Introduction:

This paper is submitted in the framework of the public consultation organised by the EIB for the revision of its transparency policy. It has been written as an addendum to the joint submission we wrote together with other CSOs. This paper is not meant to be all-inclusive in its comments, for that we refer to the joint submission. It builds further though on the contents of this joint submission and supports it with some factual experiences we had with EIB and transparency in the past five years. Since its creation in 2007, the Counter Balance coalition, together with its member groups including CEE Bankwatch Network, has been closely monitoring the activities of the EIB and calling for an enhancement of its transparency. Counter Balance and CEE Bankwatch Network participated in the previous consultation around the revision of the EIB Transparency Policy in 2011. In addition, through numerous information requests and complaints lodged to the EIB Complaints Mechanism Office, the members of the coalition have extensively made use of references to provisions in the Transparency Policy.

In the last 5 years, we noticed an improvement in EIB’s transparency on some of its activities. For instance, the setting up of a public register of environmental information is a step in the right direction, alike the signature of the International Aid Transparency Initiative.

However, we notice that crucial structural issues have been left unresolved in the new policy, or turn from the alleged goal of openness towards the direction of confidentiality instead, including:

- the transparency of financial intermediaries at a time when the EIB is scaling-up channeling its investments towards SMEs through financial intermediaries.
- the list of exceptions and definitions of administrative tasks falling under the operation of the policy and of business confidentiality.
- the disclosure of investigation reports of the accountability mechanism, audits, etc.
- quality of information on the website.
- publication of the policy’s operational manual

Therefore, we call for the revised policy to:

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1 A joint CSO submission to the draft revised version of the EIB Transparency policy, 24th September, 2014.
- On the one hand, secure those main principles and provisions in the existing policy which already support its good practice of operation.
- On the other hand, achieve targeted improvements in areas where the EIB does not live up to its commitment to transparency.

**Analysis of the draft Transparency Policy**

Our overall analysis is that the proposed policy, if adopted, would represent a significant step backwards in terms of transparency for the EIB. The draft Policy does not adequately reflect key international standards and principles relating to transparency, as set out in the Global Transparency Initiative’s Transparency Charter for International Financial Institutions. There is a need to make the Transparency Policy a more ambitious, democratic and effective document.

In the three sections below, Counter Balance exposes its main concerns and proposals for improvement:

1. **Ensuring a policy based on clear and ambitious principles**

**A/ The right to access information needs to be fully preserved in the EIB Transparency Policy**

The EIB Transparency Policy has to take into account and fully comply with the EU legislative framework on transparency and public disclosure, including Article 15 of the TFEU, which states that “in order to promote good governance and ensure the participation of civil society, the European institutions, bodies, offices and agencies shall conduct their work as openly as possible”. In addition, the European Charter of Fundamental Rights states that “Any citizen of the Union […] has a right of access to documents of the institutions, bodies, offices and agencies of the Union, whatever their medium”.

- Firstly, ensuring a genuine presumption that all information held by the EIB will be accessible is crucial, in line with the principle of maximum disclosure. This **presumption of disclosure** means, among other things, that information will be withheld only where this can be specifically justified on the basis of a limited list of exceptions included in the Policy.

However, the draft policy does not fulfill those internationally recognized principles. In practice the draft Policy envisages only a restricted presumption of disclosure. In particular, article 5.2 states that “Every member of the public can request access and receive timely information/documents from the EIB”. Such provision should be reinforced by ensuring that “Every member of the public has the right to request and receive…”. Then, Article 2.1 states that “whenever possible, information concerning the Group’s operational and institutional activities will be made available to third parties (the public) in the absence of a compelling reason for confidentiality […] and in line with EU legislation, those of the EU member states and countries of operation and internationally accepted principles”. The term “whenever possible” should be taken out of this provision, ensuring that the EIB adopts a true presumption of disclosure, subject
only to a limited regime of exceptions. The Policy should state clearly that the Bank will disclose any information in its possession that is not on a list of exceptions.

In this regard, the section “Ensuring trust and safeguarding sensitive information”, which is one of the Guiding Principles of the draft Policy, incorporates too broad and vague a notion of what the list of exceptions must be based on. This seriously undermines the presumption of disclosure principle. It is not clear to us why what is treated in other policies and laws as just another exception has been elevated in the draft Policy to the level of a Guiding Principle.

