

# EIB Group Anti-Fraud Policy

Policy on preventing and deterring prohibited conduct in European Investment Bank Group activities



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5 August 2021

The EIB Group will not tolerate Prohibited Conduct (i.e. corruption, fraud, collusion, coercion, obstruction, theft at EIB Group premises, misuse of EIB Group resources or assets, money laundering and terrorist financing) in its activities or operations.

The Inspectorate General Investigations Division is competent to receive, assess and, if appropriate, investigate, allegations of Prohibited Conduct<sup>1</sup>. The Inspectorate General Investigations Division can be contacted:

- by e-mail to [investigations@eib.org](mailto:investigations@eib.org);
- by telephone (to +352 4379 87441);
- via the reporting form on the EIB website<sup>2</sup>;
- by letter<sup>3</sup>.

Alternatively, the European Public Prosecutor's Office (EPPO) and/or the European Anti-Fraud Office (OLAF) can be contacted directly<sup>4</sup>.

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<sup>1</sup> Allegations concerning money laundering and financing of terrorism are investigated by the Inspectorate General Investigations Division in close cooperation with the relevant EIB Group compliance function. In particular, results of relevant assessments and investigations are shared with the EIB and EIF Heads of Compliance in accordance with the EIB Group AML/CFT Framework.

<sup>2</sup> <http://www.eib.org/about/accountability/anti-fraud/reporting/index.htm>

<sup>3</sup> The Head of the Inspectorate General Investigations Division, European Investment Bank, 100 Bd. Konrad Adenauer, L-2950 Luxembourg.

<sup>4</sup> The EPPO is responsible for investigating, prosecuting and bringing to judgment before the competent national courts of the participating Member States crimes against the financial interests of the Union, in accordance with Regulation (EU) 2017/1939 of 12 October 2017. For more information, please consult: <https://www.epo.europa.eu/>  
OLAF carries out administrative investigations for the purpose of protecting the financial interests of the EU and may issue disciplinary, administrative, financial and judicial recommendations for action to be taken by the institutions, bodies, offices and agencies of the EU and by the competent authorities of the Member States concerned, in accordance with Commission Decision of 28 April 1999 and Regulation (EU, Euratom) No 883/2013. For more information, please consult: [https://ec.europa.eu/anti-fraud/home\\_en](https://ec.europa.eu/anti-fraud/home_en)

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For further information on the EIB's activities, please consult our website, [www.eib.org](http://www.eib.org). You can also contact our InfoDesk, [info@eib.org](mailto:info@eib.org).

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# 1 Preamble

1. This document sets forth the policy of the European Investment Bank (“EIB” or “the Bank”) and the European Investment Fund (“EIF” or “the Fund”), hereafter referred to as “the EIB Group”, in preventing and deterring corruption, fraud, collusion, coercion, obstruction, theft at EIB Group premises, misuse of EIB Group resources or assets, money laundering and financing of terrorism (jointly “Prohibited Conduct”) in the EIB Group’s activities. It replaces the EIB’s Anti-Fraud Policy dated 17 September 2013 and the EIF’s Anti-Fraud Policy dated 9 March 2015.
2. The legal basis for the EIB Group Anti-Fraud Policy and the authority for the EIB Group to conduct investigations stems from:
  - (i) Article 325 of the Treaty on the Functioning of the European Union (TFEU);
  - (ii) Article 18 of the EIB Statute and Articles 2 and 28 of the EIF Statutes;
  - (iii) Regulation (EU, Euratom) 2018/1046 of 18 July 2018; and
  - (iv) EIB Board of Governors’ Decision of 27 July 2004 concerning the EIB’s cooperation with OLAF.
3. Created by the Treaty of Rome, the EIB is the financing body of the European Union (“EU”). The EIF was established in 1994 as a body of the EU (then European Communities) by a decision of the EIB Board of Governors following an amendment to the Statute of the EIB. The EIB and the EIF operate in accordance with the EU legal framework and are bound by the EIB and EIF Statutes respectively.
4. The EIB Group is committed to ensuring that its funds are used for the purposes intended. In this context, the EIB Group shall endeavour to ensure that its activities and operations are free from Prohibited Conduct.
5. Consequently, the EIB Group will work to prevent and deter Prohibited Conduct from occurring and, where it does occur, will address it in a timely and expeditious manner. To this end, investigation procedures shall also be adopted.
6. As EU bodies, the EIB and the EIF have the duty to protect the financial interests of the European Union and to implement effective measures against fraud and any other illegal activities affecting the EU’s financial interests. In order to do so, the EIB Group relies on its detailed policy framework, including the present policy. The EIB also applies best banking practice as contemplated in the EIB Statute<sup>5</sup>. In accordance with the EIF Statutes, the activities of the Fund shall be based on sound banking principles or other sound commercial principles and practices as applicable<sup>6</sup>.
7. In seeking to align its policies and procedures with international practice, the EIB Group is cognisant of the principles enshrined in: (i) the United Nations’ Convention Against Corruption<sup>7</sup>; (ii) the Organisation for Economic Co-operation and Development’s Convention on Combating Bribery of Foreign Public Officials in International Business Transactions<sup>8</sup>; (iii) the Council of Europe Criminal Law Convention on Corruption<sup>9</sup>; (iv) the Financial Action Task Force’s

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<sup>5</sup> Article 12.1 of the EIB Statute, [https://www.eib.org/attachments/general/statute/eib\\_statute\\_2020\\_03\\_01\\_en.pdf](https://www.eib.org/attachments/general/statute/eib_statute_2020_03_01_en.pdf)

<sup>6</sup> Article 2.3 of the EIF Statutes, [https://www.eif.org/news\\_centre/publications/statutes.htm](https://www.eif.org/news_centre/publications/statutes.htm)

<sup>7</sup> [http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026\\_E.pdf](http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf)

<sup>8</sup> <http://www.oecd.org/daf/anti-bribery/oecdantibriberyconvention.htm>

<sup>9</sup> <http://conventions.coe.int/Treaty/en/Treaties/Html/173.htm>

Recommendations<sup>10</sup>; and (v) the International Financial Institutions (IFIs) Anti-Corruption Task Force’s Uniform Framework Agreement<sup>11</sup>.

