



European Investment Bank

**Policy on preventing and deterring
Corruption, Fraud, Collusion, Coercion, Money
Laundering and the Financing of Terrorism in
European Investment Bank activities**

POLICY ON PREVENTING AND DETERRING CORRUPTION, FRAUD, COLLUSION, COERCION, MONEY LAUNDERING AND THE FINANCING OF TERRORISM IN EUROPEAN INVESTMENT BANK ACTIVITIES

- **EIB will not tolerate prohibited practices, money laundering or terrorist financing in its activities or operations.**
- **Allegations may be reported by telephone (to +352 4379 84238), by fax (to +352 4379 64299) or by e-mail to investigations@eib.org. Alternatively, allegations can be reported directly to the European Anti-Fraud Office (OLAF).**

I. PREAMBLE

1. This document sets forth the policy of the European Investment Bank (EIB or the Bank) in preventing and deterring corruption, fraud, collusion, coercion (collectively “prohibited practices”), money laundering and terrorist financing in EIB activities. It replaces the earlier document entitled “EIB Guidelines on Fighting Fraud and Corruption” and reflects comments from stakeholders during the 2007 public consultation process.
2. Created by the Treaty of Rome, the EIB is the financing body of the European Union. As such, the Bank operates in accordance with the Community legal framework and is bound by the EIB Statute, Article 20 of which states that:

In its loans and guarantee operations, the Bank shall ... ensure that its funds are employed as rationally as possible in the interests of the Community.
3. The EIB is committed to ensuring that its loans are used for the purposes intended and its operations are free from prohibited practices, money laundering and terrorist financing.
4. Furthermore, the Bank will work to prevent and deter prohibited practices, money laundering and terrorist financing from occurring and, where they do occur, will address them in a timely and expeditious manner.
5. In this regard and in seeking to align its policies and procedures with international practice, the Bank is cognisant of the principles enshrined in: (i) the United Nations’ Convention Against Corruption; (ii) the Organisation for Economic Co-operation and Development’s anti-bribery convention; (iii) the Financial Action

Task Force's 40 + 9 Recommendations; and (iv) the International Financial Institution's (IFIs) Anti-Corruption Task Force's Uniform Framework.¹

II. BASIC PRINCIPLES

6. EIB members of staff and EIB's business partners shall maintain the highest level of integrity and efficiency in all EIB activities and operations. EIB will not tolerate prohibited practices, money laundering or terrorist financing in its activities or operations.
7. (i) Any prohibited practices, money laundering or terrorist financing that occur are to be reported promptly and investigated thoroughly and fairly; wrongdoers are to be sanctioned; and appropriate legal steps are to be taken to recover misapplied funds.
(ii) The Bank's Inspectorate General (working in close partnership with the European Anti-Fraud Office, OLAF) will investigate credible allegations of prohibited practices.

III. SCOPE OF THE POLICY

8. This Policy applies to all EIB activities, including EIB-financed projects implemented on behalf of other bodies within or outside the EU. It applies to the following persons and entities:
 - a. The EIB Board of Directors, the Management Committee, members of staff and consultants, without regard to their position, rank, or length of service;
 - b. All borrowers, promoters, contractors, suppliers, beneficiaries and any other person or entity involved in EIB-financed activities, according to the terms of the applicable EIB finance contracts; and
 - c. All counterparties and others through which the EIB deals in its borrowing or treasury activities.

IV. DEFINITIONS

9. In pursuance of this policy, the Bank defines prohibited practices as follows:²
 - a. A corrupt practice, which is the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party.
 - b. A fraudulent practice, which is any act or omission, including a misrepresentation that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation.³

¹ www.eib.org/publications_unlisted/ifi-anti-corruption-task-force-uniform-framework.htm

² The definitions of a. to d. are taken from the "Uniform Framework for Preventing and Combating Fraud and Corruption," agreed in September 2006 by the leaders of seven major International Financial Institutions, including the EIB - see footnote 1.

³ This could include tax fraud.

- c. A coercive practice, which is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party.
- d. A collusive practice, which is an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party.

In addition:

- e. Money laundering⁴ is
 - (i) the conversion or transfer of property, knowing that such property is derived from criminal activity or from an act of participation in such activity, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of such activity to evade the legal consequences of his action;
 - (ii) the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, knowing that such property is derived from criminal activity or from an act of participation in such activity;
 - (iii) the acquisition, possession or use of property, knowing, at the time of receipt, that such property was derived from criminal activity or from an act of participation in such activity;
 - (iv) participation in, association to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the actions mentioned in the foregoing points.
- f. Financing of terrorism is the provision or collection of funds, by any means, directly or indirectly, with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out any of the offences within the meaning of Articles 1 to 4 of the Council Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism⁵.

