



European Investment Bank

**EIB Guidelines on Fighting Corruption, Fraud,
Money Laundering and
the Financing of Terrorism**

Introduction

The EIB regularly revises and updates its general policy on fighting corruption, fraud, money laundering and the financing of terrorism. These “EIB Guidelines on Fighting Corruption, Fraud, Money Laundering and the Financing of Terrorism” summarise the main points of the Bank’s current strategy in this area, drawing on published documents such as the codes of conduct and the Guide to Procurement and also on European Union directives, international regulations and recommendations and internal rules, including conditions and clauses contained in the EIB’s finance contracts.

Definition of corruption, fraud, money laundering and the financing of terrorism

A fraudulent practice 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.

A corrupt practice is the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to improperly influence the actions of another party.¹

For money laundering and the financing of terrorism, the EIB has adopted the definition set out in the directives of the European Union and proposed by the OECD’s Financial Action Task Force (FATF).

The EIB’s commitment

The EIB declares that it has a zero-tolerance policy where credible evidence of corruption, fraud, money laundering or the financing of terrorism exists among its staff or in connection with EIB-financed projects. It is committed to:

- ensuring the highest possible standards in the conduct of its business. As the policy-driven bank of the European Union (EU), the EIB supports and promotes the guidelines, measures and procedures adopted by the EU Member States to fight corruption, fraud, money laundering and the financing of terrorism, and undertakes to comply with the relevant EU directives;
- supporting initiatives taken by the Member States and the EU to ensure the adoption of best practice to combat money laundering and the financing of international terrorism;
- implementing the recommendations for financial institutions on preventing money laundering and the financing of terrorism issued by the OECD’s Financial Action Taskforce (FATF) on money laundering and terrorist financing, especially in countries on the Taskforce’s non-cooperative countries list;
- cooperating with the Member States’ authorities and the Union’s Anti-Fraud Office (OLAF) in combating all forms of fraud;
(<http://www.eib.org/about/structure/Department.asp?dep=191>);
- protecting its financial interests and those of third parties by putting procedures in place to detect and take disciplinary and/or legal action against corruption and fraud;
- maintaining a financial control framework. Control functions are exercised by the Bank’s Internal Audit staff and by external auditors and are reviewed by its statutory Audit Committee, which reports directly to the Bank’s Board of Governors, representing the Bank’s shareholders, the EU Member States;
- ensuring that a high standard of ethics and appropriate behaviour is maintained among EIB Management, control functions and staff, through the application of rules on conflict of interest, insider information, acceptance of gifts, improper use of influence, etc., which are set out in the relevant codes of conduct and which the Compliance Office

¹ Definitions as proposed by the MDBs’ Task Force on Fraud and Corruption.

- ensures are respected;
- providing guidance and rules for its project promoters and those providing goods or services to such projects on how to combat corruption and fraud, as outlined in its published "Guide to Procurement".

Preventive measures introduced

The Bank has inter alia established a Compliance Office, the objective of which is to oversee conformity with standards and act as a first-line detector of potential incidents of non-observance of rules on ethics and integrity so that appropriate measures can be taken in line with the texts and procedures in force.

The Compliance function is independent of other services and is involved in ensuring that the EIB Group complies with the relevant legislation and regulations, professional practices and standards, internal policies and procedures and the codes of conduct.

It covers in principle all EIB Group activities, particularly in those areas where EIB Group members must ensure that their practices and procedures meet the requirements of their tasks, more specifically in transactions and lending and borrowing operations. The Compliance Office, which has a preventive role, may be called upon to work in cooperation with the Inspectorate General, which is responsible for fraud investigations in conjunction with OLAF.

Dealing with tax havens and non-cooperative countries

In the context of the European Union's development policy, the EIB has received specific mandates to finance projects in countries outside the European Union, some of which have been identified by the OECD as tax havens.

The EIB has adopted a special policy not only in this matter but also with regard to jurisdictions which are considered by the International Monetary Fund to be inadequately regulated or fail to apply the FATF's recommendations for combating money laundering and the financing of terrorism. The aim of this policy is to ensure that the Bank does not support or undertake any project, structure or investment intended to permit fraud or encourage money laundering or the financing of terrorism.

The main elements of this policy are:

- a ban on helping to finance a structure that would be conducive to tax evasion and would for that purpose use the jurisdiction of a country identified as a tax haven or as a non-cooperative country;
- vigilance, by requiring documentary checks, and if necessary, on-site inspections in the case of a project that appears to have links with the countries concerned; and
- regular reporting to the Board of Directors if a new factor comes to light.

This policy applies to both lending and treasury operations.