8. The Inspectorate General Investigations Division is a central function, acting in the interest of the EIB Group, for the purpose of this group policy.

## 2 Basic principles

9. EIB Group members of governing bodies and staff, operations related parties, counterparts and partners (as defined in paragraph 13 below) shall maintain the highest level of integrity and efficiency in all EIB Group activities. The EIB Group will not tolerate Prohibited Conduct in its activities.
10. (i) Any suspicion of Prohibited Conduct must be reported promptly to the Inspectorate General Investigations Division for assessment. If determined relevant, it shall be investigated thoroughly and fairly. Those who have been found to be engaged in Prohibited Conduct are to be sanctioned in accordance with applicable policies and procedures; and appropriate legal steps are to be taken to recover misapplied funds;  
  
(ii) The EIB Group, through the Inspectorate General Investigations Division, investigates allegations of Prohibited Conduct related to the EIB Group;  
  
(iii) The Inspectorate General Investigations Division shall work in close partnership with OLAF<sup>12</sup>; and  
  
(iv) The EIB Group, through the Inspectorate General Investigations Division, shall also assist and support the investigations and prosecutions of the European Public Prosecutor’s Office (EPPO), in accordance with the principle of sincere cooperation<sup>13</sup>.

## 3 Definitions

11. In pursuance of this policy, Prohibited Conduct includes corruption, fraud, coercion, collusion, theft at EIB Group premises, obstruction, misuse of EIB Group resources or assets, money laundering and financing of terrorism defined as follows:<sup>14</sup>
  - 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.

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<sup>10</sup> <http://www.fatf-gafi.org/topics/fatfrecommendations/>

<sup>11</sup> <http://www.eib.org/about/documents/ifi-anti-corruption-task-force-uniform-framework.htm>

<sup>12</sup> The detailed framework for the cooperation between the Inspectorate General Investigations Division and OLAF is set out in an administrative arrangement between OLAF, the EIB and the EIF.

<sup>13</sup> The detailed framework for the cooperation between the Inspectorate General Investigations Division and the EPPO is set out in a working arrangement between the EPPO, the EIB and the EIF.

<sup>14</sup> 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 11.

- 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<sup>15</sup>.
- 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.
- e. **Theft at EIB Group premises**, which is the misappropriation of property belonging to another party committed within EIB Group premises<sup>16 17</sup>.
- f. An **obstructive practice**<sup>18</sup>, which means (a) destroying, falsifying, altering or concealing of evidence material to the investigation, or making false statements to investigators, with the intent to impede the investigation; (b) threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or (c) acts intended to impede the exercise of the EIB Group's contractual rights of audit or inspection or access to information.
- g. **Misuse of EIB Group resources or assets**, which means any illegal activity committed in the use of the EIB Group's resources or assets, either knowingly or recklessly.

Money laundering and financing of terrorism are defined in EU Directives<sup>19</sup> on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, as amended and supplemented from time to time, as follows:

- h. Money laundering 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 an activity to evade the legal consequences of that person's 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 an 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 an activity; and
  - (iv) participation in, association to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the actions referred to in the foregoing points.

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<sup>15</sup> This could include tax fraud affecting EIB Group operations and/or the EIB/EU's financial interests.

<sup>16</sup> For the purpose of this definition, EIB Group premises include external offices. Should there be any indication that the internal theft was committed by a person subject to the EIB Group Staff Code of Conduct, the Inspectorate General Investigations Division will work in close cooperation with the relevant EIB Group compliance function.

<sup>17</sup> This definition shall not apply to EIB Group operations and the agreements related thereto.

<sup>18</sup> The definition of obstructive practice covers the rights that any EU competent body, in particular OLAF and the EPPO, may have concerning any EIB Group-related operations or activities in accordance with any law, regulation or treaty or pursuant to any agreement into which the EIB or the EIF has entered in order to implement such law, regulation or treaty.

<sup>19</sup> Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, as amended and supplemented from time to time.



- i. 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, to commit, or to contribute to the commission of any of the offences within the meaning of Articles 3 to 10 of Directive (EU) 2017/541 of 15 March 2017 on combating terrorism. Where the financing of terrorism concerns any of the offences laid down in Articles 3, 4 and 9 of Directive (EU) 2017/541, it shall not be necessary that the funds be in fact used, in full or in part, to commit, or to contribute to the commission of any of those offences, nor shall it be required that the offender knows for which specific offence or offences the funds are to be used.
12. For the purpose of this policy, “operations” commonly refer to EIB projects and EIF transactions; it does not include EIB Group treasury and borrowing activities, which are referred to as “transactions”.

