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Why is the EIB still hiding one-third of its lending?

The EU's house bank must keep up with its peers on disclosure of financial intermediary investments

Financial intermediary lending – the need for disclosure

Financial intermediaries (FIs) take several forms, including private equity funds, commercial banks and state development banks. These help international financial institutions to reach smaller clients than they could reach by themselves. European Investment Bank (EIB) lending via intermediaries has doubled in the last 15 years, in 2019 accounting for approximately one-third of the Bank's total operations in the EU.[1] In 2020, the EIB Group provided EUR 30.56 billion for SMEs alone[2] – which does not even cover the full range of intermediary lending. Yet the public has little idea what happens to this money.

Small and medium enterprises: Not that small after all

Through intermediaries, the EIB provides financing to:

- micro-enterprises (0-9 employees)
- small enterprises (10-49 employees)
- medium-sized enterprises (50-249 employees)
- mid-caps (250-3,000 employees)[3]

This means it can finance companies with up to 3,000 employees without revealing which companies have benefits. But even companies much smaller than this can cause serious environmental and social damage.

Cases of serious damage by financial intermediary lending include small hydropower projects in southeast Europe. The EIB has financed more than 25 such plants through financial intermediaries since 2010, though the exact number remains unknown. Ilovac in Croatia is an example of a plant built in a Natura 2000 area without an adequate

[1] European Investment Bank, Statistical report 2019, 64.
[2] European Investment Bank, SMEs and Mid-Caps, last accessed 23 February 2021.
[3] European Investment Bank, SMEs and Mid-Caps.

environmental assessment, but civil society groups became aware of the EIB's role only after it was built. The situation is similar for the Blagoevgradska Bistrica cascade in Bulgaria, which received a loan from the EIB in 2012; the EIB disclosed this information only in March 2020.

Perhaps surprisingly, the Vinča waste incinerator project in Belgrade, Serbia is also an intermediary project. In October 2019 the EIB confirmed that it had decided not to go ahead with direct financing for the municipal waste incinerator, after its own due diligence confirmed that the project would likely interfere with Serbia's ability to meet EU circular economy targets for recycling. The EIB's decision was welcomed by civil society organisations, but it turned out that the EIB-financed Marguerite II Fund has remained a shareholder in the project company despite the EIB pulling out. Again, this information became known to the public too late to present concerns to the Fund before its commitment was made.

Some private equity funds do disclose their investments. But for lending through commercial or state development banks, international financial institutions have argued for years that disclosure of such loans would be disproportionately burdensome, or that it would be impossible due to commercial confidentiality requirements. Yet, slowly, the tide is turning. International financial institutions are starting to realise the risks posed by financial intermediary investments, and the EIB is falling behind its peers.

The EIB's current approach

The EIB's current Transparency Policy only commits to publishing aggregated information on intermediated lending: *'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, aggregate data on intermediated loan financing, including country and sector breakdowns.'*

Section 5.13 further specifies that financial intermediary investments are an exception to the presumption of disclosure by the EIB:

> *Exceptions also cover information on individual allocations made by local banks to support investment by their own customers under credit lines established with the EIB. This information falls within the competence of the intermediary bank as part of the normal business relationship between the respective bank and its customers. However, the EIB encourages the intermediary bank to make information covering its relationship with the EIB available.*

In reality, the latter just means that the intermediaries disclose that they are recipients of EIB financing. But the EIB's Environmental and Social Handbook 2013 appears to go further, requiring intermediaries to disclose at least environmental information: *'For mid-cap and global loans and for funds the EIB normally delegates the verification of any NTS and ESIS and other environmental and social documents to the intermediary or fund manager and does not publish such documents on its own website* ***but requires the intermediary or fund manager to do so****'* (our emphasis).

However, CEE Bankwatch Network research on commercial and state intermediaries in southeast Europe has not found a single instance of this happening in reality. In January 2019, Bankwatch lodged a formal complaint to the EIB's Complaint Mechanism regarding the Bank's failure to disclose information on financial intermediary investments on request and on the Bank's failure to contractually require financial intermediaries to disclose environmental information about sub-projects on their websites.