- Secondly, the right to access information should not be limited to information about EIB administrative tasks. At this stage the non-existence of a definition at European level represents a significant obstacle to refer to this limitation – an obstacle which should lead to scrapping this reference in the policy. The terms “administrative tasks” are defined neither in the Treaty nor in Regulations 1049/2001 and 1367/2006. Therefore we call for the policy to be applied to both administrative and non-administrative tasks of the EIB.

The argument that this policy has to be adapted to the changes brought by the Lisbon Treaty does not stand here, as the current policy was already created after the Lisbon Treaty came to force. In addition, looking at the genesis of Art 15 TFEU, it appears that such distinction between administrative and non-administrative tasks was originally created to apply to the European Court of Justice. Indeed, in the case of the ECJ, the distinction between judicial and administrative tasks is well established and recognized at EU level. This is not the case for the EIB, and as a consequence the spirit of the Article 15 does not limit the scope of the word “administrative” as understood in common language and would rather encompass a much broader spectrum of tasks.

**B/ Tightening the list of exceptions to information disclosure and reversing the trend of an unjustifiably broad presumption of confidentiality**

The Global Transparency Initiative’s (GTI) Transparency Charter for International Financial Institutions offers a strong vision for what exceptions to access to information should be: “The regime of exceptions should be based on the principle that access to information may be refused only where the international financial institution can demonstrate (i) that disclosure would cause serious harm to one of a set of clearly and narrowly defined, and broadly accepted, interests, which are specifically listed; and (ii) that the harm to this interest outweighs the public interest in disclosure.” It goes further by stating that exceptions should: a) protect only legitimate interests; b) be engaged only where release of the information would cause harm to one or more legitimate interests; c) be subject to a public interest override whereby information covered by an exception should still be disclosed if the public interest in disclosure outweighs the likely harm that would result.

In this context, Counter Balance is particularly concerned since the proposed changes to the Transparency Policy represent a significant departure from better practice and open the door for the withholding of information in excess of what is justified or necessary. This is a clear attempt to switch the presumption of disclosure to the presumption of
confidentiality. Such structural reversal and paradigm change towards overemphasis on confidentiality would mean a major step back for the EIB itself. Instead of positioning itself among transparency leaders, it would make it even more secretive and non-accountable to citizens and communities affected by its operations.

Of a great concern is the new exception in Article 5.5 which introduces an extensive presumption that “all information and documents collected and generated during inspections, investigations, audits and compliance due diligence shall be presumed to undermine the protection of the purpose of the inspections, investigations, audits and compliance due diligence even after these have been closed.” This is profoundly illegitimate and such presumptions are not found in better practice access to information laws or policies. It also runs counter to the claims that the Transparency Policy is founded on a presumption in favour of disclosure.

Specifically, the effect of creating a presumption of harm largely undoes the very benefits of having a harm test. Instead of requiring officials to consider, on a case-by-case basis, whether specific harm would result from disclosure of certain information before access can be denied, it allows them to assume that such harm would result. Given the unfortunate tendency of many officials to be reluctant to release information in the first place, it is reasonable to assume that only those with an exceptionally strong commitment to openness will really bother to go through the process of considering whether arguments against harm exist. As a result, in practice this reversal of the presumption in favour of disclosure will effectively place an impossible onus on requester to show that disclosure will not lead to negative results.

Counter Balance’s analysis is that the introduction of this presumption of secrecy is largely motivated by the ongoing story related to the complaint moved by Christian Aid about the non-disclosure of the EIB internal report on the Mopani case. The letter of the EIB management - going against the recommendation of its own Complaints mechanism to publish at least a redacted version of the report – states that “the EIB Management acknowledges the challenges raised by this complaint, which represents the first case received by the Bank concerning the public disclosure of its own investigation reports. Within this context, the EIB Management welcomes that this complaint and the EIB Complaints Mechanism’s work has provided the Bank with an opportunity to identify a number of issues related to its policies and procedures which go beyond this particular case and needs to be improved and clarified in order to ensure a swift and comprehensive response to future similar requests”.

In this context, the proposed amendments (including Art 5.5) are aimed to avoid a case-by-case analysis of protection of all legitimate interests through public disclosure by introducing an overall presumption of secrecy. Hence, Counter Balance calls on the EIB to live up to its commitment towards transparency and ensure that the presumption of disclosure remains the most prominent principle in the renewed transparency policy. This is in line with the resolution of 11 March 2014 on the EIB’s Annual Report 2012 which “calls on the EIB to increase further the transparency and accessibility of its activities, evaluations and outcomes through better access to information, both internally to EIB staff, by incorporating participation at relevant internal EIB meetings, and externally, for example on its website”.
C/ Ensuring full compliance with the Aarhus Convention

References to the Aarhus Convention should feature more prominently in the policy, including in Articles 3.7 and 3.8. The Aarhus Convention is binding on the institutions and bodies of the EU and became an integral part of EU law, according to Article 216(2) TFEU.