## 4 Scope of the policy

13. This policy applies to all EIB Group operations and activities, including operations implemented on behalf of and/or financed by the EIB Group using third-party resources, corporate procurement and technical assistance. The application of this policy to operations implemented on behalf of and/or financed by the EIB Group using third-party resources (including EU-funded activities) is without prejudice to additional requirements arising from the EIB Group’s mandates. The policy applies to the following individuals and entities:
  - a. The members of the EIB and EIF Boards of Directors, the EIB Audit Committee<sup>20</sup>, the EIF Audit Board<sup>21</sup>, the EIB Management Committee, the EIF Chief Executive and Deputy Chief Executive, the EIB Group’s staff members, the persons working at the EIB Group on secondment from their parent administration, trainees, students on summer jobs, persons hired by the EIB Group to work in an external office and employed under local legislation and consultants, without regard to their position, rank, or length of service (together referred to herein as “EIB Group Members of Governing Bodies and Staff”);
  - b. Borrowers, promoters, financial intermediaries, or other primary counterparts benefiting from a financing, guarantee or investment operation from the EIB Group, contractors, subcontractors, consultants, suppliers, beneficiaries (as the case may be), tenderers, and in general relevant persons or entities involved in EIB Group-financed activities (referred to herein as “Operations Related Parties”);
  - c. Tenderers, contractors, suppliers, service providers and other persons or entities procured by the EIB Group for its own account and their subcontractors, if any; and
  - d. All counterparties and others through which the EIB Group deals in its borrowing or treasury activities (c. and d. jointly referred to herein as “EIB Group Other Counterparts and Partners”).

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<sup>20</sup> The applicability of this policy to the members of the EIB Audit Committee should be confirmed by a decision of the EIB Board of Governors.

<sup>21</sup> The applicability of this policy to the members of the EIF Audit Board should be confirmed by a decision of the EIF General Meeting.

## 5 Measures to prevent and deter Prohibited Conduct

### (A) General principles

14. Article 325 TFEU provides that:

*“The Union and the Member States shall counter fraud and any other illegal activities affecting the financial interests of the Union through measures to be taken in accordance with this Article, which shall act as a deterrent and be such as to afford effective protection in the Member States, and in all the Union’s institutions, bodies, offices and agencies.”*

Furthermore, the Statute of the EIB<sup>22</sup> provides that the Bank shall ensure that its funds are used as rationally as possible in the interests of the Union. The EIF Statutes<sup>23</sup> provide that the Fund shall contribute to the pursuit of the objectives of the EU, and, accordingly, the terms and conditions of the Fund's operations must be consistent with relevant EU policies.

15. Accordingly, the EIB Group implements a number of measures to address and to combat Prohibited Conduct. In particular, the terms and conditions of the EIB Group’s operations must ensure effective protection and deterrence against Prohibited Conduct.

### (B) Measures applicable through the operation cycle

#### (a) Operation appraisal and integrity due diligence

16. The EIB Group Anti-Money Laundering and Combating Financing of Terrorism Framework (“EIB Group AML-CFT Framework”)<sup>24</sup> establishes the key principles regulating AML-CFT, Know Your Customer and integrity due diligence aspects in EIB Group activities. In particular, the EIB Group applies counterparty due diligence measures, using a risk-based approach, taking into account (where relevant) the type of counterparty, business relationship, product or transaction and country of operation.

17. The EIB Group applies policy guidelines and measures in the context of operations appraisal with a view to identifying and mitigating the risk that the EIB Group’s financing and investment operations could be misused for Targeted Activities<sup>25</sup>. These policy guidelines and measures are described in the EIB Group Policy towards weakly regulated, non-transparent and non-cooperative jurisdictions and tax good governance (“EIB Group NCJ Policy”)<sup>26</sup>.

18. During the operation appraisal process the EIB Group’s operational services act as the first line of defence in the prevention and detection of Prohibited Conduct and Targeted Activities in the EIB Group’s operations given their knowledge of the potential EIB Group’s Operations Related Parties and the circumstances in which the operation will be undertaken.

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<sup>22</sup> <https://www.eib.org/en/infocentre/publications/all/statute.htm>

<sup>23</sup> [http://www.eif.org/news\\_centre/publications/statutes.htm](http://www.eif.org/news_centre/publications/statutes.htm)

<sup>24</sup> <https://www.eib.org/en/publications/eib-group-anti-money-laundering-policy-and-combating-finance-of-terrorism-framework>

<sup>25</sup> “Targeted Activities” are defined in the EIB Group Policy towards weakly regulated, non-transparent and non-cooperative jurisdictions and tax good governance.

<sup>26</sup> EIB Group NCJ Policy (<https://www.eib.org/en/infocentre/publications/all/eib-policy-towards-weakly-regulated-non-transparent-and-uncooperative-jurisdictions.htm>).

## (b) Financing agreements

19. The EIB Group's financing agreements shall contain appropriate provisions to prevent and deter Prohibited Conduct.
20. In particular, these agreements, considering the type of financing product and the applicable legal framework, shall contain appropriate contractual provisions on:
  - i. rights of inspection and access to information for the Bank or the Fund (as applicable), as well as other competent EU institutions and bodies;
  - ii. the requirement to keep books and records;
  - iii. compliance with applicable laws;
  - iv. the obligation to report Prohibited Conduct relating to the operation; and
  - v. remedies as further detailed under section (G)(a) and (G)(b) below.

