

Anti-corruption Report - 2010

For the year ending 31 December 2010



European Bank
for Reconstruction and Development

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Message from the President

The European Bank for Reconstruction and Development (EBRD) promotes economic growth and the development of market economies in central and eastern Europe and central Asia. Corruption represents a key challenge to this work. From fraud to the financing of terrorism to money laundering, corruption can greatly impede economic growth. Combating corruption is therefore a critical aspect of the Bank's work.

The EBRD's anti-corruption strategy encompasses prevention, detection, investigation and sanctioning, with a particular focus on *ex ante* measures. Each aspect of the EBRD's anti-corruption work has always involved cooperation and collaboration – with stakeholders, civil society, governments, inter-governmental organisations and other international financial institutions (IFIs) – however 2010 heralded a significant collaborative anti-corruption achievement.



This achievement is in the form of the Agreement for the Mutual Enforcement of Debarment Decisions (AMEDD), which was concluded among the EBRD, the World Bank and the African, Asian and Inter-American Development Banks in April 2010. The AMEDD formalises what had already been recognised by the EBRD: that an entity debarred by one IFI should not be able to obtain financing from another. Until 2010, however, this principle was only reflected in EBRD policy and procedures. With the AMEDD, EBRD peer institutions have also recognised the importance of disallowing 'forum shopping', and have adopted a mechanism to formally implement such recognition across participating IFIs. It highlights that there is no room for corruption in the efforts of the community of IFIs to foster economic growth and development

Whilst the AMEDD represent a significant tool in our efforts to ensure that Bank activities remain free from corruption, it is by no means sufficient on its own. To ensure that Bank operations do not involve the inappropriate use of offshore jurisdictions that are considered to be associated with improper financial dealings, the Bank has adopted the policy on Offshore Jurisdictions in EBRD Projects. The policy builds on the Bank's long-standing practice in this area and prescribes the specific information that must be provided to the Board in order to demonstrate, inter alia, that there are sound business reasons for the use of the offshore jurisdiction.

In addition to maintaining our zero tolerance approach to corruption – which was recently evidenced by the Bank's swift response to suspected criminal behaviour within the organisation – we will continue to work collaboratively with a broad range of actors to combat corruption and the threat it poses to sound economic growth and to ensure that the Bank's policies and procedures reflect the highest ethical standards. Many such efforts are detailed in this fifth annual Anti-Corruption Report, covering the year 2010.

Thomas Mirow
President

Acronyms

ADB: Asian Development Bank
AMEDD: Agreement for the Mutual Enforcement of Debarment Decisions
AML: Anti-money Laundering
BEEPS: Business Environment and Enterprise Performance Survey
BIDD: Business Intelligence Due Diligence
CDRP: Conduct and Disciplinary Rules and Procedures
CFT: Countering the Financing of Terrorism
DPs: Disciplinary Procedures
EBRD: European Bank for Reconstruction and Development
EIB: European Investment Bank
EPPs: Enforcement Policy and Procedures
IDD: Integrity Due Diligence
IFI: International Financial Institution
IMF: International Monetary Fund
IRM: Independent Recourse Mechanism
LiTS: Life in Transition Survey
ND: Nominee Director
OCCO: Office of the Chief Compliance Officer
PCM: Project Complaint Mechanism
PP&Rs: Procurement Policies and Rules
PRISM: Procedures for Reporting and Investigating Suspected Misconduct

About the European Bank for Reconstruction and Development

The European Bank for Reconstruction and Development (EBRD) was founded in 1991 to aid the development of democratic market economies in the former Soviet states of central and eastern Europe and Central Asia (the 'region'). Financing primarily private sector clients whose needs are not met by the market, the Bank's investments promote entrepreneurship and support the transition from central planning to open markets in 30 countries in the region.

Sixty-one states and two intergovernmental institutions, the European Community and the European Investment Bank (EIB), own the Bank. The EBRD is the largest single investor in the Region and through commercial partnerships it mobilises significant direct foreign investment beyond its own financing. It invests in a wide range of enterprises and financial institutions, generally through loans or equity. The EBRD also works with formerly state-owned companies to support privatisation and related restructuring, and with authorities to improve municipal services. The Bank maintains a close political dialogue with governments and civil society in the region and leverages these relationships to promote policies that bolster the business environment.