The Complaint Mechanism did not properly understand the latter point, but on the former, it found that: '*When the public requests to know the names of the projects supported by the EU bank, the EIB should ensure*

that this information is disclosed, irrespective of whether an intermediary is involved, provided that (i) the Bank holds the requested information and (ii) none of the exceptions set out in the TP applies to the disclosure of the requested information.' This eventually led to the disclosure of the clients and loan amounts for some, but far from all, of the EIB's intermediated hydropower investments in southeast Europe.

Given that the Handbook's provisions aimed at ensuring that intermediaries disclose information are still not functioning in reality, the EIB needs to take direct responsibility for information disclosure.

The EIB's draft amended Transparency Policy

The EIB's amended Transparency Policy brings no improvements compared to the current situation on disclosure of financial intermediary sub-projects. It proposes to delete section 5.13, with a note that: *'Following a suggestion from the European Ombudsman, the reference to information on individual allocations made by intermediary banks would be removed. The disclosure upon request of information/documents held by the EIB in relation to intermediated lending would now be assessed on a case-by-case basis according to the provisions of this Policy.'*

This is in line with the current practice applied following the findings of the Complaint Mechanism, but in no way addresses the need to proactively disclose information so that concerns about financial intermediary subprojects can be brought forward before environmental or social damage is done.

Interestingly, recognising the ongoing controversy around hydropower, in 2019, the EIB's Hydropower Guidelines made a step forward, stating that: *'Where the EIB is providing financing to an FI, the FI will disclose the list of hydropower projects it is financing on its website.'* Yet the new draft policy makes no reference to any mechanism by which the EIB will either proactively disclose financial intermediary projects itself, nor by which it will ensure that intermediaries do so.

High time for the EIB to open up on intermediated lending

With its 'case-by-case, on request' approach, the proposed draft leaves the EIB far behind its peers. The International Finance Corporation (IFC) and European Bank for Reconstruction and Development (EBRD) have both committed to improve disclosure for financial intermediary loans in higher-risk sectors, while the Asian Infrastructure Investment Bank (AIIB) is currently considering doing so. The definition of higher-risk sectors varies by bank, but the EBRD's definition includes all Category A projects – those which are always subject to Environmental and Social Impact Assessment – plus a list of project types which might not always be subject to a full environmental assessment procedure, but are nevertheless high-risk, i.e. activities that:

- result in involuntary resettlement
- occur within or have the potential to adversely affect an area that is legally protected, and/or is internationally recognised, or proposed for such status by national governments; critical habitats; other ecosystems which support priority biodiversity features; sites of scientific interest; habitats of rare/endangered species; fisheries of economic importance; or primary/old growth forests of ecological significance
- include the intensive rearing of livestock
- are located within, adjacent to, or upstream of land occupied by indigenous peoples and/or vulnerable groups including lands and watercourses used for subsistence activities such as livestock grazing, hunting, or fishing

- may adversely affect sites of cultural or archaeological significance
- could result in the release of GMOs into the natural environment
- include any micro-, small- or medium-sized HPP that does not trigger Category A requirements

This categorisation may be considered equivalent to the categorisation of activities which are likely to have significant effects on the environment applied by the EIB on the basis of the EIA Directive 2011/92/EU.

In July 2020, in its annual report on the financial activities of the EIB, the European Parliament urged the Bank to ensure the highest level of integrity of its financial intermediaries, to guarantee that their loans are subject to the same transparency requirements as other types of loans, and to cease working with financial intermediaries with a negative track record on transparency.

Against this background, as well as its aspirations to become the EU development bank, it is imperative that the EIB finally tackles the issue of financial intermediary disclosure, starting at least with medium- and high-risk projects.

Comparison of IFI disclosure standards on private equity and bank intermediary lending

Transparency of private equity investments	Proactive disclosure of some sub-projects by some funds, after signing.	Proactive disclosure of all sub-projects by all funds, after signing.	Proactive disclosure of some sub-projects by IFI, after signing.	Proactive disclosure of all sub-projects by IFI, after signing.	Proactive disclosure of some sub-projects by IFI and funds, before signing.	Proactive disclosure of all sub-projects by funds and IFI, before signing.
EIB	✓[4]					
EBRD	✓					
IFC		✓		✓		
GCF					✓	
AIIB draft		✓		✓		

[4] The EIB's current Transparency Policy does not distinguish between equity funds and other intermediaries, so this assessment is based on our own experience.