## (c) Measures applicable to EIB project procurement

21. The EIB's Guide to Procurement shall contain provisions aimed at ensuring transparency and integrity in project procurement.

### EU lending operations

22. European Union Member States to which the EIB lends have in place legislation aimed at ensuring transparency and integrity, including in the procurement process, specifically Directives 2014/25/EU, 2014/24/EU, 2014/23/EU and 89/665/EEC and 92/13/EEC, as amended or supplemented from time to time.
23. The procurement process of EU projects financed by the EIB must comply with the above-mentioned Directives, as applicable, and other rules as specified in the EIB Guide to Procurement.
24. The Bank therefore has the duty, to the extent necessary to verify compliance with applicable EU legislation and, as the case may be, in compliance with Article 325 TFEU, to conduct all investigations and take all necessary measures in order to prevent and deter Prohibited Conduct in relation to EIB activities and, in so doing, ensure rational use of the Bank's funds in the interest of the Union.

### Non-EU lending operations

25. Outside the European Union where the EU public procurement Directives do not apply, the Bank nevertheless requires that the main mechanisms of the Directives be followed, with the necessary procedural adaptations.
26. Consequently, the EIB has implemented a number of significant measures to ensure that equivalent standards of protection and measures to prevent and deter Prohibited Conduct exist as within the EU. These are described below.
27. The EIB Guide to Procurement includes, as a general rule for financing operations outside the EU, a requirement that the relevant tenderers/contractors/suppliers/consultants execute a

“Covenant of Integrity” to the promoter, including a declaration that, to the best of their knowledge, they, as well as joint venture partners, agents or subcontractors, where they exist, acting on their behalf with due authority or with their knowledge or consent, or facilitated by them, have not engaged in or will not engage in any Prohibited Conduct in connection with the tendering process or execution of the contract.

28. The Covenant of Integrity also includes undertakings from the contractors and tenderers concerning disclosures of Prohibited Conduct, disclosures of payment of commissions, gratuities or fees with respect to the tendering process or the execution of the contracts, inspection rights and record keeping.

#### **(d) Monitoring of operations implementation**

29. Monitoring of operations by EIB Group operational services after the signing of the relevant agreement(s) aims to ensure that the underlying operation financed by the EIB Group is implemented as planned and that any risks that occur are identified and managed appropriately.
30. The EIB Group AML-CFT Framework establishes ongoing monitoring requirements related to AML-CFT, Know Your Customer and integrity due diligence aspects in EIB Group activities.
31. During the operation implementation, the EIB Group’s operational services act as the first line of defence in the prevention and detection of Prohibited Conduct in the EIB Group’s operations given their knowledge of the EIB Group’s Operation Related Parties and the circumstances in which the operation is undertaken.
32. Any material integrity and compliance concerns are promptly reported in line with the EIB Group’s applicable policies and procedures, including the present policy. Where appropriate, the relevant concerns are escalated to the governing bodies of the EIB Group for their decision on the appropriate course of action, together with specific recommendations on possible remedies and risk mitigating factors, if any are available.

#### **(C) Measures for EIB Group treasury and borrowing activities**

33. The EIB Group has implemented measures to prevent and deter Prohibited Conduct in its treasury and borrowing activities and to identify and mitigate the risk that the EIB Group’s transactions could be misused for Targeted Activities<sup>27</sup>, as well as those treasury activities carried out on behalf of third parties:
  - a. The due diligence process of counterparts for treasury and borrowing activities is carried out in accordance with the EIB Group AML-CFT Framework and the EIB Group NCJ Policy;
  - b. Transactions are carried out in accordance with the rules identified as best banking practices for the relevant activities;
  - c. Transactions are carried out with reputable counterparties using strict compliance measures. Those counterparties are duly approved and continuously monitored;
  - d. The transactions (including pricing-related matters) are documented, relevant telephone conversations are recorded, the volume of transactions with each counterparty is closely

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<sup>27</sup> “Targeted Activities” are defined in the EIB Group Policy towards weakly regulated, non-transparent and non-cooperative jurisdictions and tax good governance.

- monitored, controls documented in the Internal Control Framework are in place and transaction-related activities are regularly audited both internally and externally;
- e. 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;
  - f. In the context of repurchases of EIB Group debt from the market, prices are set in line with an internal transfer price and the EIB Group only operates on the basis of reverse inquiries and does not actively source existing debt positions to repurchase them; and
  - g. The EIB Group ensures a strict segregation of tasks between front and back offices, front line supervision procedures and independent verification of pricing conditions.

## **(D) Measures applicable to corporate procurement and technical assistance**

- 34. The EIB's Corporate & Technical Assistance Procurement Guide<sup>28</sup> and the EIF Procurement Guide<sup>29</sup> shall contain provisions aimed at ensuring transparency and integrity in corporate procurement.
- 35. In particular, and in addition to applying its exclusion decisions<sup>30</sup>, the EIB Group excludes from participation in its corporate and technical assistance procedures any tenderer (or a member of their administrative, management or supervisory body) who is in one of the situations of exclusion described in Article 57 of Directive 2014/24/EU. The situations of exclusion cover, among others, final convictions for fraud, corruption, money laundering or terrorist financing, as well as findings of grave professional misconduct or serious misrepresentation.

