



## Strict EIB rules regarding the use of offshore centres

As the European Union's financial institution, the European Investment Bank ensures that beneficiaries of its funding conform to international standards on the use of offshore financial centres (OFCs).

Strict internal rules regarding the use of OFCs have been in place since 2005, when the EIB was one of the first international finance institutions to adopt a policy on such jurisdictions.

As there is currently no European, general or universally accepted definition of an OFC, the EIB has opted to conform to the practice followed in the listings, qualifications and reports regularly issued by international standard-setting organisations and institutions such as the European Union (EU), the United Nations, the International Monetary Fund (IMF), the Organisation for Economic Co-operation and Development (OECD), the Financial Stability Board (FSB), the Financial Action Task Force (FATF) and the Global Forum on Transparency and Exchange of Information for tax purposes<sup>1</sup>.

In addition to its OFC Policy, further appropriate policies and anti-fraud measures in the EIB's business dealings and contracts help to achieve the EIB's commitment to "zero tolerance" of prohibited practices, corruption, fraud, collusion, coercion, money laundering, tax fraud, harmful tax practices and the financing of terrorism. These include, among other things, the Bank's Anti-Fraud (2008) and Whistleblowing (2009) policies, as well as a set of long-standing specific rules for cooperation with the European Anti-Fraud Office (OLAF) in connection with possible cases of fraud, corruption or any other illegal activity detrimental to the financial interests of the European Union.

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### Scope of application of the Bank's OFC Policy

The Bank applies its OFC Policy to all of its lending, borrowing and treasury activities and operations, including guarantees and EIB-financed structures implemented on behalf of or for the account of other bodies within or outside the EU linked to one or more OFCs.

In particular, without limitation, the application of the OFC Policy can be triggered by i) the involvement of a relevant counterparty located in an OFC; ii) the involvement of a relevant counterparty not located in an OFC but owned or controlled by an entity located in an OFC and/or iii) the existence of a fund manager located in an OFC irrespective of the location of the fund financed by the EIB.

Each EIB product (e.g. loans, investment funds, securitisations, treasury transactions, funding operations) is screened in order to identify as "relevant counterparties" all product-specific key counterparties that:

- are potentially exposed to money laundering, financing of terrorism, tax avoidance and harmful tax practices; and/or
- may expose the Bank to reputation risks.

The Bank ensures that the relevant counterparties are monitored on an ongoing basis that is adapted to the evolving operational and market environments in which the Bank operates.

The Bank does not therefore tolerate any activity carried out for illegal purposes, including tax fraud and tax evasion, and will only support projects if there are no indications that such projects are used for illegal activities or harmful tax practices. In particular, the Bank refuses to operate wherever there is a link to a prohibited OFC jurisdiction. A project physically located in a prohibited jurisdiction outside the EU can only be supported if the EIB has received an explicit mandate from the EU to support development projects for the benefit of the local population.

<sup>1</sup> It should be noted that the EIB cannot draw up its own list of non-cooperative jurisdictions but has to rely on the list established by these internationally recognised institutions.



## Developments in 2009

In the light of the conclusions of the April 2009 G20 summit of World Leaders in London regarding OFCs and in particular non-cooperative and non-transparent jurisdictions, the Bank took the initiative to review the established policy in this area. As a result, a new interim revised EIB OFC Policy was approved by the Board of Directors on 14 July 2009 following extensive discussions with the EU Member States, key expert lead organisations, international financial institutions and other concerned stakeholders, including civil society organisations. This new interim revised OFC policy is published on the EIB's website.

### Key aspects of the 2009 OFC Policy

In addition to confirming the existing “zero tolerance” of any activity carried out for illegal purposes, including money laundering, terrorism financing, tax fraud and tax evasion, and discouraging prohibited activities and harmful tax practices, the 2009 OFC Policy:

- confirms the EIB's existing commitment to refuse to operate wherever there is a link to a prohibited (“blacklisted”) OFC jurisdiction, unless a project is physically located in such a jurisdiction and does not show signs of the operation being used for illegal activities or harmful tax practices;
- imposes stricter tax disclosure on all relevant counterparties located in OFCs;
- establishes firm relocation requirements for relevant counterparties and their controlling entities located in OFCs, unless the relevant project is also physically implemented in such jurisdiction;
- in addition to the current ban on counterparties incorporated in blacklisted jurisdictions, for all operations approved on or after 31 March 2010, the Bank will require that also counterparties incorporated in not blacklisted, yet weakly regulated, OFCs transfer their place of incorporation to a jurisdiction that is not an OFC prior to the signing of the relevant contract(s);
- from 31 March 2010, the relevant contracts will also include a relocation clause providing for the counterparty's relocation to a jurisdiction that is not an OFC in the event that its place of incorporation becomes classified as an OFC or equivalent by a Lead Organisation. Such relocation will have to be completed within 12 months from the date of classification of the counterparty's place of incorporation as an OFC;
- in the event of breach of the above relocation requirements, the Bank may have recourse to appropriate measures, including cancellation or suspension of the credit and, where applicable, exclusion from future EIB operations.

## The way forward

The EIB wishes to remain at the forefront of the action against non-cooperative and non-transparent jurisdictions.

Given the ongoing international developments at the political level, the revised OFC Policy issued in 2009 is an “interim” policy: the EIB will continue to monitor international policies and practices and will propose updates to the Board of Directors as appropriate, following any changes in the EU's OFC policies and legal framework or the lead organisations' positions.

Moreover, the EIB recently acquired the status of observer at the OECD Global Forum, in order to further strengthen its continued monitoring of discussions on tax standards and disclosure.

For further information on the EIB, visit its website [www.eib.org](http://www.eib.org)

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