In addition, in order to fully comply with Article 4 of Regulation 1367/2006, Article 4.2 of the draft policy should make reference to it by listing the requirements applicable to the Bank. It would make EIB’s commitment to comply with applicable legislative framework on the public register more consistent. At the time being the Article 4.2 remains too vague.

Article 5.11 mentions “information/documents typically forming part of the Bank’s confidential relationship with its business partners” but without clearly defining what kind of information is covered by the provision. Such vagueness (“typically”, “confidential relationship” would not allow the public to not what is exactly covered by this exception. This provision would represent a breach to the Aarhus Convention and regulations 1049/2001 and 1367/2006. Finally, it is unclear what the additionality of this provision is in relation to what is already stated in Article 4.2 and 4.3.

Finally, the draft policy is deleting the Article 4.3.2 of the current policy which states that "All public sector projects are included on the Project list on the Bank’s website, at least 3 weeks prior to Board approval, as are all private sector projects when there has been a call for international tender published in the Official Journal of the European Union and/or which have been subject to an environmental Impact Assessment (EIA)". This proposal does not seem to be justified since the current practice of the EIB in this regard shows its feasibility and does not threaten the bank’s activities. On the contrary, it reinforces the transparency of its activities and accountability towards EU citizens.

In relation to the Aarhus Convention and Regulation 1367/2006, it is clear that the distinction between public and private sector projects is not justifiable. What is needed is a case by case examination of the projects according to a set of well-designed exceptions, in order to prove that commercial interests could be undermined by disclosure of project’s information.

2. Tackling the long-lasting issues with financial intermediaries

In order to reach small and medium sized enterprises the EIB has increasingly engaged in intermediated lending. In 2013, more than EUR 20 bn were targeted towards SMEs. This mechanism which requires financial intermediaries, mostly commercial banks, to on lend large so called ‘global loans’ in small portions to the ultimate beneficiaries comes with a number of challenges which may undermine a positive development impact and to present have not been addressed properly by the Bank.
In a reply to Counter Balance and Eurodad dated 29th April 2014, the EIB stated that “this consultation process [the Transparency policy revision] will provide a further opportunity to discuss some of the issues raised in your letter, such as the transparency of EIB intermediated lending”. However, the draft policy does not bring any improvement in this regard, compared to the existing policy. Therefore, Counter Balance considers that this process is so far a missed opportunity, and urges the EIB to address further this issue.

A main critique echoed on many occasions by civil society, the European parliament and academics is the lack of transparency inherent to this type of lending. Information about the ultimate beneficiaries is not made public due to commercial confidentiality clauses in the contract with the financial intermediaries. This makes it impossible to assess the economic and social impact of the loans and prevents a targeted approach to certain sectors or types of SMEs. Indeed, investments need to be subject to detailed public review. They must first of all serve local needs and aspirations. Foreign support should support the scaling up of successful local initiatives and their replication elsewhere.

Additionally, by outsourcing part of its lending, the EIB outsources part of its responsibilities as well. Therefore the reliance on third parties for the carrying out of due diligence is a dangerous trend which can seriously undermine the quality and the positive outcome of the lending. The EIB should at all time remain responsible and provide more clarity on how these procedures are carried out in order to improve transparency and avoid misuse of funds.

The EIB shall not cooperate with financial intermediaries with negative track record in terms of transparency, fraud, corruption and environmental and social impacts. The loan to the Brazilian national development bank BNDES illustrates the lack of consideration given to the track record of the financial intermediaries the EIB is working with. Hence, a stringent list of criteria for selection of financial intermediaries shall be established by the EIB jointly with the Commission and be publicly available. As a major and opaque element of its lending, EIB’s portfolio of financial intermediaries needs to be thoroughly assessed in the bank’s annual reports to the Parliament and the Council.

Furthermore, the European Parliament has repeatedly called the EIB to seriously tackle this question.