⁴ The definitions e. and f. are taken from EC Directive 2005/60 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing and proposed by the OECD's Financial Action Task Force (FATF).

Other EC legislation relating to aspects of fraud and other illegal acts include, among others:

- . EC Directives 2004/17 and 2004/18 on public procurement;
- . EC Directive 2003/6 on insider dealing and market manipulation; and
- . Reg. n° 881/2002 last amended CE 1685/2006 on black listing with common position of the Council EU 2006/380/PESC of 29 May 2006

⁵ OJ L 164, 22.6.2002, p. 3.

These include attacks upon a person's life which may cause death, kidnapping, causing extensive destruction to a Government or public facility, seizure of aircraft, ships or other means of transport, manufacture, possession, acquisition, transport, supply or use of nuclear, biological or chemical weapons, release of dangerous substances or causing fires, floods or explosions to endanger human life, interfering with or disrupting the water supply (Art 1), offences relating to a terrorist group (Art 2), aggravated theft, extortion or falsifying documents (Art 3) and inciting, aiding, abetting and attempting offences in Arts 1-3 (Art 4).

V. MEASURES TO COMBAT PROHIBITED PRACTICES, MONEY LAUNDERING AND TERRORIST FINANCING

(A) Generally

10. The Statute of the EIB provides that the Bank shall ensure that its funds are used as rationally as possible in the interest of the Community, and, accordingly, the terms and conditions of the Bank's loan operations must be consistent with relevant Community policies.
11. The EIB's Guide to Procurement contains a number of measures to ensure transparency and integrity in procurement (see below, paras 14 and 16).
12. EIB also undertakes (a) detailed appraisal work of all potential investment loans, identifying possible issues during the loan approval process; and (b) monitoring of project implementation.
13. **Integrity Due Diligence:** As part of the approval process, OCCO's opinion must be given for each EIB lending operation inside or outside the EU, prior to its approval, if:
 - (i) any key party of such operation is located in a "monitored jurisdiction"⁶;
 - (ii) if there is any suspicion of money laundering or financing of terrorism; or
 - (iii) if any other event or situation requires an integrity check.

NOTE 1: The EIB is committed to strengthening the effectiveness of the Integrity Due Diligence systems applicable to its projects and borrowers/promoters. To achieve this, EIB will explore the possibility of applying an enhanced and systematic Integrity Due Diligence covering all its projects, borrowers and promoters. Once this system will be established, this Policy will be updated accordingly.

(B) EU Lending Operations

14. (i) European Union countries to which EIB lends have in place legislation to ensure transparency and integrity in the procurement process as well as measures satisfactory to the Bank concerning money laundering and terrorist financing.
 - (ii) With specific reference to procurement and remedies, there are EC directives 2004/17, 2004/18 and 89/665 and 92/13. Consequently, the Bank's intervention is to assess whether the promoter is subject to these EC Directives and, to the extent necessary, to verify compliance with applicable EU legislation in order to ensure rational use of the Bank's funds in the interest of the Community.⁷
 - (iii) The finance contracts provide that EU borrowers are obliged to comply with the EC procurement directives in so far as they apply to the project.
 - iv) For promoters (most frequently private) operating in sectors where the above-mentioned directives do not apply, the Bank requires that the criteria of economy and efficiency are applied consistently by recourse to commercial practices ensuring an appropriate selection of works, supplies or services offered at

⁶ All such jurisdictions that are blacklisted or judged to be weakly-regulated by the IMF, FSF, FATF or OECD

⁷ See Section 2.1. of the EIB's Guide to Procurement

competitive prices and in a timely manner. Contracts awarded by promoters must be negotiated impartially and accord with the project's best interests.⁸

(C) Non-EU Lending Operations

15. (i) Outside the European Union where the EC public procurement directives do not apply, the Bank nevertheless requires that the main mechanism of these directives be followed, with the necessary procedural adaptations.⁹

(ii) Consequently, the EIB has implemented a number of significant measures to ensure that equivalent standards of protection and measures to combat prohibited practices, money laundering and terrorist financing exist as within the EU. These are described below.

(a) EIB's Guide to Procurement

16. The Guide to Procurement includes, as a general rule for contracts outside the EU, a requirement that the tenderer/contractor execute a "Covenant of Integrity" to the promoter¹⁰, in which the tenderer/contractor declares not to have been engaged in or will engage in any prohibited practice and includes undertakings obliging the contractor to:

- a. Appoint a person responsible for implementing the Covenant;
- b. Disclose any practice contrary to the Covenant;
- c. Disclose any person employed on the project with a history of malpractice;
- d. Allow the major stakeholders, including the Bank, access to inspect their records; and
- e. Keep records for a period of at least 6 years from the date of substantial performance of the contract.