Transparency of intermediary loans	Some sub-projects disclosed on request, after signing, subject to unclear exceptions.	High- to medium-risk / EIA Directive Annex I and II sub-projects disclosed proactively, after loan contracts are signed, subject to defined exceptions.	All sub-projects disclosed proactively or on request, after loan contracts are signed.	High- to medium-risk / Annex I and II sub-projects, including environmental information, proactively disclosed before loan contract signed on the IFI website and/or locally by the FI, subject to defined exceptions.	High- to medium-risk / Annex I and II sub-projects, including environmental information, proactively disclosed before loan contract signed by both the IFI and the FI in a culturally appropriate manner (web + local notices).
EIB	✓				
EBRD		✓		?5	
IFC		✓			
GCF					✓
AIIB draft		✓			

Recommendations for the EIB

The EIB needs to commit to proactively disclose the following information on financial intermediaries' projects, starting with projects appearing in Annex I and II of the EIA Directive:

- the name of the final beneficiary,
- the amount received,
- the type of project and
- related environmental information.

All private equity sub-projects need to be disclosed, as there is no client confidentiality barrier.

Disclosure on intermediated projects should preferably happen *before* the sub-project is signed, in order to allow any concerns to be raised at a stage when issues can still be resolved. It is important for the EIB to disclose this information itself, and not only to require the intermediary to do so, because of the need to be transparent and accountable for the use of European public money. Requiring intermediaries to disclose information is important, but the information will be very scattered and in different languages.

The EIB needs to clearly state in its Transparency Policy what it will require of its clients in terms of disclosure. The forthcoming Financial Intermediary Standard, and the rest of the Environmental and Social Standards, should provide more details on what should be disclosed in terms of environmental documentation and at what stage of the process, but the Transparency Policy should state the minimum disclosure obligations.

[5] The timeline for disclosure is not clear in the EBRD's policy so it may not take place before the signing of sub-projects.

Annex I - IFI policies for comparison

International Finance Corporation (IFC)

The IFC already discloses all sub-projects funded via private equity funds on its website and has done so since 2012.

In its 2012 Performance Standards, the Bank committed to '*periodically disclose a listing of the names, locations and sectors of high-risk sub-projects that have been supported by IFC investments through private equity funds, subject to regulatory constraints and market sensitivities.*'

In 2015, in response to pressure from civil society, the IFC started to disclose all sub-projects supported via its private equity fund clients, stating: '*with input from CSOs and other stakeholders, we have improved transparency by now disclosing all private equity fund sub-projects.*'[6]

In 2017, the Bank applied this new rule retrospectively to all private equity fund clients since 2012: '*We publish the name, sector and location of every investment of our funds' portfolio companies. In 2017, IFC fulfilled 100 percent of this requirement for the 63 fund investments initiated since 2012, and published information on more than 387 funds' portfolio companies.*'[7]

Regarding bank intermediaries, in a letter from Bank President David Malpass in March 2020, the IFC committed to further disclosure of its financial intermediary portfolio.[8]

High-risk and selected medium-risk IFC financial intermediary clients must now annually '*report the name, location by city, and sector for sub projects funded by the proceeds from IFC's [investments].*'

European Bank for Reconstruction and Development (EBRD)

In 2019, the EBRD took steps to improve disclosure in FI lending.[9] PR 9 of the Bank's Environmental and Social Policy states that:

> *PR 9.16: The FI will put in place a system for dealing with external communication on environmental and social matters. The FI will respond to such enquiries and concerns in a timely manner.*
>
> *FIs are also encouraged to publish their corporate environmental and social policy or a summary of their ESMS on their website, if available. FIs will list on their website the link to any publicly available environmental and social impact assessment (ESIA) reports for Category A sub-projects which they finance.* ***FIs will also publicly disclose information on the environmental and social risks of any sub-project referred to EBRD in accordance with paragraph 15 of this PR and the proposed mitigation measures to address such risks, subject to applicable regulatory constraints, market sensitivities or consent of the sponsor of the sub-project.***

[6] International Finance Corporation, IFC's Work with Financial Intermediaries, April 2015.
[7] International Finance Corporation, Sustainable Practices for Private Equity Funds Business, 1 December 2017.
[8] Letter from the World Bank President to the US Treasury, 20 March 2020.
[9] European Bank for Reconstruction and Development, Environmental and Social Policy 2019.