Rules governing allegations of fraud, corruption and other forms of illegal activity

The following rules govern the handling of allegations of fraud, corruption and other forms of illegal activity affecting the financial interests of the EIB and/or the European Communities in the course of EIB Group activities. Their purpose is to:

- provide clear rules for members of the EIB Group, including the Inspectorate General (IG), in the handling of allegations;
- provide a set of procedures that can serve as a useful reference within the EIB and for

interested parties outside the Bank, and thereby give an assurance that the EIB Group has adequate and comprehensive procedures in place for dealing with allegations of fraud or misuse of funds, corruption and other forms of illegal activity;

- make it clear to OLAF how the EIB Group handles allegations; and
- provide a clear description for the EIB's policy statement on the handling of fraud issues.

Procedures in the event of fraud or corruption involving EIB Group loans or investments

1. The reporting obligation of EIB Group staff is consistent with the ethical rules applicable within the Bank, such as the Code of Conduct and the OLAF Decision on measures to combat fraud. Members of the EIB Group, on becoming aware of any allegation of fraud, corruption or any other form of illegal activity involving EIB funds or relating to an institution or entity to which the EIB Group has granted a loan or in which it has made an equity investment, must inform the Inspectorate General immediately and/or OLAF directly.
2. The Secretary General and the Inspector General together – or, where appropriate, the President – shall inform OLAF without delay of any facts which suggest that there may have been irregularities.
3. IG shall enjoy full independence in the performance of this task.
4. All allegations shall be handled according to the following procedures:

- a. Receiving allegations

IG shall perform an initial review, taking into consideration the EIB's involvement, the credibility of the source and the evidence presented. It shall then be decided whether a preliminary assessment is called for, in which case IG shall inform the President and Vice-Presidents responsible, OLAF and the relevant EIB services. Those allegations in respect of which IG decides not to carry out an initial data-collection exercise shall be kept on a list by IG for 12 months.

- b. Preliminary assessment

IG shall obtain the necessary data to determine whether the case warrants further investigation. The result shall be summarised in a note to file, which shall be sent to the President and Vice-Presidents responsible, OLAF, the Audit Committee and the staff concerned.

- c. Investigation

The investigation shall include the collection and analysis of all data and evidence; this may include interviews, the participation of external experts and on-the-spot investigations, with or without the participation of OLAF.

In the event of an ongoing investigation by local, legal and/or tax authorities which are deemed fully competent, IG shall await the results of their investigation and request a copy of their findings.

- d. Outcome of the investigation

If the investigation concludes that fraud or corruption is likely to have occurred, IG shall provide OLAF with a report of its investigations and all relevant documentation.

As a result:

- wherever criminal charges are warranted, OLAF will refer the case to the national authorities for further action;
- civil referrals to local courts will be handled by the EIB's legal department;
- where appropriate, the EIB may also adopt administrative measures that are proportionate to the seriousness of the case.

Procedures in the event of fraud or corruption within the EIB

- If the Director of OLAF decides to initiate an investigation within the Bank, he shall contact the latter's Secretary General and inform him of the purpose of the investigation, how it is to be conducted and the names of the agents responsible for carrying it out.
- The Secretary General, the Inspectorate General and the services and staff of the Bank shall be required to cooperate fully with OLAF's agents and to lend any assistance required to the investigations. To that end, they shall supply OLAF's agents with any relevant information and explanations.
- Any information provided in connection with, or in some other way relating to, a case of alleged fraud, as well as the identity of the suspect, shall be treated in strictest confidence. The identity of the person suspected of having committed fraud shall be made known only to those for whom this information is necessary. All documents concerning investigations into cases of alleged fraud within the Bank shall be classified as "strictly confidential" in accordance with the Bank's confidentiality rules.
- The identity of the member of staff reporting facts relating to a case of alleged fraud shall be treated in strictest confidence. If the provider of the information so requests, his or her identity shall remain secret throughout the investigation and shall not be recorded in the files.
- The Bank's staff and members of its organs must not suffer any form of inequitable or discriminatory treatment as a result of having communicated the information referred to in the preceding paragraphs.

Preliminary investigation

- OLAF, in coordination with the Inspector General, is responsible for conducting a preliminary investigation into cases of alleged fraud. As determined by the decision of the EIB's Board of Governors (<http://www.eib.org/about/structure/Department.asp?dep=191>), the purpose of this preliminary investigation is to establish whether or not there is any evidence of fraud and to submit a recommendation for further action or to close the file if there is no evidence of fraud.
- If, following an internal investigation, no incriminating evidence can be produced against a member of an organ of the Bank or of its staff against whom allegations have been made, the internal investigation shall be closed by decision of the Director of OLAF, who shall inform the interested party and the Bank in writing. The Head of Human Resources, or where appropriate the President, shall inform the suspected person(s) and the member of staff who reported his or her suspicions. Should any new facts or circumstances be brought to the attention of OLAF, the Inspector General or the Secretary General, the investigation shall be reopened.
- The Audit Committee and the external auditors shall be informed without delay of all facts brought to light in the preliminary investigation as well as of the recommendations made by OLAF regarding the action to be taken.