## **(E) Measures applicable to the management of operational risks**

- 36. The EIB Group applies sound practices for the management of operational risks under the responsibility of the Group Chief Risk Officer and in line with the principles of relevant EU legislation and the Basel Committee on Banking Supervision<sup>31</sup>. This includes measures aimed at identifying, assessing, mitigating and monitoring operational risks. Operational risks presenting suspicions of Prohibited Conduct and/or any other illegal activity affecting the EU's financial interests are promptly reported in line with the EIB Group's applicable policies and procedures, including the present policy.

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<sup>28</sup> [Guide for the procurement of services, supplies, works and concessions managed by the EIB](#)

<sup>29</sup> [Policy for the procurement of services, supplies and works by the EIF](#).

<sup>30</sup> Exclusion decisions are made in accordance with the EIB Exclusion Policy:  
<http://www.eib.org/infocentre/publications/all/exclusion-policy.htm>.

<sup>31</sup> An operational risk is the risk of loss resulting from inadequate or failed internal processes, people and systems or from external events.

## **(F) Measures applicable to EIB Group Members of Governing Bodies and Staff**

37. EIB Group Members of Governing Bodies and Staff must comply with the rules of behaviour and ethical standards set forth in the respective Codes of Conduct<sup>32</sup> applicable to them including those related to Prohibited Conduct.
38. The Integrity/Compliance Policies and Compliance Charters<sup>33</sup> require EIB Group Members of Governing Bodies and Staff to comply with all applicable internal rules and regulations, including the observance of applicable laws and regulations.
39. Awareness training in relation to Prohibited Conduct is provided to EIB Group Members of Governing Bodies and Staff in accordance with their risk of exposure to Prohibited Conduct.

## **(G) Remedies available to the EIB Group**

40. The EIB Group reserves the right to take appropriate action in respect of any violation of this policy, including, without limitation, the right to exercise remedies available under any applicable legal and contractual framework. This includes, where relevant and possible, the withdrawal of the financial support provided by the EIB Group.

### **(a) Contractual remedies**

41. The EIB Group's financing agreements shall include appropriate remedies for dealing with breaches of the relevant undertakings under such agreements. Such remedies will depend on the type of financing product and applicable legal framework, and may include the ability to suspend disbursements and seek early reimbursement of the loan (or part thereof).
42. The EIB Group will also take legal steps to recover misapplied funds, whenever applicable.

### **(b) Project procurement remedies**

43. If it is established to the required standards that an Operation Related Party has engaged in Prohibited Conduct in the course of a procurement process or implementation of a contract (to be) financed by the EIB, the Bank may seek appropriate remediation of the Prohibited Conduct to its satisfaction.
44. For operations within the European Union, pursuant to the applicable EU procurement legislation<sup>34</sup>, the promoter shall exclude any tenderer that has been convicted by a final judgment

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<sup>32</sup> The provisions of the EIB Staff Code of Conduct apply by extension to contractors and consultants, according to the terms of their contracts.

<sup>33</sup> [http://www.eib.org/attachments/general/occo\\_charter\\_en.pdf](http://www.eib.org/attachments/general/occo_charter_en.pdf) and [https://www.eif.org/news\\_centre/publications/compliance-charter.htm](https://www.eif.org/news_centre/publications/compliance-charter.htm)

<sup>34</sup> Article 57(1) of Directive 2014/24/EU and Article 80(1) and 90(b) of Directive 2014/25/EU.

for participation in a criminal organisation, corruption, fraud, money laundering or terrorist financing of which the promoter is aware for a period of time depending on the severity of the offence.

45. For operations outside the European Union<sup>35</sup>, the Bank may withhold its no-objection to contract award and/or may apply appropriate contractual remedies, which may include suspension and cancellation, unless the Prohibited Conduct has been dealt with by the promoter to the satisfaction of the Bank, which may include declaring the concerned Operation Related Party ineligible to be awarded the contract.

### (c) Corporate procurement and technical assistance contractual remedies

46. The EIB Group's corporate procurement and technical assistance contracts shall include appropriate remedies including relevant suspension, termination and replacement provisions to address Prohibited Conduct.

### (d) EIB Group's exclusion process

47. An individual or entity that is found to have engaged in Prohibited Conduct may be excluded from participating in EIB and EIF operations and activities in accordance with the provisions and process set out in the EIB and EIF Exclusion Policies<sup>36</sup>. The EIB and the EIF mutually enforce the exclusion decisions made by each other, in accordance with their respective exclusion policies.
48. The EIB and the EIF may engage in negotiated settlements with individuals or entities who are alleged to have engaged in Prohibited Conduct. Such negotiations can resolve the case against them (in whole or in part) based on terms and conditions set out in a settlement agreement between the Bank or the Fund, as the case may be, and the party(ies) involved.

### (e) Remedies applicable to EIB Group Members of Governing Bodies and Staff

49. Failure to comply with relevant rules will subject the relevant EIB Group Member of Governing Body or Staff to potential disciplinary action or other equivalent measures, in accordance with the rules applicable respectively to the members of the governing bodies and to the staff, and potential legal action.
50. The President of the Bank or the Chief Executive of the Fund shall decide the appropriate and proportionate disciplinary actions or other equivalent measures, in accordance with the applicable provisions of the EIB or EIF Staff Regulations as the case may be, taking into account the severity of the offence and any aggravating and/or mitigating circumstances.
51. If a member of the EIB Group's Governing Bodies is implicated, the President of the Bank or the Chairman of the Fund's Board of Directors, or, as appropriate, the Ethics and Compliance Committee or the Chairman of the Board of Governors, or, as appropriate, the Audit Committee

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<sup>35</sup> For contracts subject to prior review.

