

EIF Anti-Fraud Policy

POLICY ON PREVENTING AND DETERRING PROHIBITED CONDUCT IN EUROPEAN INVESTMENT FUND ACTIVITIES

("EIF ANTI-FRAUD POLICY")

- EIF will not tolerate Prohibited Conduct in its activities or operations.
- Allegations may be reported using the mechanisms listed on the EIB website.¹ Alternatively, allegations can be reported directly to the European Anti-Fraud Office (OLAF)².

I. PREAMBLE

1. This document sets forth the policy of the European Investment Fund (EIF or the Fund) in preventing and deterring corruption, fraud, collusion, coercion, obstruction, money laundering and terrorist financing (jointly "Prohibited Conduct") in EIF activities. It updates and replaces EIF's Anti-Fraud Policy dated 14 December 2009.
2. The legal basis for the EIF Anti-Fraud Policy and the authority for EIF to conduct investigations stems from:
 - a. Article 325 of the Treaty on the Functioning of the European Union (TFEU);
 - b. Articles 2 and 28 of the EIF Statutes;
 - c. Council Regulation (EC, EURATOM) No. 966/2012 of 25 October 2012.
3. The EIF was established in 1994 as a body of the European Union (then European Communities) by an amendment to the Statute of the European Investment Bank ("EIB") empowering the Governors of the EIB to "establish a European Investment Fund which shall have legal personality and financial autonomy".
4. The EIF operates in accordance with the EU legal framework and is bound by the EIF Statutes, Article 2/1 of which states that:

the "task of the Fund shall be to contribute to the pursuit of the objectives of the European Union."
5. The EIF is committed to ensuring that its activities are free from Prohibited Conduct.
6. Consequently, the Fund will work to prevent and deter Prohibited Conduct from occurring and, where it does occur, will address it in a timely and expeditious manner.
7. In this regard and in seeking to align its policies and procedures with international practice, the Fund is cognisant of the principles enshrined in: (i) the United Nations' Convention Against Corruption³; (ii) the Organisation for Economic Co-operation and Development's anti-bribery convention⁴; (iii) the Council of Europe Criminal Law Convention on Corruption⁵, (iv) the

¹ <http://www.eib.org/about/accountability/anti-fraud/reporting/index.htm>.

² http://ec.europa.eu/anti_fraud/investigations/reportfraud/index_en.htm

³ http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf

⁴ <http://www.oecd.org/daf/anti-bribery/oecdantibriberyconvention.htm>

⁵ <http://conventions.coe.int/Treaty/en/Treaties/Html/173.htm>

Financial Action Task Force's 40 + 9 Recommendations⁶; and (v) the International Financial Institution's (IFIs) Anti-Corruption Task Force's Uniform Framework Agreement⁷.

8. This policy is based on the "Policy on preventing and deterring prohibited conduct in European Investment Bank activities" approved by the Board of Directors of the EIB.

II. BASIC PRINCIPLES

9. EIF members of governing bodies and staff, counterparties and business partners (both as defined in para. 10 below) shall maintain the highest level of integrity and efficiency in all EIF activities. EIF will not tolerate Prohibited Conduct in its activities.

10. (i) Any Prohibited Conduct is to be reported promptly to the Fraud Investigations Division of the Inspectorate General of EIB (IG/IN) which will conduct investigations on behalf of EIF. Prohibited Conduct may, as appropriate, be reported to competent national authorities;

(ii) The Fraud Investigation Division shall work in close partnership with OLAF;

(iii) EIF will take all appropriate legal steps at its disposal and moreover, to the extent reasonably practicable and taking into account the business specificities of EIF, in particular, the position of EIF as risk finance provider through (a) participations in collective investment structures and (b) the issue of financial guarantees, which are intended to provide the release of regulatory capital to financial intermediaries to actively contribute to the sanctioning of Prohibited Conduct and wrongdoers and will, where appropriate, endeavour to recover misapplied funds.