The Bank works only in countries which seek to promote democracy and which are committed to environmentally sound and sustainable economic development. The EBRD has also developed internal and external mechanisms to ensure that its mandate is carried out to the highest corporate governance and integrity standards.

Every EBRD investment must:

- Contribute significantly to a country's transition to a market economy.
- Take risks that support private investors and do not crowd them out.
- Apply sound banking principles.

Through its investments, the EBRD promotes:

- Structural and sectoral reforms.
- Competition, privatisation and entrepreneurship.
- Stronger financial institutions and legal systems.
- Infrastructure development needed to support the private sector.
- The adoption of strong corporate governance, including environmental sensitivity and higher standards of business conduct.

Functioning as a catalyst of change, the EBRD:

- Promotes co-financing and foreign direct investment.
- Mobilises domestic capital.
- Provides technical assistance.

More information about the Bank can be found on its web site at www.ebrd.com.

1. Introduction

This report summarises work undertaken by the Bank during the year 2010 to combat corruption (which includes but is not limited to fraud, money laundering and the financing of terrorism) and ensure the integrity of EBRD operations.

In response to a changing business environment and lessons learned, every year the Bank's efforts to combat corruption produce new initiatives. This report highlights such developments during 2010 and describes changes to ongoing integrity and anti-corruption activities.

This report is organised around the four pillars of the Bank's anti-corruption strategy; prevention, detection, investigation and enforcement. Responsibility for implementing and reporting on the strategy falls primarily on the Office of the Chief Compliance Officer (OCCO).

2. The Office of the Chief Compliance Officer

The Bank – its officers and staff together – ensure that the highest standards of integrity are applied throughout the EBRD and its projects. OCCO plays a pivotal role in this respect. It provides a range of advice and assistance across Bank departments in assessing and evaluating integrity and reputational risks relating to proposed and ongoing Bank transactions, as well as investigating allegations of fraudulent and corrupt practices both with regard to Bank staff and Board officials, as well as in relation to Bank projects or counterparties. OCCO's objectives include:

- To ensure that the Bank's ethical rules of conduct and internal standards, including procedures and guidelines on anti-money laundering (AML), countering the financing of terrorism (CFT), conflicts of interest, treatment of confidential information and integrity due diligence (IDD), reflect internationally accepted norms.
- To oversee the effective administration of the Bank's accountability mechanism which reviews complaints that the Bank has failed to adhere to applicable policies in approving a particular project and affords members of an affected community the opportunity of obtaining the Bank's assistance in a problem solving initiative with the project sponsor.
- To ensure that Board officials and staff fulfill their obligations to behave in an ethical manner, consistent with the relevant code of conduct, and that they are adequately trained to understand and meet these obligations.
- To ensure that allegations of fraudulent or corrupt practices are processed in compliance with the Bank's Enforcement Policy and Procedures (EPPs).

To achieve these objectives, OCCO is responsible for developing, reviewing and enforcing the relevant Bank policies and practices. Among other activities, it conducts Bank-wide AML/CFT/IDD training courses, advises on integrity risks in respect of the Bank's operations and investments, investigates instances of misconduct and allegations of corruption in Bank-financed projects and handles complaints from groups adversely affected by these projects.

In connection with the objective of ensuring ethical behaviour among Board officials and Bank personnel, OCCO is responsible for administering the Board and staff codes of conduct which articulate the values, obligations and ethical standards the Bank expects of its officials and personnel, including the filing of annual compliance statements and the disclosure of financial interest forms by senior members of staff and Board officials. OCCO also administers the Bank's Procedures for Reporting and Investigating Suspected Misconduct (PRISM), which provides a framework for fair and expeditious administrative investigations into alleged staff misconduct.

Further information regarding OCCO's activities can be found below.