Also, the Bank requires a promoter to obtain the Bank's no-objection on major procurement decisions, giving the Bank control over the procurement process during project execution.¹¹

(b) Finance Contracts

17. Finance Contracts for projects outside the EU contain several provisions to

- a. combat corrupt, fraudulent, collusive or coercive practices; and
- b. prevent money laundering and the financing of terrorism.

18. With regard to 17.a. above, EIB's finance contracts provide for the borrower/promoter with the obligation to:

- i. Provide an Integrity Commitment and warrant that neither it (nor any other person of which it is aware) has committed nor will commit any prohibited practices in connection with the tendering procedure or in the execution of the contract;
- ii. At the Bank's request to investigate or terminate alleged or suspected prohibited practices and keep the Bank informed;

⁸ See Section 2.2 of the EIB's Guide to Procurement

⁹ See Section 3 of the EIB's Guide to Procurement

¹⁰ See Annex 3 to the Guide to Procurement

¹¹ The Guide also requires that the promoter inform the Bank immediately of any written complaint during the tender preparation period.

- iii. Inform the Bank on any complaint received and steps taken;
- iv. To facilitate investigations by the Bank and by other competent European Community institutions or bodies;
- v. To keep records for at least 6 years from substantial performance of the contract; and
- vi. Provide the Bank with true copies of contracts financed under the loan and evidence of expenditures relating to disbursements.

NOTE 2: The standard terms used in the Bank's contracts relating to the fight against fraud and corruption will be published in the coming months.

19. With regard to 17.b. above, EIB's finance contracts also provide for the borrower to:

- i. Warrant that it applies the FATF Recommendations or, where applicable, that it complies with the relevant EC Directives, including that no part of its share capital is of illicit origin, with special attention to FATF¹²-listed countries and inform the Bank if it becomes aware of an illicit origin; and
- ii. Inform the Bank of any alteration of its legal status and any transaction involving a change in ownership of 10 % or more.

(D) Sanctions Available to the Bank

20. (i) When the clauses mentioned in paragraphs 14 (iii), 18 or 19 are breached, the Bank has the right to cancel or suspend the credit.

(ii) The Bank will also take appropriate legal steps to recover misapplied funds.

21. (i) In addition, if it is established that a contractor, supplier, consultant or their representative or the promoter has engaged in a prohibited practice, money laundering or terrorist financing in the course of a procurement process, the Bank:

- a. Will decline the promoter's preferred choice; and/or
- b. Will cancel all or part of the loan unless the prohibited practice has been dealt with to the satisfaction of the Bank.¹³

(ii) Furthermore, pursuant to art. 45.1 of EC Directive 2004/18 and art. 54.4 of Directive 2004/17, any candidate or tenderer who has been convicted by a final judgment for participation in a criminal organization, corruption, fraud, or money laundering of which the promoter is aware (terrorist financing was subsequently added to this list¹⁴), shall be excluded from participation in a Bank-financed contract for a reasonable period depending on the severity of the offence.

NOTE 3: The EIB is committed to put into place a working debarment system. To achieve this, EIB will work with the European Commission to explore the possibility of applying to the EIB an enhanced system of exclusion taking into account the new provisions in force within the EU Institutional framework and ensuring EIB has access to the Commission's database of excluded entities. EIB's Anti-Fraud Policy will be updated in due course to include this mechanism and the Annual Report of Investigations will include updates on progress.

¹² Also known by its French acronym, GAFI.

¹³ See para 3.5 of the EIB's Guide to Procurement.

¹⁴ See Directives 2005/60 and 2006/70

(E) Measures for EIB's Treasury and Borrowing Operations

22. EIB has implemented measures, including the following examples, to prevent and deter prohibited practices in its treasury and borrowing operations:
- a. Treasury operations are carried out in accordance with the principles set out in the International Code ('The Model Code') set up by the ACI-Financial Markets Association;
 - b. Borrowing and Treasury operations are only carried out with reputable counterparties using strict compliance measures. Those counterparties, e.g. lead managers, are duly approved and authorised by Senior Management and continuously monitored by the Risk Management Directorate and reviewed whenever necessary by the Compliance Office;
 - c. The operations (including pricing-related matters) are documented, telephone conversations are recorded, the volume of transactions with each counterparty is closely monitored and regularly audited both internally, within the Internal Control Framework (ICF), and externally;
 - d. For Portfolio Investments, which are subject to performance measures, all prices obtained from counterparties consulted in the context of a transaction are recorded and kept for reference purposes;
 - e. In the context of repurchases of EIB debt from the market, prices are set in line with an internal transfer price and EIB only operates on the basis of reverse-inquiries and does not actively source existing debt positions to repurchase them; and
 - f. EIB ensures a strict segregation of tasks between front and back offices and independent verification of pricing conditions by the Risk Management Directorate.