III. SCOPE OF THE POLICY

11. This Policy applies to all EIF activities, including operations implemented on behalf of third parties within or outside the EU and procurement for the Fund's own account. It applies to the following persons and entities:

- a. The members of EIF Board of Directors, the Chief Executive and, where applicable, Deputy Chief Executive, staff and consultants, without regard to their position, rank, or length of service (referred to herein as "EIF members of governing bodies and staff");
- b. All financial intermediaries and contractual counterparties, and, where appropriate, relevant persons or entities involved in activities supported by EIF in accordance with its mission and policy framework (referred to herein as "financial intermediaries");
- c. Consultants, suppliers, service providers and other persons or entities procured by EIF for its own account; and
- d. All counterparties and others through which the EIF deals in its treasury or other non transaction-related activities (b., c. and d. jointly referred to herein as "EIF business partners" as further defined also in paragraph 12/h below).

12. The standards referred to in this policy are central characteristics of EIF's corporate responsibility; the observation of these standards is a pre-requisite for any engagement by EIF

⁶ <http://www.fatf-gafi.org/topics/fatfrecommendations/>

⁷ <http://www.eib.org/about/documents/ifi-anti-corruption-task-force-uniform-framework.htm>

in an operation and provides guidance for EIF's monitoring policy. This policy will be made available to all EIF business partners as well as other persons or entities involved in or benefiting directly or indirectly from EIF operations through publication of this policy on the EIF website.

IV. DEFINITIONS

13. In pursuance of this policy, Prohibited Conduct includes corruption, fraud, coercion, collusion, obstruction, money laundering and financing of terrorism defined as follows:⁸

- 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.⁹
- 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. An obstructive practice is (a) deliberately destroying, falsifying, altering or concealing of evidence material to the investigation; and/or 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 (b) acts intended to materially impede the exercise of the EIF's contractual rights of audit or access to information or the rights that any banking, regulatory or examining authority or other equivalent body of the European Union or of its Member States may have in accordance with any law, regulation or treaty or pursuant to any agreement into which the EIF has entered in order to implement such law, regulation or treaty.

Money laundering and financing of terrorism are defined in EU Directives¹⁰ 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 (hereafter "AML/CFT Directive"), as follows:

- f. 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 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

⁸ 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, cf. footnote 5.

⁹ This could include tax fraud.

¹⁰ Currently Directives 2005/60 and 2006/70; other EU legislation relating to aspects of fraud and other illegal acts include, among others, the following legislation as amended and supplemented from time to time:

- . EU Directives 2014/25/EU and 2014/24/EU 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.

- 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.
- g. 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 terrorism¹¹.
- h. A business partner means a contractual counterparty of EIF including, in particular, financial intermediaries benefiting from EIF investments or guarantees and including furthermore entities mandated with the management or advice of financial intermediaries. For the avoidance of doubt, this definition shall also include economic operators which participate in any kind of public tender and similar procedure launched under the responsibility of EIF. This definition shall also include providers of third party mandates managed by EIF in the pursuit of its mission.

V. MEASURES TO PREVENT AND DETER PROHIBITED CONDUCT

(A) Generally

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.”

15. The EIF Statutes provide that the Fund shall contribute to the pursuit of the objectives of the European Union, and, accordingly, the terms and conditions of the Fund's operations must be consistent with relevant EU policies.

16. Accordingly, the terms and conditions of the Fund's operations must ensure an effective protection and deterrence against Prohibited Conduct.

17. In particular, the EIF Guide for Procurement contains a number of measures to ensure transparency and integrity in procurement and EIF’s transaction documentation shall contain appropriate contractual rights of inspection and access to information for the fund and other competent EU institutions and bodies, to the extent applicable.

¹¹ 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).