3. Key 2010 Initiatives

Adoption of the Agreement for the Mutual Enforcement of Debarment Decisions. The Agreement for the Mutual Enforcement of Debarment Decisions (AMEDD) was adopted and entered into force for the Asian Development Bank (ADB), the EBRD and the World Bank Group (World Bank) in 2010. The Agreement makes it almost impossible for an entity debarred by one participating IFI for corruption to obtain financing from another. It represents a very significant achievement in the field of IFI cooperation for the prevention and combating of corruption.

Amendment of the Enforcement Policies and Procedures. The EPPs address corruption in EBRD projects. They were amended in 2010 to give effect to key aspects of the AMEDD.

Operationalisation of the Project Complaint Mechanism. The Project Complaint Mechanism (PCM), which in 2009 formally replaced its predecessor the Independent Recourse Mechanism (IRM), is the Bank's accountability mechanism. It gives stakeholders an avenue to raise complaints about any adverse effects of EBRD-financed projects. The new PCM entered into force in March 2010. A separate PCM Annual Report covering the period of 16 March - 20 December 2010 can be found at http://www.ebrd.com/downloads/integrity/Annual_report_2010.pdf.

Adoption of the Bank's Policy on Offshore Jurisdictions. This policy, adopted by the EBRD Board in July 2010, builds on the Bank's long-standing practice in this area and prescribes the specific information that must be provided to the Board in order to demonstrate that there are sound business reasons for the use of the offshore jurisdiction. The policy prohibits the use of offshore jurisdictions that are considered to be associated with improper financial dealings, a judgement reached by deferring to the assessments of international bodies expert in this field, namely the Global Forum on Transparency and Tax Information and the Financial Action Task Force

4. Preventing Corruption

While each of the four pillars of the Bank's anti-corruption strategy – prevention, detection, investigation and sanctioning – is equally important, the Bank has consistently relied on a robust pre-investment screening as the best way of safeguarding the integrity of its operations.

4.1. Internal Prevention

This section focuses on how the Bank shields its own operations from corruption.

4.1.1. Integrity Due Diligence

The transition from central planning to market economies in the Bank's region takes place in environments characterised by weak institutions, corruption and public malfeasance, sometimes due to the capture of government by private interests. To minimise risks in this context, all Bank transactions are subject to a stringent *ex ante* IDD review, the process by which bankers assess – in line with the EBRD's IDD Procedures and Guidelines – potential reputational and integrity concerns that may be associated with dealing with particular clients or sponsors. The IDD Guidelines rely on a risk-based approach whereby higher risks are subject to increased levels of scrutiny and control and provide clear guidance as to what is not acceptable.

As noted previously, in July 2010, the Bank adopted a Policy on Offshore Jurisdictions in EBRD-financed projects. A key feature of the policy is that it again places reliance on the assessment of jurisdictions by expert bodies, notably the Global Forum on Transparency and Tax Information and the Financial Action Task Force. In this, the policy is consistent with the practice of the Bank between 2001 and the beginning of 2009, and is based on assessments that have regained full credibility and international support.

OCCO regularly provides advice on application of the Bank's IDD Guidelines and procedures. During 2010, OCCO provided integrity advice on 988 transactions (representing approximately 341 distinct projects). The number of transactions exceeds the number of projects as OCCO is typically involved throughout a project's life cycle, including the pre-investment stage, during investment monitoring and upon equity exits. The amount of transaction advice provided by OCCO in 2010 was roughly similar to that provided in 2009. This steady but relatively high volume of transaction advice results from the Bank's ongoing crisis response, as well as the increased volume of higher risk projects, which are automatically referred to OCCO under the Bank's IDD Guidelines.

It is also worth noting that approximately 25 proposed projects did not proceed due to integrity concerns. These concerns generally relate to opaque ownership structures that do not permit identification of the ultimate beneficial owner, the presence of politically exposed persons, abuse of judicial procedures to obtain commercial advantage, ongoing criminal investigations or criminal convictions as well as credible allegations serious past wrongdoings.