<sup>36</sup> <http://www.eib.org/infocentre/publications/all/exclusion-policy.htm>

of the Bank or the Audit Board of the Fund, as the case may be, shall inform the EIB Group's competent body. The Inspector General may refer relevant matters directly to the EIB Ethics and Compliance Committee<sup>37</sup>.

52. 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 Union<sup>38</sup>.

## 6 Measures to detect Prohibited Conduct

### (A) Detection through reporting obligations

#### (a) Reporting obligations of EIB Group Members of Governing Bodies and Staff

53. EIB Group Members of Governing Bodies and Staff are required to report any allegation of Prohibited Conduct immediately after becoming aware of the matter. The EIB Group Whistleblowing Policy provides staff members and other persons providing the EIB Group with services with a comprehensive framework within which to report, inter alia, suspicions of Prohibited Conduct.
54. If the report of the EIB Group Member of Governing Bodies or Staff does not fall within the scope of this policy, the Inspectorate General Investigations Division may refer the report to any competent body in accordance with the applicable confidentiality and data protection provisions. In such case, the EIB Group Member of Governing Bodies or Staff shall be duly informed.

#### (b) Reporting obligations of Operations Related Parties

55. Relevant parties to a financing agreement are required to inform the EIB Group of any fact or information related to possible Prohibited Conduct involving EIB Group operations.
56. Under the Covenant of Integrity, tenderers, contractors, subcontractors, suppliers and consultants must report to the promoter any Prohibited Conduct that comes to the attention of any person in their organisation having responsibility for ensuring compliance with the Covenant.

#### (c) How to report

57. All allegations by EIB Group Members of Governing Bodies and Staff, Operations Related Parties, Other Counterparts and Partners, or members of the public (including civil society) regarding suspected Prohibited Conduct should under this policy be reported to the Inspectorate General Investigations Division, which will acknowledge receipt of the allegation. A report can be made:
- by letter<sup>39</sup>;

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<sup>37</sup> Please see relevant provisions in EIB and EIF respective Statutes and Rules of Procedures.

<sup>38</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:12006E/PRO/36:EN:HTML>

<sup>39</sup> The letter should be addressed to the Head of the Inspectorate General Investigations Division, European Investment Bank, 100 Bd. Konrad Adenauer, L-2950 Luxembourg.



- by email to [investigations@eib.org](mailto:investigations@eib.org);
- through the online form available on the EIB website<sup>40</sup>; or
- by telephone (+352 4379 87441)<sup>41</sup>.

Alternatively, allegations concerning Prohibited Conduct can be reported directly to the European Public Prosecutor's Office and/or the European Anti-Fraud Office (OLAF). Details of how to contact the EPPO can be found at <https://www.eppo.europa.eu/> and OLAF at [http://ec.europa.eu/anti\\_fraud/contacts/index\\_en.htm](http://ec.europa.eu/anti_fraud/contacts/index_en.htm).

#### (d) Independent complaints processes

58. Any natural or legal person who alleges a case of maladministration by the EIB Group in its decisions, actions and/or omissions can lodge a complaint with the EIB Group Complaints Mechanism<sup>42</sup>. The latter cannot handle allegations of Prohibited Conduct. If, during the Complaints Mechanism enquiry, it appears that some allegations concern Prohibited Conduct, the relevant part of the complaint will be handed over to the Inspectorate General Investigations Division.
59. Any person or group may also challenge an EIB decision with regard to the compliance of a project procurement process with the EIB Guide to Procurement by lodging a complaint with the Project Procurement Committee<sup>43</sup>. Complaints related to Prohibited Conduct in the course of a project procurement process should be sent directly to the Inspectorate General Investigations Division.

#### (e) Protection of complainants

60. All allegations of Prohibited Conduct will be treated by the EIB Group as strictly confidential (subject to paragraphs 74-76 below), and may be made anonymously.
61. The EIB Group Whistleblowing Policy contains further provisions with regard to allegations of Prohibited Conduct made by EIB Group staff members, members of the EIB Management Committee, the EIF Chief Executive/Deputy Chief Executive and any other person providing the EIB Group with services, in particular on the protection afforded by the EIB Group.

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<sup>40</sup> <http://www.eib.org/infocentre/anti-fraud-form.htm>

<sup>41</sup> Business partners may also ask their usual EIB Group contacts to put them in touch with the Inspectorate General Investigations Division in appropriate cases.

<sup>42</sup> Maladministration means poor or failed administration. This occurs when the EIB Group fails to act in accordance with the applicable legislation and/or established policies, standards and procedures, fails to respect the principles of good administration or violates human rights. Some examples of maladministration, as set by the European Ombudsman, are: administrative irregularities, unfairness, discrimination, abuse of power, failure to reply, refusal of information, unnecessary delay. Maladministration may also relate to the environmental or social impacts of EIB Group activities and to project cycle-related policies and other applicable policies of the EIB. More information is available on the EIB website: <https://www.eib.org/en/about/accountability/complaints/index.htm>.