(B) Due Diligence Process and Integrity Due Diligence

18. The EIF operational services are the first line of protection in preventing Prohibited Conduct through the appraisal and commercial due diligence process. They are the first line of detection for possible integrity concerns during the appraisal process given their knowledge of the potential business partners and the circumstances in which the operation will be undertaken. Integrity concerns arising during the transactional due diligence process will be reported on a timely basis to the compliance function in EIF.
19. **Integrity Due Diligence:** as part of the approval process, the compliance function of EIF must take a position on every operation prior to its approval; this position includes a comprehensive assessment of integrity risks related to such operations, including a “Know Your Customer” (“KYC”) due diligence. Such due diligence is performed in accordance with the core requirements of the EU AML-CFT legislation, international and peer IFI standards pursuant to the terms of the Fund’s applicable procedures.
20. The compliance function in EIF is generally responsible for: i) the assessment of any material integrity, compliance or reputational concern; ii) the identification of possible remedies and risk mitigating measures, if any available; and iii) the timely reporting of any such concerns:
- to the Chief Executive/Deputy Chief Executive and to the EIF Board of Directors for their decision on whether to pursue or abandon the relevant business relationship; and, as the case may be,
 - to the Fraud Investigations Division for further investigation, pursuant to the applicable Fund’s procedures.

The early detection of possible compliance and integrity concerns at appraisal stage allows the Fund to avoid entering into business relationships or the performance of activities which could expose the EIF to serious financial and reputation risks and contributes to the overall integrity and transparency of the economic environment in which the Fund operates.

(C) EIF Operations

21. EIF implements a number of measures to address Prohibited Conduct and to combat Prohibited Conduct, including money laundering and the financing of terrorism. This includes, without limitation, the requirements to its business partners to comply with measures as described below. Specific provisions apply for securitization transactions as set out in paragraphs 25 and 26 below.
22. To the extent EIF business partners are not subject to a regulation implementing the EU AML-CFT legislation or equivalent standards, EIF business partners shall adhere to obligations equivalent to those set out in the EU AML-CFT legislation, in particular, as regards obligations under the “Know Your Customer” principles and the origin of funding involved in the operation in which EIF participates.
23. EIF expects its business partners to keep EIF timely informed, as set out in paragraph 47 below, if they become aware of Prohibited Conduct in relation to an operation in which EIF participates. Likewise, EIF expects from its business partners full and active support for any investigation performed by in the Fraud Investigations Division in connection with such Prohibited Conduct.
24. All EIF business partners are assessed with respect to compliance with the internationally agreed tax standard, as set out in the applicable specific EIF policy framework.

(D) Measures Relating to EIF Securitisation Transactions

25. As regards securitisation transactions the following principles shall apply:

- a. Securitisation transactions are carried out with reputable transactional parties subject to strict compliance requirements. Those counterparties are continuously monitored by EIF risk management services and, where necessary, by the compliance function in EIF;
- b. The transactions are documented and regularly audited both internally and externally;

26. The EIF organizational framework contains a strict segregation of tasks between front and back offices and all transaction proposals are subject to an independent opinion by EIF risk management services.

(E) Monitoring of Transaction Implementation

27. Monitoring of transactions by EIF operational services after the signing of the relevant agreement(s) aims to ensure that the respective business activity is implemented as planned and that any risks that occur are managed appropriately.

28. The compliance function in EIF is regularly involved in the monitoring of the implementation of transactions as an essential part of the on-going monitoring of the Fund's activities. Such monitoring is aimed at detecting integrity and compliance concerns which may arise after the approval, including but not limited to cases of restructuring and change of ownership.

(F) Protective Measures

29. EIF 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 framework. This may include the withdrawal of the financial support provided by EIF and the institution of appropriate sanctions.

30. EIF reserves the right to inform competent national regulatory and/or judicial authorities on Prohibited Conduct, in particular, without limitation, authorities specifically in charge of measures to combat money laundering and the financing of terrorism.

31. In the context of the procurement rules applied by EIF, tenderers involved in Prohibited Conduct may be excluded from being considered from procurement processes.