(F) Measures applicable to EIB Members of Staff

23. The Office of the Chief Compliance Officer (OCCO) at the EIB is responsible, inter alia, for the administration of the Staff Code of Conduct¹⁵ and the Integrity Policy and the Compliance Charter¹⁶.
24. **Staff Code of Conduct:** All members of staff must comply with the rules of behaviour and ethical standards set forth in the Staff Code of Conduct¹⁷ including those related to prohibited practices, money laundering and terrorist financing. Failure to comply will subject the member of staff to potential disciplinary and legal action.
25. **The Integrity Policy and Compliance Charter:** This requires members of staff to comply with all applicable EIB rules and regulations, including the observance of applicable national laws and regulations.

¹⁵ http://www.eib.org/Attachments/thematic/code_conduct_staff_en.pdf

¹⁶ http://www.eib.org/Attachments/general/occo_charter_en.pdf

¹⁷ The provisions of the EIB Staff Code of Conduct apply by extension to contractors and consultants, according to the terms of their contracts.

VI. OBLIGATIONS TO REPORT SUSPECTED PROHIBITED PRACTICES, MONEY LAUNDERING OR TERRORIST FINANCING

Reporting Obligations of EIB Members of Staff

26. Under this policy and the Staff Code of Conduct, EIB staff members are obliged to report any suspicion or allegation of prohibited practices, money laundering or terrorist financing that involve EIB activities, operations, members of staff or business partners immediately after becoming aware of the matter.

Reporting Obligations of Borrowers and Promoters

27. As noted above, to ensure equivalent protection applies outside the EU as within, under the terms of EIB finance contracts outside the EU and subject to the limitations therein:
- a. A borrower must inform the Bank of any fact or information suggestive of a prohibited practice, money laundering or terrorist financing;
 - b. A promoter must immediately inform the Bank of any written complaint that it receives from a tenderer during the tender preparation period; and
 - c. Under the Covenant of Integrity, tenderers, contractors, suppliers and consultants must report to the promoter any prohibited practice that comes to the attention of any person in their organization having responsibility for ensuring compliance with the Covenant.

Reporting Procedures

28. All allegations by EIB staff members, EIB's business partners, or members of the public (including civil society) of suspected prohibited practices, money laundering or terrorist financing should under this policy be made to 'Investigations Contact Point' at the EIB by letter to the address below¹⁸, email (to investigations@eib.org), by telephone (+352 4379 8 4238) or by fax (+352 4379 6 4299).¹⁹
29. On receipt of an allegation, the Investigations Contact Point will acknowledge receipt of the allegation and will pass the allegation to the appropriate department of the Bank. Allegations of prohibited practices are handled by the Inspector General's Department; these investigations are always conducted in cooperation with OLAF. Complaints relating to AML/CTF are handled by the Office of the Chief Compliance Officer. The Inspector General's Department and

¹⁸ Investigations, European Investment Bank, 100 Bd. Konrad Adenauer, L-2950 Luxembourg

¹⁹ Alternatively, allegations concerning prohibited practices can be reported to the EIB Secretary General or directly to the European Anti-Fraud Office (OLAF). Details of how to contact OLAF can be found at:

http://ec.europa.eu/anti_fraud/contact_us/index_en.html. Business partners may also ask their usual EIB contacts to put them in touch with Investigations in appropriate cases.

the Office of the Chief Compliance Officer maintain close cooperation to ensure the appropriate handling of complaints and allegations.

Protection of Whistleblowers and External Complainants

30. All allegations of prohibited practices, money laundering or terrorist financing will be treated by EIB as strictly confidential, and may be made anonymously.
31. The Staff Code of Conduct provides that the Bank will ensure confidential treatment for members of staff who make *bona fide* reports of suspected misconduct, and that such members of staff will enjoy the assistance and protection of the Bank.²⁰

NOTE 4: The Bank is currently conducting a review of its existing provisions concerning the protection provided to whistleblowers with the aim of establishing an integrated and comprehensive approach to this issue, taking also into consideration the existing framework and experience of the EU Institutions and international best practice. The review will be completed in 2008 and the Anti-Fraud Policy will be updated and republished.