Resolution 2011/2186(INI) adopted on 29th March 2012 “urges the EIB to publish an annual list of all final beneficiaries of loans and other financial instruments in the same way as the Commission is bound to publish such a list of end beneficiaries of EU funds”, “reiterates continuous previous recommendations of the EP to enhance transparency in EIB's selection of financial intermediaries and the way ‘global loans’ are allocated, and insists on the need for action to be taken to put these into effect; stresses the need for clearer conditions and stricter lending effectiveness criteria; encourages the EIB to elaborate without delay new, coherent and effective instruments for a better supervision of the financial intermediaries collaborating with the EIB in supporting SMEs in Europe before the end of 2012”, “reiterates its call on the EIB to report regularly on the results achieved, including comprehensive data on the final beneficiaries, summary reports on the monitoring and implementation of its internal procedures, and achievements of objectives on targets”, “Considers that the EIB should implement mechanisms to
guarantee that in all its financial operations the EU’s environmental, social and human rights values and its transparency and procurement standards are respected; calls on the EIB to further enhance transparency in its lending through financial intermediaries, and to act to prevent the use of tax havens, transfer pricing and tax avoidance” and “calls on the EIB Group to make available on its website, where appropriate and prior to project approval, relevant information on the beneficiaries of long-term loans and guarantees, on its financial intermediaries, project eligibility criteria and venture capital loans to SMEs, specifying in particular the amounts disbursed, the number of loans granted, and the region and industrial sector concerned; recommends that the EIB’s role should be more focused, selective, effective and results-oriented; calls also for evaluations of the environmental, social and macroeconomic impact of supported projects”.

The European Parliament, in its resolution 2012/2286(INI), adopted on 7th February 2013, “believes that the EIB should contribute to combatting corruption and lack of transparency in the EU Member States and non-EU countries in which it operates, in particular by collecting relevant information on beneficiaries and financial intermediaries, paying particular attention to the accessibility of loans for SMEs and their links to the local economy, and publishing information about the aggregated amounts disbursed, the numbers and names of recipients of the funds concerned, in particular SMEs, as well as the regions and sectors to which they were allocated”.

Finally, resolution 2013/2131(INI), adopted on 11th March 2014, “reiterates with concern that a considerable number of outstanding issues remain unresolved in this area [use of financial intermediaries], notably the lack of transparency (especially concerning information about the final beneficiaries), the difficulty in assessing the economic and social impact of the loans (resulting in a flawed targeted approach) and the reliance, via outsourcing of responsibilities, on financial intermediaries for carrying out the due diligence”. In addition, it “reiterates and accentuates the Bank’s responsibility in enhancing the level of transparency in the selection of financial intermediaries and partners for co-financed projects and as regards the final beneficiaries” and “calls on the EIB to further enhance transparency in its lending through financial intermediaries by reporting annually on its lending to SMEs, providing aggregated data on the level of disbursements made to SMEs, the number of SMEs targeted, average loan size and supported sectors, including an evaluation of the accessibility of the loans for SMEs and the effectiveness thereof”.

Through this Transparency Policy revision process, Counter Balance asks for the Policy to include a commitment by the Bank to ensure that it holds information relevant to its operations and activities, even if this information is normally created or held by another actor, such as a contractor, financial intermediary or final beneficiary. This could be achieved through inserting transparency and/or access to information clauses in contracts, so as to require third parties to provide key information to the Bank, either automatically or upon request. This would include access to key documents held by borrowers or direct service providers created or obtained pursuant to a contract with the Bank.

The current version of the draft policy is quite weak in terms of requirements for the Bank’s private sector business partners to give open access to information, as set out particularly in Articles 4.6 to 4.9. Project information should be available at an early
stage of negotiations. The current draft states that “certain private sector projects are not published before Board approval and, in some cases, not before loan signature to protect justified commercial interests.”

This eliminates the right, as for example anchored in the Aarhus convention, of communities to comment on projects which might affect their lives and livelihoods well prior to the Board vote to approve funds for a project.

More information is also needed regarding Article 4.7, for example on ecological footprint, impact on land tenure/access to land, and so on. Article 4.8, regarding financial intermediaries, is also restrictive; it says that information should be available “to the extent possible” and “on request”, while this information should be broadly available.

The Bank should impose more detailed transparency obligations on its business partners. Borrowers should be required to disclose environmental and social information, which is an internationally recognised standard which the Bank refers to in its Policy. In technical terms, the Bank should ensure collection of such data in a single recording system which will be made available to public, and through the bank’s website. Public disclosure requirements should be made part of binding language in all contracts, partnership agreements and legally binding documents between the EIB and others, and a commitment to include such language should be set out in the Transparency Policy.