- The President shall, in liaison with OLAF, determine whether the resources of the Bank's Inspectorate General require additional support, such as involvement of the external auditors, or recourse to other external assistance or expertise, or to national police authorities. The terms under which external bodies might assist or participate in investigations conducted within the Bank shall be determined and agreed upon separately, depending on the circumstances and requirements of the investigation².

Disciplinary and other measures

- Any disciplinary measure decided on against a member of staff based on the results of the investigations in question shall be taken in accordance with the provisions of the Bank's Staff Regulations.
- Any decision on waiving of immunity in connection with these investigations shall be taken in accordance with the Protocol on the Privileges and Immunities of the European Communities.
- The procedures outlined above shall be without prejudice to other existing internal or external legal remedies to which the Bank might have recourse in the investigation or prosecution of fraud. They may be subject to review in the light of experience.

Measures regarding those who are not members of the Bank's staff or governing bodies

In line with the provisions for dealing with alleged fraud within the Bank, OLAF and/or the Inspector General shall be responsible for receiving complaints concerning alleged corruption or fraud.

Loan contract conditions

(i) Fraud and corruption

- In its operations outside the EU Member States and the Acceding Countries each loan contract between the Bank and a State-owned borrower or borrower whose commercial risks are assumed by a State contains provisions against fraud and corruption.
- The borrower undertakes to inform the Bank if it is aware or ever becomes aware of any evidence of fraud or corruption within its organisation in connection with the project financed by the Bank.
- At the Bank's request, the borrower undertakes to investigate allegations of fraud or corruption and to facilitate any investigation proposed by OLAF or the Bank's Inspectorate General.
- The borrower is also required to report to the Bank on measures taken by it to obtain compensation for damage suffered and to prevent recurrence of fraud or corruption in connection with a Bank-financed project.
- The borrower must maintain its own records concerning the project and designate a senior officer who is empowered to deal with the Bank on matters of fraud and corruption.

² Without prejudice to the provisions of the Agreement of 24 February 1986 between the European Investment Bank and the Government of the Grand-Duchy of Luxembourg concerning access to the Bank's premises.

(ii) Money laundering and the financing of terrorism

- As part of the measures it takes to help combat money laundering and the financing of terrorism, particularly in its activities outside the European Union, the EIB has undertaken to ensure that it works only with reputable promoters or intermediaries, checks their identity and integrity, applies strict procedures for the disbursement of funds and verifies the destination and movement of the funds. It also regularly makes site visits to monitor the physical progress of projects.
- Loan agreements signed with private sector borrowers undertaking projects in non-EU Member States require the borrower to ensure the legitimacy of the funds invested in the company and project. The borrower is obliged to inform the Bank if it learns or suspects that such funds are of illicit origin. The Bank shall also be informed of any significant change in the ownership of the project or company. The borrower is required to designate an officer responsible for maintaining contact with the Bank on these matters.

(iii) Procurement and project execution

- The EIB requires that project promoters, as well as tenderers, contractors, suppliers and consultants under Bank-financed contracts, observe the highest standard of ethics during the procurement and performance of contracts.
- Tenderers for works, supplies or services in respect of EIB-supported projects must append a "covenant of integrity" to their tender or the supply contract whereby the directors, employees and agents of the tenderer undertake not to engage in any prohibited practices (see below) in the tendering, execution or supply of works, goods or services for the project in question. They are required to inform the Bank of any prohibited practice that is brought to their attention.
- Prohibited practices are defined as follows:
 - corrupt practice: offering, giving or promising an improper advantage in order to influence the decision of a public official, or threatening action, to gain an unfair advantage;
 - fraudulent practice: a dishonest statement or act to influence unlawfully a procurement procedure or the performance of a contract to the detriment of the project promoter, including collusion to prevent fair and open competition.
- If the EIB determines that there are signs of prohibited practices during the procurement procedure or during the performance of the contract, it may:
 - refuse to accept a promoter's preferred choice for the award of a contract;
 - cancel all or part of the Bank financing allocated to a contract for works, supplies or services.
- As a general rule, for international procurement procedures the Bank will require the promoter to insert in the tender documents a clause that:
 - grants the promoter, the Bank and auditors appointed by either of them, the right to inspect the records of the contractor, supplier or consultant in connection with any Bank-financed contract; and
 - provides for the duty of the contractor, supplier or consultant to keep these records for the period generally stipulated by law (for at least six years) and to make them available to the Bank.