VII. PRINCIPLES FOR THE CONDUCT OF INVESTIGATIONS²¹

Authority to conduct investigations

32. The Inspectorate General (IG/IN), working in close collaboration and full transparency with OLAF, shall be responsible for:
- a. receiving reports of alleged or suspected prohibited practices involving the EIB's operations or members of staff;
 - b. investigating such matters; and
 - c. reporting its findings to senior management, OLAF and the Audit Committee which has an oversight function.

Independence

33. IG/IN shall enjoy complete independence in the exercise of its responsibilities. It shall have full authority to open, pursue and report on any investigation within its remit without prior notice to, the consent of, or interference from any other person or entity.

²⁰ See Staff Code of Conduct, para 1.5.2.

²¹ This section sets out the procedures for investigations of prohibited practices, which are handled by the Inspector General's Department in compliance with and without prejudice to the Board of Governors' Decision on 27 July 2004 concerning EIB's cooperation with OLAF. Allegations concerning AML/CFT issues will be handled by the Office of the Chief Compliance Officer in an analogous way. The principles of independence, professional standards, access to information, confidentiality, and the rights of staff will apply equally in the investigation of AML/CFT cases.

Professional standards

34. All investigations conducted by IG/IN shall be fair and impartial, with due regard to the rights of all persons or entities involved.
35. In particular, investigations conducted by IG/IN will be undertaken in conformity with the EIB's "Procedures for the Conduct of Investigations by the Inspectorate General of the EIB".

Access to information

36. All EIB staff shall cooperate with IG/IN and OLAF promptly, fully, efficiently and in the manner specified by IG/IN, including by answering relevant questions and complying with requests for information and records.
37. In order to conduct an investigation, IG/IN and OLAF shall have full access to all relevant personnel, information, documents and data, including electronic data, within the EIB, in accordance with the applicable procedures.
38. In so far as provided in the applicable EIB financed-contracts, IG/IN and OLAF shall have the right to examine and copy the relevant books and records of project promoters, borrowers, contractors, suppliers and other involved parties.

Confidentiality

39. All information and documents collected during an investigation, including the identities of the subject and witnesses, shall be kept strictly confidential.
40. IG/IN shall disclose such information and documents only in reports to those persons or entities authorized to receive them, according to IG/IN's procedures.

Rights of Staff

41. A staff member who is the subject of an investigation shall be entitled to due process rights, in particular to be notified of that fact as early as possible, unless it is determined that to do so would be harmful to the investigation.
42. In any event, a staff member who is the subject of an investigation shall be given notice of the allegations and evidence against him or her, and the opportunity to respond before any adverse action is taken.

VIII. DISCIPLINARY ACTIONS AND OTHER REMEDIES**Disciplinary actions against members of staff and members of the Bank's governing bodies**

43. The President shall decide the appropriate and proportionate disciplinary actions, in accordance with the provisions of Article 38 of the Staff Regulations, taking into account the severity of the offence and any mitigating circumstances.
44. If a member of the Bank's governing bodies is implicated, the President, or, as appropriate, the Audit Committee, shall inform the competent decision-making body of the Bank.

45. Any decision on waiving immunity in connection with an internal investigation shall be taken in accordance with the Protocol on Privileges and Immunities of the European Communities.²²

Disclosure of Findings

46. IG/IN may refer a matter to the appropriate national authorities for further investigation and/or criminal prosecution. This shall be done in consultation with or with the assistance of OLAF.
47. In the event of an investigation by authorized local law enforcement, legal or tax authorities, the IG/IN may decide to await the results of such an inquiry and request a copy of its findings before taking further action.
48. Respecting the Bank's rules and procedures governing the disclosure of information, IG/IN may provide assistance to and share its findings and/or relevant information with other IFI's investigation functions.
49. IG/IN will write and present to the Board of Directors and the Audit Committee, prior to publication on the Bank website, an Annual Report of Investigations outlining in general terms, its activities in the previous year.

NOTE 5: The Bank will put in place a mechanism to inform the relevant authorities of activities which EIB suspects constitute money laundering or terrorist financing or of transactions related to such activities

IX. Updating the Policy

50. Formal reviews of this policy will take place within maximum periods of 3 years. The EIB maintains a mailbox on its website (infopol@eib.org) to which comments can be sent.
51. The policy will be updated based on:
- a. Changes in EU legislation such as directives, etc.;
 - b. Agreement between the IFIs and international best practice;
 - c. Changes to policies and procedures within the EIB; and
 - d. Any other changes that the EIB judges necessary and appropriate.

²² <http://europa.eu.int/eur-lex/en/accessible/treaties/en/livre508.htm> (see Arts 18, 19 and 22).