Article 5.13, which the amendments do not propose to change, effectively excludes information exchanged between financial intermediaries and their customers from the scope of the policy, while committing the EIB to encourage intermediaries to be open about their relationships with EIB. The EIB could use its influence and position to promote openness by intermediaries; indeed, this is precisely the sort of crucial issue in relation to which the policy review could and should deliver improvements. Various possibilities exist here. The EIB should treat any information that it holds under its own policy, subject to the exceptions, and it should even make sure, via its contracting and other procedures, that it will hold key information about the work of intermediaries. It could also make a commitment to openness, perhaps subject to national laws in the countries in which intermediaries work, a condition of doing business with and one of the criteria of selection for intermediaries.

To improve the situation, the EIB should require from financial intermediaries to report back on the loans made to them in a standardised electronic format that contains all relevant information (final beneficiaries, loan size, loan purpose, impacts (e.g. energy savings, GHG emissions, etc.)) and that should be made available as open data (in .csv format or similar) by the EIB. Article 4.8 should be phrased in the following way: 4.8 Intermediated loans are published on the Project List on the Bank’s website. In addition, and to the extent possible, the Bank releases, on request through its website, aggregate in a standardized format, data on intermediated loan financing, including country and sector breakdowns, loan size, purpose and impacts.

3. Towards an improved access to information
Being the bank’s most important tool for open access to information, the bank’s website has many deficiencies that impair the right to access to information. Therefore we provide a set of comments and proposals for improvements to this essential element for active dissemination of information.

**Project database**

The analysis and interpretation of complex public spending data often remains a prerogative of the institutions that administer public money, like the European Investment Bank. The institutions’ interpretation of the data will naturally not always reflect all viewpoints and most likely not those from critical civil society organisations or from journalists. In order to allow for independent scrutiny, more and more governments and public institutions therefore publish the information as open datasets that can be examined with the help of programmes rather than manually – ultimately to increase public access to and oversight over public spending.

While the EIB’s project database allows exporting datasets in .xls format, these contain very limited data, without offering the ability to examine loan components, a breakdown of lending by sub-sectors, the names of all loan beneficiaries, total project costs, etc. More detailed datasets for individual industry sectors are available on request, but a waiting time of up to one month until delivery can make timely examinations very difficult.

With every bit of information that is not available in a dataset and can only be obtained via time-intensive research (e.g. finding a loan beneficiary only in the environmental impact assessment report), an independent assessment of the EIB’s lending is made more difficult, resulting in less public oversight and fewer possibilities to independently evaluate and influence decisions on how public money is being spent.

We suggest that the EIB, rather than publishing different pieces of information in different materials, maintains one database that is being updated when changes occur. This database – or the parts that are deemed public information – should be made available for viewing and for download in the project database on the Bank’s website. Article 4.11 should allow for the establishment and maintenance of such database: “After signature, projects summaries are accessible through the list of financed projects and via a regularly updated project database”.

**Projects pages**

**Language issues**

Some pages are available only in French. For example, there is no detailed information in English about the Tunisian project for the construction of a gas pipeline. All project information should be available at least in English language, and information in other official EU or other languages clearly marked on the pages.

Article 4.4 of the Transparency policy should ensure this, and therefore we propose the following wording:

4.4 In order to promote the accessibility of information, the Bank is committed to a language regime that takes into account the public’s needs. EIB’s statutory documents are available in all official EU languages. Other key documents with a particular
importance for the public, such as this Policy itself, are also published in all official EU languages, while some others are available in English, French and German. Project related information is available in at least English. Translation into other languages can be considered depending on the type of the document and the public interest expressed for it.

Unclear presentation of project information
On some occasions, detailed information on projects is not available, and information disclosed is confusing. A more general problem is the fact that financed projects have two summary pages – one when they are still “to be financed” and one when they are “financed”, with often more detailed information collected on the former. Not only does this scattered information require many “clicks”, it is also not clear for the user where to find what kind of information. We therefore suggest collecting all relevant background information on one page, where also all related publications, press releases and other materials are visibly linked. Each project page should at least contain:

- project title,
- amount of funding provided, total project costs,
- type of funding,
- country,
- institution/public authority included (if relevant),
- investor’s name,
- co-financiers names
- contact details of responsible person from the Bank,
- contact person on behalf of the investor and if relevant, public authority/institution,
- project description,
- environmental impacts (with links to relevant studies and reports, including monitoring reports),
- information in the indicators used to measure impact,
- information about complaint possibilities,
- project status (under appraisal/approved/signed) and date of its approval (or scheduled approval in case of projects to be financed).