In addition to assessing risks on proposed transactions, OCCO monitors compliance with the requirement for bankers to complete integrity and, where appropriate, AML red flag checklists. OCCO's compliance assessments covered all transactions that passed final review by Bank Management during 2010. The overall compliance rate for completion of the integrity checklists was 98 per cent in respect of the red flags checklist and 95 per cent for the AML/CFT checklist. The reason for the non-filing of checklists was ascertained and remedial action was taken to ensure full compliance in future. In addition, 25 percent of the projects were selected for comprehensive

checking against relevant documentation. These reviews confirmed that the checklist responses were indeed based on information obtained from supporting documents and/or other sources.

Beginning in 2010, following recommendations made in the 2008 Internal Audit Report on Banking Operations: IDD, the quarterly project compliance reviews included an evaluation of the adequacy of the disclosure of integrity issues in Board documents. Fifty-five projects were reviewed by OCCO, all of which were found to have made adequate disclosure.

Finally, in April 2010, the competitive tender process begun in 2009 to appoint consulting firms to a panel of external due diligence specialists was completed and the appointment of five firms to the panel was finalised. Twenty expressions of interest had been received in response to the invitation to tender that was issued.

4.1.2. Anti-money Laundering, Combating Terrorist Financing and Integrity Due Diligence Training

While Bank staff can turn to OCCO for case-by-case IDD transaction advice, the EBRD also ensures that all project-facing staff are individually equipped to identify and analyse integrity issues in their respective projects. All project-facing staff are required to attend a half-day programme covering international best practice in AML, CFT and the Bank's IDD Guidelines. This training ensures that all project staff understand international best practice and legal provisions relating to AML and CFT, are aware of the ways in which money laundering and terrorist financing may confront the Bank in its various projects, are familiar with the Bank's IDD Guidelines and make decisions in line with them.

OCCO is tasked with providing this internal AML/CFT/IDD training. In this regard, it organised seven training sessions at the Bank's headquarters during 2010, involving the participation of 90 new staff members from both headquarters and the Bank's Resident Offices.

In 2010, the Bank developed a new mandatory refresher AML/CFT/IDD half-day training course designed for experienced bankers. The course is intended to highlight best practice in information gathering as well as recent developments in the fields of integrity, AML and corruption and to encourage participants to share experiences and lessons learned. Nine sessions of the course were held in 2010, which were attended by 135 staff members. A separate non-mandatory Business Intelligence Due Diligence (BIDD) course was also developed during 2010. This programme is intended to assist project-facing staff in honing their questioning and intelligence-gathering skills in order to obtain as accurate and comprehensive a picture as possible of the integrity status of transactions prior to their formal approval. The session of this BIDD course was held in November 2010, when nine people attended. A further nine attended in December 2010.

4.1.3. Promoting Ethical Standards

To ensure awareness of responsibilities under the Board and staff codes of conduct, OCCO offers a range of training courses on integrity-related issues. The 'Integrity Matters!' course is compulsory for all staff as part of the new employee orientation

programme 'Exploring the EBRD'. In this context, OCCO hosted seven 'Integrity Matters!' sessions during 2010 which were attended by 226 staff and Board members.

The new electronic training programme on the Chinese wall guidelines introduced in December 2009 was extensively utilised during 2010. Chinese walls are information barriers to ensure the proper handling and use of confidential information and the proper management of potential conflicts of interest. During 2010 the training was downloaded 599 times, the Chinese walls training quiz and glossary of terms were downloaded 433 times.

OCCO also actively participated in the delivery of a training programme focused on the obligations of nominee directors (NDs) appointed to the supervisory boards/boards of directors of the Bank's investee companies, with particular emphasis placed on the avoidance of conflicts of interest. In 2010, this training was delivered to 34 Bank staff members who were newly appointed during the year to sit on the boards of Bank investee companies.

In addition, following the 2010 review of the Bank's rules and procedures relative to the appointment of nominee directors, the training programme was redesigned to also require the attendance of the Bank's external nominee directors to the session on obligations and conflicts. Eighteen such nominee directors received training in 2010. The revised programme also affords both the internal and external Bank nominee directors the opportunity to raise concerns regarding an entity's corporate governance, as well as to share experience and lessons learned.