32. Notwithstanding the obligation of EIF Staff to report on Prohibited Conduct under paras. 44 and 45, any material integrity and compliance concerns are promptly reported by the compliance function in EIF to the Chief Executive/Deputy Chief Executive as well as other governance bodies, where appropriate for their decision on the appropriate course of action, together with specific recommendations on possible remedies and risk mitigating factors, if available.

33. In addition to routine monitoring of operations, the Fraud Investigations Division may carry out a Proactive Integrity Review (“PIR”). 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 that funds covered by EIF risk finance 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 the current and future projects.

The selection of projects for a PIR is done independently by the Fraud Investigations Division through a detailed risk assessment process. Projects selected for a PIR undergo an in-depth review in order to identify possible indicators of Prohibited Conduct.

34. The contractual bases for EIF financial support shall, to the extent feasible, include appropriate clauses, which allow EIF to take action to deal with breaches of the relevant undertakings under such financing agreements.
35. The Fund will also take legal steps to recover misapplied funds, whenever suitable legal remedies are available and consequent action is appropriate.
36. An individual or entity that is found to have engaged in Prohibited Conduct may be excluded from EIF financial support in accordance with the provisions and process set out in the exclusion procedures applied within EIB Group.
37. The EIF will, to the extent reasonably practicable and subject to the provisions and process set out in the exclusion procedures applied within EIB Group, seek to exclude any individual or entity from benefiting, as financial intermediary or final beneficiary, from EIF financial support, if such financial intermediary or final beneficiary is subject to a registration in the Central Exclusion Database operated by the European Commission.
38. To the extent that the exclusion procedures applied within EIB Group allow EIF to enter into 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 and subject to terms and conditions set out in a settlement agreement between the Fund and the party(ies) involved.
39. Subject to the publication of a specific policy to that extent, EIF reserves the right to record telephone conversations with third parties, it being understood that the possibility of such recording may be disclosed to third parties concerned. This could include other forms of transmission (voice over IP, videoconference etc.).

(G) Measures for EIF's Treasury Operations

40. EIF has outsourced its treasury operations to the EIB and other third parties. All treasury activities shall be performed in accordance with the following principles:
- 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. Treasury operations are carried out with reputable counterparties using strict compliance measures. Those counterparties, e.g. lead managers, are duly approved, authorized, continuously monitored and reviewed as appropriate;
 - c. The operations (including pricing-related matters) are documented, related 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 an operation are recorded and kept for reference purposes;
 - e. A strict segregation of tasks between front and back offices and independent verification of pricing conditions is ensured.

(H) Measures Applicable to Members of Governing Bodies and Members of Staff

41. The compliance function in EIF is responsible, inter alia, for the administration of the Staff Code of Conduct¹² and the administration of the Codes of Conduct for the Chief Executive and the Deputy Chief Executive, the EIF Board of Directors and the Audit Board.
42. **Compliance Charter and Compliance Policy**¹³: This requires members of governing bodies and EIF Staff members to comply with all applicable rules, regulations and EIF policies and procedures, including the observance of applicable national laws and regulations.

VI. OBLIGATIONS TO REPORT SUSPECTED PROHIBITED CONDUCT

(A) Reporting of EIF Members of Staff

43. The EIF Whistleblowing Policy¹⁴ provides Staff Members with a comprehensive framework within which to report suspicions of Prohibited Conduct.
44. Under the Whistleblowing Policy and the Staff Code of Conduct, EIF staff members are required to report any suspected incidents of Prohibited Conduct or other illegal behaviour in connection with the activities of the Fund, serious misconduct or serious infringement of the Fund's rules, policies or guidelines, or any action that is or could be harmful to the mission or reputation of the Fund immediately after becoming aware of the matter.