<sup>43</sup> <https://www.eib.org/en/infocentre/publications/all/guide-to-procurement.htm>

## (B) Proactive detection

62. The Inspectorate General Investigations Division may carry out a Proactive Integrity Review (PIR) on any EIB Group operation or activity. The objectives of a PIR are to:
- (i) help prevent and detect Prohibited Conduct at an early stage;
  - (ii) determine if contracts were implemented according to their terms;
  - (iii) ensure the EIB Group's funds were used for the intended purpose(s); and
  - (iv) recommend improvements to policies, procedures and controls so as to mitigate the opportunities for Prohibited Conduct in current and future operations and activities.
63. The selection of operations and activities for a PIR is done independently by the Inspectorate General Investigations Division through a detailed risk assessment process. Operations and activities selected for a PIR undergo an in-depth review in order to identify possible indicators of Prohibited Conduct.

## 7 Principles for the conduct of investigations<sup>44</sup>

### (A) Authority to conduct investigations

64. The Inspectorate General, through its Investigations Division, working in close collaboration and full transparency with the EPPO and OLAF, shall be responsible for:
- a. receiving reports of alleged or suspected Prohibited Conduct involving the EIB Group's operations and activities or Members of Governing Bodies and Staff;
  - b. assessing and investigating such matters and cooperating directly with OLAF<sup>45</sup> and the EPPO<sup>46</sup> in order to facilitate their investigations; and
  - c. reporting its findings and recommendations to the EIB President, the EIF Chief Executive, OLAF, the EPPO, the EIB Ethics and Compliance Committee, the EIB Audit Committee, the EIF Audit Board, as well as any EIB Group staff member on a need-to-know basis<sup>47</sup>.
65. When conducting internal investigations into allegations relating to EIB Group Members of Governing Bodies and Staff that could result in disciplinary and/or criminal proceedings, OLAF requests, unless it considers it harmful for the investigation, cooperation from the Inspectorate General Investigations Division. For situations requiring an urgent response, the Inspectorate

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<sup>44</sup> This section sets out the procedures for investigations of Prohibited Conduct, which are handled by the Inspectorate General Investigations Division in compliance with and without prejudice to Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the EPPO, Regulation (EU, Euratom) No 883/2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and the European Court of Justice in its judgment of 10 July 2003 (Case C-15/00, European Commission vs EIB) and the Board of Governors' Decision of 27 July 2004 concerning the EIB's cooperation with OLAF.

<sup>45</sup> The detailed framework for cooperation between the Inspectorate General Investigations Division and OLAF is set out in an administrative arrangement between OLAF, the EIB and the EIF dated 31 March 2016.

<sup>46</sup> The detailed framework for cooperation between the Inspectorate General Investigations Division and the EPPO is set out in a working arrangement between the EPPO, the EIB and the EIF. Where the EPPO conducts a criminal investigation in accordance with the EPPO Regulation, the EIB Group's Fraud Investigations Division does not take any active investigation steps into the same facts, except when requested by the EPPO.

<sup>47</sup> The Inspector General may also refer findings of Prohibited Conduct involving EIB Members of Governing Bodies directly to the EIB Ethics and Compliance Committee.

General Investigations Division may, in consultation with OLAF, take any necessary measures required for the investigation, notably to preserve evidence.

## **(B) Independence**

66. The Inspectorate General Investigations Division shall enjoy complete independence in the exercise of its responsibilities. Without prejudice to the obligation of the EIB Group to report cases of suspected fraud, corruption and any other illegal activity affecting the financial interests of the Union to OLAF and the EPPO without delay and to the powers conferred on OLAF and the EPPO<sup>48</sup>, the Head of the Inspectorate General Investigations Division shall have full authority to open, pursue, close and report on any investigation within its remit without prior notice to, or the consent of, or interference from any other person or entity, pursuant to the relevant investigation procedures.

## **(C) Professional standards**

67. All investigations conducted by the Inspectorate General Investigations Division shall be fair and impartial, with due regard to the rights of all persons or entities involved. The presumption of innocence applies to those alleged to have engaged in Prohibited Conduct. Those involved in the investigation (whether under investigation or those conducting the investigation) should be aware of their rights and obligations and ensure they are fully respected.

68. In particular, those investigations will be undertaken in conformity with the relevant Procedures for the Conduct of Investigations by the Inspectorate General Investigations Division at the EIB or the EIF, as the case may be (“Investigation Procedures”).

## **(D) Access to information by the Inspectorate General Investigations Division, the EPPO, and OLAF**

69. EIB Group Members of Governing Bodies and Staff are required to cooperate with the Inspectorate General Investigations Division, the EPPO and OLAF promptly, fully, efficiently and in the manner specified by the Inspectorate General Investigations Division or the EPPO and OLAF, as the case may be, including by answering relevant questions and complying with requests for information and records<sup>49</sup>.

70. In the context of their respective mandates, the Inspectorate General Investigations Division, the EPPO and OLAF shall have full access to all relevant personnel, information, documents and data, including electronic data, within the EIB Group, in accordance with the applicable procedures including, whenever relevant, procedures on data protection and the Data Protection Officer’s involvement.

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<sup>48</sup> When referring a case to the EPPO, the Inspectorate General Investigations Division is subject to the working arrangement between the EPPO, the EIB and the EIF. See footnote 46.

<sup>49</sup> This article is without prejudice to the requirement, where applicable, contained in the EIB and EIF Staff Regulations to seek prior permission to give evidence.