4.2. External Prevention

This section focuses on how the Bank prevents corruption in the environments in which it operates, namely its countries of operations, its investee companies and its commercial partners.

4.2.1. Policy Dialogue and Technical Assistance

As part of the EBRD's approach to preventing corruption in its operations, it engages in policy dialogue with, and provides technical assistance to, policy-makers and businesses in the Bank's region. Such dialogue and assistance is aimed at reducing corruption by strengthening legal and economic institutions and promoting good corporate governance and sound business environments. In this connection, the Bank regularly offers training workshops to financial actors in the areas of AML and CFT. The purpose of the programme is to raise the AML/CFT awareness of compliance officers in financial institutions in the Bank's countries of operations, to provide assistance and advice in the development and effective implementation of AML/CFT policies, practices and procedures and to afford participants the opportunity to network and exchange information with fellow compliance officers, as well as with local representatives of financial monitoring units and central banks.

During 2010, OCCO, with the assistance of external AML/CFT specialists, delivered one such workshop in Moscow. The event was attended by 26 officials from Russia's commercial banking sector. Most represented financial monitoring or AML compliance departments. The overall aim of the workshop was to continue to increase

the awareness of those involved in Russia's AML and CFT system and to provide assistance and advice in the further development and implementation of AML and CFT policies and procedures. The programme comprised nine presentations from international and Russian AML and CFT experts, supplemented by practical exercises and open discussion sessions.

4.2.1.1. Evidence-based Policy Dialogue and Technical Assistance

The policy advice and technical assistance the Bank provides is based in part on extensive research carried out in the EBRD's region and in part on its appreciation of citizens' experiences of transition and their opinions on the extent of corruption, and its impact on doing business in the region.

The Business Environment and Enterprise Performance Survey (BEEPS) examines the quality of the business environment as determined by a wide range of interactions between firms and the state. A joint initiative of the EBRD and the World Bank, BEEPS is a large-scale face-to-face survey covering perceptions of corporate governance and administrative (petty) and grand corruption among entrepreneurs in the services and manufacturing sectors. The results of the survey – which are reported as statistics and provide feedback from enterprises in EBRD countries of operations on the state of the private sector – inform the Bank's understanding of transition in its Region and hence impact a broad range of Bank activities. Results are also used to assist in building a repository of enterprise data that make it possible to track changes in the business environment over time. The fourth round of the BEEPS was conducted in 2008, with results published in 2009. The next round of the BEEPS will be conducted in 2011-2012 and results are expected to be published in 2012 or early 2013.

The Life in Transition Survey (LiTS), another joint EBRD-World Bank initiative, is not limited to business people. It collects personal information on aspects of material well-being, generates measures of satisfaction and attitudes towards political and economic reform, captures individual histories of transition and attempts to capture the extent to which crime and corruption are affecting people's lives. The information generated is used to assess the impact of transition on people and contribute to an understanding of how these personal experiences of transition relate to contemporaneous attitudes towards market reforms and political evolution. The LiTS was conducted for the first time in 2006, with results published in 2007, and again in 2010. Detailed results of this most recent administration of the LiTS will be published in 2011. Preliminary findings indicate that, despite significant progress in several countries, corruption remains high in most of the Bank's region compared to western Europe. Administrative corruption is particularly common among the traffic police, government bureaucracies and the public health care sector. Corruption is pervasive in several countries of Central Asia, where a majority of respondents say they are either asked or are expected to pay bribes to receive public services. However, there are some signs of a positive trend: 20 per cent of respondents agree that corruption is lower today than four years ago. One of the main drivers of corruption is dissatisfaction with the poor quality and inefficiency of public services.