¹² http://www.eif.org/news_centre/publications/staff-code-of-conduct.htm?lang=-en

¹³ http://www.eif.org/news_centre/publications/compliance-charter.htm?lang=-en

¹⁴ http://www.eif.org/attachments/publications/about/2009_EIF_Whistleblowing_Policy.pdf

(B) Reporting Process

45. All allegations by EIF staff members, EIF business partners, other counterparties and partners, or members of the public (including civil society) of suspected Prohibited Conduct should under this policy be reported to the Fraud Investigations Division which will acknowledge receipt of the allegation. A report can be made:

- by letter¹⁵;
- by email to investigations@eib.org;
- through the on-line form available on the website of the European Investment Bank¹⁶;
- by telephone (+352 4379 87441); or
- by fax (+352 4379 64 000).¹⁷

(C) Independent Complaints Mechanism

46. In addition to allegations of Prohibited Conduct, any person or group who believes there may have been a case of maladministration within the EIB Group can lodge a complaint with the EIB Secretary General under the EIB Complaints Mechanism¹⁸.

(D) Protection of Staff Members and External Complainants

47. All allegations of Prohibited Conduct will be treated by EIF as strictly confidential (subject to paras. 61 - 63 below), and may be made anonymously.

48. As regards reports made by an EIF Staff Member, the Staff Code of Conduct and the EIF Whistleblowing Policy provide that the fund 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 Fund.

¹⁵ The Head of the Fraud Investigations Division, European Investment Bank, 100 Bd. Konrad Adenauer, L-2950 Luxembourg

¹⁶ <http://www.eib.org/infocentre/anti-fraud-form.htm>

¹⁷ Alternatively, allegations concerning Prohibited Conduct can be reported directly to the European Anti-Fraud Office (OLAF). Details of how to contact OLAF can be found at: http://ec.europa.eu/anti_fraud/contacts/index_en.htm. Business partners may also ask their usual EIB contacts to put them in touch with Investigations in appropriate cases.

¹⁸ 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 failure to respect the principles of good administration, 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 the EIB Group activities and to project cycle related policies and other applicable policies. The link to the policy is:

<http://www.eib.org/infocentre/publications/all/complaints-mechanism-policy.htm>

VII. PRINCIPLES FOR THE CONDUCT OF INVESTIGATIONS¹⁹

(A) Authority to Conduct Investigations

49. The EIB Inspectorate General, acting on behalf of EIF as a central EIB Group investigation service through its Fraud Investigations Division, and working in close collaboration and full transparency with OLAF, shall be responsible for:
- a. receiving reports of alleged or suspected Prohibited Conduct involving the EIF's activities or EIF members of governing bodies and staff;
 - b. investigating such matters and cooperating directly with OLAF in order to facilitate the latter's investigations; and
 - c. reporting its findings to the Chief Executive, OLAF and the EIF Audit Board which has an oversight function, as well as any other staff member on a need-to-know basis.
50. When conducting internal investigations into allegations relating to EIF members of governing bodies and staff that could result in disciplinary or criminal proceedings, OLAF requests, unless it considers it harmful for the investigation, cooperation from the Fraud Investigations Division. For situations requiring an urgent response, the Fraud Investigations Division may, in close co-operation with OLAF, take any necessary measures required for the investigation, notably to preserve evidence.

(B) Independence

51. The Fraud Investigations Division shall enjoy complete independence in the exercise of its responsibilities. Without prejudice to the powers conferred on OLAF, the Head of the Fraud Investigations Division shall have full authority to open, pursue, close and report on any investigation within its remit without prior notice to, the consent of, or interference from any other person or entity.

(C) Professional standards

52. All investigations conducted by the Fraud 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 misconduct. Those involved in the investigation (be those under investigation or those conducting the investigation) should be aware of their rights and obligations and ensure they are fully respected.
53. In particular, those investigations will be undertaken in conformity with the EIB's "Procedures for the Conduct of Investigations by the Inspectorate General of the EIB" (or "Investigation Procedures").

