CSO Comments on the Information Disclosure Policy (BM12, March 2016)

We appreciate that many of the points submitted by CSOs have been addressed in the draft Policy, but a number of issues require further improvement, as outlined below.

Proactive Disclosure:

- While there is a presumption to disclose there is no presumption to pro-actively disclose or disclose upon request
- *Project and programme proposals* should be made available at the time they are submitted to the ITAP for consideration, to allow for public input into the ITAP's assessment.
- The draft Policy does not address disclosure of *sub-project information by Accredited Entities*. Subprojects may not be fully assessed or even identified at the time of Board consideration. Accredited entities should be required to make these assessments publicly available before they make the decision to go forward with individual subprojects.
- *Applications for accreditation* should be made public when filed and candidates that are up for consideration by the Board should be disclosed when other Board documents are released.
- We strongly support the release of *environmental, social and gender assessments* for higher risk category projects and subprojects 120 days before consideration by the Board or accredited entity, to allow for informed public engagement, including for Category A subprojects of programs. For Category C projects, these assessments, which are currently not subject to disclosure, should be disclosed with other project information before Board consideration.

Information for Consultation:

- The draft Policy should recognise the need for *structured and iterative consultations on proposed policies* that implicate the rights and interests of third-party stakeholders. Draft policies should be released sufficiently early to allow for effective public input into those policies before they are finally considered by the Board. Ad hoc release 30 days before the board meeting (Clause 19) is not sufficient. By comparison, policy development at peer institutions often entails multiple rounds of consultation, including regional consultations.

Proactive disclosure and Requests:

- The policy should make a clear commitment to prioritizing proactive over reactive disclosure.
- For information available on request, a commitment should be made to receiving requests in local languages, and the presumptive time limit for processing requests should be reduced from 30 to 20 working days. Reasonable assistance should be provided to requesters, where necessary, and fees should be reasonable minimal and should be waived in the case of hardship.

Exceptions:
The regime of exceptions should be tightened to conform to the principle that they protect legitimate interests against harm, and should be clearer about who will make confidentiality determinations.

- Several clauses refer to almost completely undefined grounds for confidentiality which are likely to be applied unduly broadly, such as "sensitive information" (clause 11(f)(iii)), "may cause prejudice" (clauses 11(i) and (j)), and "has a reason to keep such information confidential" (clause 11(k)). This is the opposite of the approach of identifying an interest to be protected against harm, which the draft Policy claims exceptions are based on.
- Several clauses effectively create third party vetoes, which again fails to respect the idea of protecting interests against harm. These include:
    - Clause 11(b)(ii), which allows contractual obligations to override the Policy. Instead, the GCF should commit to not agreeing to contractual obligations which do not respect the Policy.
    - Clause 11(c), which provides that whenever Board members and related individuals simply 'mark' information as confidential, it will in fact be treated as confidential.
    - Clause 11(e)(i), which allows third parties to identify information as confidential, in which case it will in fact be treated as confidential. There is a call for this not to be applied to whole documents, but no other protections against abuse.
    - Clause 11(e)(ii), which applies to financial, business and proprietary information that is not already public, unless the third party which provided the information consents (as opposed to protecting legitimate financial, business or proprietary interests against harm, which would be legitimate).

There are also serious problems with the public interest overrides set out in clauses 12 and 13 as follows:

- The positive override, in clause 12, is discretionary ("the GCF may decide to provide access") and requires the approval of the Board, the head of the Accountability unit or the Executive Director, as relevant, rather than being mandatory and applying at all stages of the decision-making process relating to requests.
- There is a negative override, in clause 13, which is simply unnecessary if the regime of exceptions is well designed to protect all legitimate confidentiality interests.

Appeals:
The draft Policy fails to provide for an independent appeal, contrary to better practice at other international financial institutions.

Webcasting Board Meetings:

- Not allowing Board members to have support via webcasting during meetings perpetuates inequities in participation: some Board members have six or more advisors in attendance while others have none. If the GCF is truly committed to transparency and accountability in all aspects of its operations in fulfilling its mandate and in strengthening public trust in the GCF it is vital to ensure its meetings are publicly webcast.