71. In the context of their respective mandates, the Inspectorate General Investigations Division, the EPPO and OLAF shall have the right to examine and copy the relevant books and records, including electronic data, of the relevant Operations Related Parties or Other Counterparts and Partners, as appropriate.
72. The Bank and the Fund, jointly or separately, may sign a Memorandum of Understanding with law enforcement agencies or other similar organisations in order to facilitate the exchange of information on cases of mutual interest concerning suspected Prohibited Conduct, subject to the respect of applicable legal, data protection and confidentiality frameworks.
73. Likewise, the Bank or the Fund may apply to become *partie civile* (or request similar status as available under the applicable law) in judicial proceedings related to its investigations when it is considered to be in the Bank's or the Fund's interest to do so, notably to maximise the information and evidence available to the Bank or the Fund concerning suspected Prohibited Conduct.

## **(E) Confidentiality**

74. Within the EIB Group's rules on access to information, all information and documents collected and generated during an investigation, not already in the public domain, shall be kept strictly confidential, subject to any obligation of a legal nature or a court order. The confidentiality of the information collected must be respected both in the interests of those concerned and the integrity of the investigation.
75. In particular, during the investigation the confidentiality of the identity of the subject, witnesses and informants must be respected in so far as it would not be contrary to the interests of the investigation.
76. The Inspectorate General Investigations Division shall disclose in writing such information and documents only to those persons or entities authorised to receive them or otherwise on a need-to-know basis.

## **(F) Rights of EIB Group Members of Governing Bodies and Staff**

77. An EIB Group Member of Governing Bodies or Staff 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. The provisions of this policy, the Investigations Procedures and the applicable data protection legislation provide the framework for the rights of Members of Governing Bodies and Staff during an investigation.
78. In any event, an EIB Group Member of Governing Bodies or Staff 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.
79. The investigation of alleged Prohibited Conduct should commence without delay and should be concluded within a reasonable period of time.

## 8 Data protection

80. The processing of personal data within the framework of this policy shall be managed in keeping with the principles and rules provided for in the regulations applicable to the EIB Group<sup>50</sup> and the relevant opinions issued by the European Data Protection Supervisor (EDPS).
81. Any involved persons are entitled to access, rectify and (in certain circumstances) block data related to him/her by contacting the relevant data controller<sup>51</sup> or the EIB/EIF Data Protection Officers. They may also at any time contact the EDPS<sup>52</sup> to check that the rights conferred by the relevant provisions have been respected. Any restriction of those rights shall be based on the internal rules adopted in accordance with the applicable data protection legislation<sup>53</sup>.

## 9 Referrals and assistance to other agencies

### (A) National authorities

82. The Inspectorate General Investigations Division may refer suspected Prohibited Conduct to national authorities within and/or outside the EU for further investigation and/or criminal prosecution and provide further assistance as may be requested. However, where the EPPO or OLAF conducted an investigation, the EPPO or OLAF transmits the case to the competent authorities, where appropriate.
83. If an investigation into suspected Prohibited Conduct is started by a national authority and may involve EIB Group operations or activities, the Inspectorate General Investigations Division shall, in consultation with the services, liaise with and provide appropriate assistance to the national authorities.
84. In the event of an investigation by judicial authorities, law enforcement, administrative, legal or tax authorities, the Inspectorate General Investigations Division may decide to await the results of such an investigation and request a copy of their findings before taking further action.

### (B) International organisations

85. Respecting the EIB Group's rules and procedures governing the disclosure of information and the applicable data protection rules, the Inspectorate General Investigations Division may provide assistance to and share its findings and/or relevant information with other IFI's investigation functions.
86. Similarly, the Inspectorate General Investigations Division may also provide assistance to other international organisations and agencies in respect of suspected Prohibited Conduct.

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<sup>50</sup> Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union's institutions, bodies, offices and agencies and on the free movement of such data, as amended and supplemented from time to time.

<sup>51</sup> The EIB and the EIF, acting as data controllers in the context of their respective investigations, may be contacted at the following address: [investigations@eib.org](mailto:investigations@eib.org).

<sup>52</sup> [www.edps.europa.eu](http://www.edps.europa.eu).

<sup>53</sup> Article 25 of Regulation (EU) 2018/1725, as amended and supplemented from time to time.

## 10 Final provisions

87. The Inspectorate General Investigations Division will write and present to the EIB Management Committee and the EIF Chief Executive, for them to take note of its content, an annual report on anti-fraud activities outlining in general terms, its activities in the previous year and the lessons learnt from investigations. The EIB Management Committee and the EIF Chief Executive will submit it respectively to the EIB Board of Directors and to the EIF Board of Directors for them to take note of its content and discuss any emerging lessons. The annual report is published on the EIB website, taking into account any confidentiality constraints.
88. Formal reviews of this policy should take place regularly. The EIB Group maintains a mailbox on its website ([infodesk@eib.org](mailto:infodesk@eib.org)) to which comments can be sent.
89. Revisions to this policy may be approved by the Bank's Management Committee and the Fund's Chief Executive. The Boards of Directors shall be notified of any such modifications.
90. The policy will be updated based on:
  - a. Changes in relevant EU legislation;
  - b. Agreement between the IFIs and international best practice;
  - c. Changes to policies and procedures within the EIB Group; and
  - d. Any other changes that the EIB Group governing bodies judge necessary and appropriate.
91. This policy has been approved by the EIB and EIF Boards of Directors on 22 July 2021 and 21 July 2021 respectively and shall enter into force upon its publication on the EIB and the EIF websites.



# EIB Group Anti-Fraud Policy

Policy on preventing and deterring prohibited  
conduct in European Investment Bank Group activities



**European  
Investment  
Bank**

*The EIB bank*



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