¹⁹ This section sets out the procedures for investigations of Prohibited Conduct, which are handled by the Inspectorate General through its Fraud Investigations Division in compliance with and without prejudice to Regulation (EC) No 1073/1999 and Regulation (Euratom) No 1074/1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF), as interpreted by 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 on 27 July 2004 concerning EIB's cooperation with OLAF. Allegations concerning money laundering and financing of terrorism are investigated by the Fraud Investigations Division in close cooperation with the compliance function in EIF.

(D) Access to information by the Fraud Investigations Division and OLAF

54. EIF members of governing bodies and staff are required to cooperate with the Fraud Investigations Division and OLAF promptly, fully, efficiently and in the manner specified by the Fraud Investigations Division, including by answering relevant questions and complying with requests for information and records.
55. In order to conduct an investigation, the Fraud Investigations Division and OLAF shall have full access to all relevant personnel, information, documents and data, including electronic data, within the EIF, in accordance with the applicable procedures.
56. When conducting an investigation and subject to the applicable law and confidentiality obligations, the Fraud Investigations Division and OLAF shall have the right to examine and copy the relevant books and records of EIF business partners, contractors, suppliers and other involved parties.
57. The Fund 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 data protection provisions.
58. Likewise, 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 Fund's interest to do so, notably to maximise the information and evidence available to the Fund concerning suspected Prohibited Conduct.

(E) Confidentiality

59. Within the Fund'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 Court order. The confidentiality of the information collected must be respected both in the interests of those concerned and the integrity of the investigation.
60. 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.
61. The Fraud Investigations Division shall disclose in writing such information and documents only to those persons or entities authorized to receive them or otherwise on a need-to-know basis.

(F) Rights of Members of Governing Bodies and Staff

62. A 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 Investigation Procedures and the appropriate Code of Conduct provide the framework for the rights of members of governing bodies and staff during an investigation.

63. In any event, a 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.

64. The investigation of suspected misconduct should commence without delay and should be concluded within a reasonable period of time.

VIII. DATA PROTECTION

65. 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 Fund²⁰ and the relevant opinions issued by the European Data Protection Supervisor (EDPS).

66. Any involved persons are entitled to access, rectify and (in certain circumstances) block data related to him/her by contacting the data processing controller²¹ or the EIF Data Protection Officer (DPO). They may also at any time contact the EDPS²² to check that the rights conferred by the relevant provisions have been respected.

IX. DISCIPLINARY ACTIONS

67. The Chief Executive shall decide the appropriate and proportionate disciplinary actions, in accordance with the provisions of Articles 38-40 of the Staff Regulations, taking into account the severity of the offence and any aggravating and/or mitigating circumstances.

68. If a member of the Fund's governing bodies is implicated, the chairman of the EIF Board of Directors, or, as appropriate, the Audit Board, shall inform the competent decision-making body of the Fund.

69. 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 Union²³.

X. REFERRALS AND ASSISTANCE TO OTHER AGENCIES

(A) National Authorities

70. The Fraud 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 OLAF conducted an investigation, the Office transmits its final report to the competent authorities, where appropriate.

²⁰ In particular Regulation (EC) No45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (Official Journal L8/1 of 12 January 2001).

²¹ The data processing controller may be contacted at the following address: investigations@eib.org

²² www.edps.europa.eu

²³ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:12006E/PRO/36:EN:HTML> (See Arts 18, 19 and 22)

71. If an investigation into suspected Prohibited Conduct is started by a national authority and may involve EIF operations, the Fraud Investigations Division shall, in consultation with the services, liaise with and provide appropriate assistance to the national authorities.
72. In the event of an investigation by judicial authorities, law enforcement, administrative, legal or tax authorities, the Fraud 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

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

XI. MISCELLANEOUS

75. The Fraud Investigations Division will write and present to the Chief Executive and the Audit Board, prior to publication on the Fund's website, an Annual Report on Anti-Fraud Activities outlining in general terms, its activities in the previous year.
76. 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 EIF; and
 - d. Any other changes that the EIF judges necessary and appropriate.