Also, in the Bank's Access to Information Directive, it states that:

> *1.4.7. For Category A Projects and Category B Projects associated with significant environmental and social risks and impacts, the environmental and social sections of the PSD (Project Summary Document) will be reviewed annually and updated as appropriate.* ***For financial intermediary (Category FI) Projects, the environmental and social sections of the PSD will be reviewed and updated as appropriate, including by way of hyperlinks to the information disclosed by financial intermediary on its website on sub-projects referred to the EBRD in accordance with the ESP.***

The Green Climate Fund (GCF)

The GCF carries out all of its lending through intermediaries (or as the GCF calls them, 'Accredited Entities'), which can be private or public, non-governmental, sub-national, national, regional or international, as long as they meet the standards of the Fund. They represent a wider range of intermediaries than the EIB's, but they can also include the types of intermediaries channelling the EIB's funds.

In its 2016 Information Disclosure Policy,[10] the GCF committed to time-bound disclosure of crucial project information – such as environmental and social impact assessments – ahead of approval. The degree and timing of disclosure depends on the risk profile of the investment, with more and earlier disclosure for the highest risk investments (Category A):

> *Environmental and social reports. With respect to project and programme funding proposals that have an environmental or social impact, the Accredited Entities (AE's) shall disclose and announce to the public and, via the Secretariat, to the Board and Active Observers:*
>
> *(a) in case of Category A projects, the Environmental and Social Impacts Assessment (ESIA) and an Environmental and Social Management Plan (ESMP) at least 120 days in advance of the AE's or GCF's Board decision, whichever is earlier;*
>
> *(b) in the case of Category I-1 programmes, the Environmental and Social Management System (ESMS)2 at least 120 days in advance of the AE's or GCF's Board decision, whichever is earlier;*
>
> *(c) in the case of Category B projects, the ESIA3 and an Environmental and Social Management Plan (ESMP)4 at least 30 days in advance of the AE's or GCF's Board decision, whichever is earlier; and*
>
> *(d) in the case of Category I-2 programmes, the ESMS at least 30 days in advance of the AE's or GCF's Board decision, whichever is earlier.*

Importantly, the GCF commits to disclose the information on its own website and requires its intermediaries to do the same, ensuring it is available both in English and the local language, as well as requiring disclosure in locations convenient to affected communities, who may not have internet access:

> *The reports will be available in both English and the local language (if not English). The reports will be available via electronic links in both the AE's and the GCF's website (in the case of the GCF website, upon submission of a funding proposal to the Board) as well as in locations convenient to*

[10] Green Climate Fund, Information Disclosure Policy of the Green Climate Fund, 2016.

affected peoples. Funding proposals relating to projects and programmes that do not have any significant environmental or social impact (i.e. Category C project or Category I-3) shall not require any additional advance information disclosure.

The Asian Infrastructure Investment Bank

The AIIB is currently undergoing a review of its Environmental and Social Framework, to be finalised this year.[11] The China-led multilateral has reviewed its requirements applying to FI investments and is proposing in its new draft ESF to improve disclosure.

In the case of private equity funds, the AIIB plans to require the disclosure of '*the name, location and sector of the Client's portfolio companies supported by the Bank's financing within 12 months following financial closure of the investment.*'

For higher-risk FI investments (the AIIB, like EBRD, has a referral list of projects it considers higher-risk), the AIIB requires the disclosure of '*annual environmental and social documentation for Higher Risk Activities funded during the preceding 12 months, unless such disclosure is subject to regulatory constraints, market sensitivities or consent of the sponsor, in which case, disclose reasons for non-disclosure*.'

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[11] Asian Infrastructure Investment Bank, Review Draft, Environmental and Social Framework, 7 September 2020.