What should basically be done is instead of having a page with limited information, stating only the title, country, amount and signature date, there should be a full project summary page with all relevant information.

The text of the Transparency policy should clearly identify all the information available for the projects. Namely, in our view, Article 4.7 should be phrased in the following way:

4.7 Project Summaries should include the name of the project, the project promoter or financial intermediary (for intermediated loans), the location of the project, the sector it represents, a project description, its objective(s), its environmental and, if relevant, social aspects, procurement data, proposed EIB finance, the total project cost, and the status of the project, noting whether it is “under appraisal”, “approved” or “signed”, contact details of responsible person from the Bank, contact person on behalf of the investor and if relevant, public authority/institution, information about complaint possibilities, information in the indicators used to measure impact and date of its
approval (or scheduled approval in case of projects to be financed). When applicable, links are provided to Environmental Impact Assessment (EIA) information (ESIAs and/or NTSs), as early as possible in the project cycle.

In addition, the Transparency Policy should enshrine in the EIB practices a requirement being part of the External Lending Mandate of the EIB for the period 2014-2020: the Article 9 stating that “Where possible, project completion reports related to EIB financing operations shall be published excluding confidential information”. Despite this requirement being legally binding only for certain projects financed by the EIB outside of the EU, the implementation of this measure on project completion reports clearly stands as a best practice for the EIB. Therefore it should be streamlined to all EIB projects and referred in the Transparency Policy.

Complaint cases page

The complaint cases page accessible through the Accountability tab on the Bank’s website does not contain all complaint cases. It currently lists 6 cases. The Complaint Mechanism Annual report for the period 2009-2012 lists a total of 122 cases submitted within that same period.

It is more than obvious that this page needs regular updating and filling with past and present cases which have been reflected in the annual report of the complaint mechanism in order to ensure transparency of the work of this mechanism. The Transparency policy should also ensure this by including an article under the chapter on Provisions for Appeals: “6.6. The EIB will publicly disclose the database of all past and present complaints through the complaints cases web page”.

Public register for documents

Documents in the public register

According to the Regulation (EC) No 1367/2006 the Public Register should list all documents in possession of the Bank, even though the Bank might not make them public by default. Still, they need to be listed in the register in order to allow for their disclosure by request.

According to the same Regulation, apart from environmental impact assessment studies, data derived from monitoring activities, especially those impacting environment should be also published through the public register of documents. However, the Bank’s website, apart from non-technical summaries, environmental data sheets and environmental impact assessment studies, does not publish reports on monitoring relevant to environment or similar data collected through monitoring activities. Therefore, all types of documents specified in the Regulation (EC) No 1367/2006 (including a list of relevant documents in possession of the Bank) should be made available in the Public Register.

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2 [http://www.eib.org/about/accountability/complaints/cases/index.htm](http://www.eib.org/about/accountability/complaints/cases/index.htm)
**EIB decision-making processes**

The Operational Plan of the EIB is prepared every year, for a period of three years. It is usually completed around the end of the year and published online early next one. The plan is solely developed by the Bank’s staff, and consulted with the European Commission, yet the decision of its approval lies in the hands of the Board of Directors of this public institution.

When asked whether it would provide a draft of the operational plan, the Bank’s response was not encouraging and it was basically declining access to it, referring to it as work in progress. So far, the text of the plan has remained behind closed doors and only becomes public once officially approved by the Board after which it is published on the bank’s website. Even though this document falls under the requirement laid down in Article 1 of the Regulation (EC) No 1367/2006 that all plans should be subject to public participation processes, there is currently no such option for this document.

In order to fully comply with the Regulation (EC) No 1367/2016, the Bank needs to adapt the text of the Transparency policy in Article 7.10:

*7.10 The EIB is committed to continue engaging, on a voluntary basis, in formal public consultation on selected Bank’s policies and plans. This participatory process allows external stakeholders and EIB staff to participate in the preparation and review of policy documents and plans, contributing to their quality and credibility.*

**CONCLUSION**

We hope that you find our comments and recommendations useful and constructive for the consultation process and we hope that you take them into consideration. It is in our common interest to ensure that the new policy is practical and fully in line with people’s human right to access information. We look forward to receive your reply on our comments and to get the opportunity to comment on a refined version of the policy.