf of the IAP, acknowledge receipt of the appeal within 5 working days, with a copy to the ADB department or office that took the initial decision to deny the request. The relevant department will submit to the IAP, through OSEC, a statement explaining which exception applies and why. If disclosure of the information requested would affect a legitimate interest of a third party (such as a borrower, client, cofinancier, or individual in relation to personal information), the relevant ADB department will promptly inform the third party of the appeal, and the third party’s right to state its reasoned objection, if any, to disclosure of the information. Any statements by ADB or third parties must be filed with OSEC in writing (preferably by e-mail) within 3 weeks of the IAP’s acknowledgement of the appeal. Upon request of a third party, based on special circumstances, the IAP may decide to extend the period for a third party to file a statement. In reviewing appeals, the IAP will consider the appeal, opposing statements, if any, and the policy exceptions. It will have the authority to uphold or reverse the relevant decisions of the PDAC, and its decisions will be final. The IAP will be required to consider all appeals within 45 calendar days after receiving the appeal. In case the IAP members cannot reach a unanimous decision, the decision will be taken by majority vote.

D. Procedures regarding Negative Override and Public Interest Override

1. Negative Override

80. In exceptional cases, ADB may decide not to disclose documents that would normally be disclosed, if such disclosure would or would be likely to cause harm that outweighs the benefit of disclosure. In that case, the matter will be referred to the Board for decision. The following procedures apply in such situations:
(i) If a request for information has been made, and the receiving department or any other relevant office, in consultation with the InfoUnit, the Office of the General Counsel, and other relevant departments or offices, finds that no exception to disclosure applies but that releasing the information could cause severe harm, the relevant department refers the matter to the PDAC. If the PDAC agrees with the assessment of the potential harm and finds that an exceptional situation has occurred that warrants nondisclosure, the PDAC will prepare a decision paper and recommend to the President circulation of that paper to the Board. The Board will decide whether or not to exercise its prerogative not to disclose the relevant document (negative override). The exceptional circumstances and the harm that could be caused by disclosure should be explained in the paper to be submitted to the Board. The decision of the Board will be final. The InfoUnit will post the decision of the Board on the ADB website, and will notify the requester of the decision upon its issuance by the Board.

(ii) If no request for information has been made, but ADB is required under the Public Communications Policy to post certain information on its website, the disclosure of which could cause severe harm in the view of the department or office concerned in consultation with the InfoUnit, the Office of the General Counsel, and other relevant departments, the relevant department refers the matter to PDAC. The same procedures as set out under (i) above will apply.

2. Public Interest Override (Positive Override)

81. A requester, whose request for information is denied based on any of the policy exceptions in para. 63, may file an appeal to the PDAC if he or she finds that disclosure of the information is warranted in the public interest. Such appeal should specify the circumstances that would warrant an override of the policy in the public interest. The PDAC will acknowledge receipt of the appeal within 5 working days. If necessary, the PDAC may, through the InfoUnit, seek further details from the requester in support of the appeal. The InfoUnit will request the relevant operations and/or other departments or offices to explain in writing to the PDAC whether disclosure of the requested information would or would be likely to cause harm and if so, what harm. For Board records, the PDAC will prepare a paper and recommend to the President its circulation to the Board, attaching the request and summarizing the applicable policy exception(s), the public interest case made by the requester, and the potential harm of disclosure. For documents other than Board records, the PDAC will prepare a recommendation paper for consideration of the President, attaching the request and summarizing the applicable policy exception(s), the public interest case made by the requester, and the potential harm of disclosure. Decisions by the Board and the President, as the case may be, to disclose or deny such information will be final. If the President made the decision in accordance with para. 65, the PDAC will notify the requester as soon as the decision has been made and in any event no later than 20 working days after receiving the appeal. If the Board made the decision in accordance with para. 65, the PDAC will notify the requester upon the Board’s decision. The InfoUnit will post the final decision on the ADB website.
E. Monitoring and Reporting

82. ADB will monitor the implementation of the Public Communications Policy and evaluate its impact. ADB will post on its website an annual report showing the monitoring results.

83. ADB allows stakeholders to raise issues, access information, and engage with ADB in implementing the policy. ADB will not disclose the names of individuals or groups that raise concerns about the implementation of the policy.

F. Policy Review

84. ADB will conduct a comprehensive review after a period of time, not to exceed 5 years from the effective date of the policy. The review will engage interested individuals and organizations.

Basis: This OM section is based on OM Section L3/BP and the documents cited therein.

Compliance: This OM section is subject to compliance review.

For inquiries: Questions may be directed to the InfoUnit, Department of External Relations.