The annual Transition Report is one of the EBRD's flagship research publications. It is a unique source of information on developments in the Bank's region, for use by

the Bank and outsiders alike. The 2010 Transition Report focuses on two main areas of reform: the development of domestic capital markets and local currency finance and the improvement of the business environment. It also unveils a new set of sectoral transition indicators. The 2010 Transition Report documented the importance of corruption as an obstacle to doing business in the region. In most of its countries, corruption ranks among the top three obstacles to the business of a representative firm. Among approximately a dozen potential obstacles, only skills availability tops corruption in some countries. In addition to documenting obstacles to doing business, such as corruption, the Transition Report outlines how countries can address these obstacles by drawing on the experiences of their transition peers.

4.2.1.2. Legal Transition

A fair and predictable legal environment respectful of the rule of law significantly contributes to curbing corruption. The Bank's Legal Transition Programme contributes to the creation of such an environment in the Bank's region, particularly through its law reform and institutional capacity building activities. Such activities typically translate into policy dialogue and technical legal assistance projects, both of which are informed by initial diagnostic studies. During 2010, the Legal Transition Programme engaged in a range of policy and legal assistance initiatives.

In the area of policy dialogue, the Bank, among other things, co-organised a roundtable in Moscow to review the investigatory powers of insolvency administrators. It also helped Mongolia to align itself with the Extractive Industries Transparency Initiative.

The Legal Transition Programme provided technical legal assistance in several areas related to anti-corruption. Further to a comprehensive assessment of the status of public procurement legislation throughout the Bank's region published in the 2010 Transition Report, the Bank provided public procurement reform assistance in Albania. Other initiatives include the Bank's joint work with the Inter-Parliamentary Assembly of the Commonwealth of Independent States on the development of model laws which culminated in the Assembly's adoption of a model company law in October 2010. Similarly, during 2010 the Legal Transition Programme made special efforts to assist Russia with its financial legislation, which resulted in, among other things, the completion in the second half of the year of a draft pledge law and new standards for insolvency administrators.

4.2.2. Strengthening Corporate Governance

The Bank knows well that good corporate governance is essential to private sector development. Commercial enterprises operating pursuant to sound principles of corporate governance pay more heed to conducting their business affairs in an ethical manner, with strong controls that limit opportunities for corruption. Promoting good corporate governance of its clients and in its region generally is therefore an EBRD priority.

The global financial crisis has highlighted the very critical role played by boards of directors, especially in the financial sector, in properly assessing risks associated with their business. In 2010, the Bank's Office of the General Counsel developed a corporate governance assessment methodology to evaluate the effectiveness of the

regulatory environment and bank practices related to the governance of financial institutions in the Bank's region. The template forms the basis of a comparative study of bank governance structures and practices that will help the EBRD promote specific structural reforms at country level and individual-bank level practices that meet international corporate governance standards.

Corporate governance is also a key motivation behind the Bank's direct equity investments. As the largest equity investor in the Bank's countries of operations, the EBRD sees improving corporate governance as an important element of its overall transition impact. The benefit of having the Bank as a shareholder and the appointment of Bank NDs to the supervisory boards/boards of directors of the Bank's investee companies as a way of importing improved governance standards to these entities is well recognised by its investee companies. As at the end of 2010, the Bank held 304 ND positions in relation to 277 Bank equity investments.

4.2.3. Inter-organisational Cooperation

Corruption is a global problem, requiring a global response. In many cases, it is best prevented collaboratively, with the range of institutions it affects working together to set and enforce international standards. The EBRD belongs to a number of international anti-corruption fora and works together with civil society, the private sector, IFIs and other inter-governmental organisations to increase the range of its outreach and efforts.

The Bank continued its involvement with civil society and private sector initiatives in 2010. The EBRD remains an active member of the steering committee of Transparency International's Business Principles for Countering Bribery initiative and, in November 2010, participated in a panel alongside other IFIs in Transparency International's bi-annual anti-corruption conference, which was held in Bangkok. The Bank also continued its engagement with the private sector, supporting the Wolfsberg Group, an association of 11 global banks working together to develop financial services industry standards for Know Your Customer, AML and CFT policies.

In addition, the EBRD maintains close bi- and multi-lateral relationships in the field of anti-corruption with other IFIs. Alongside the International Monetary Fund (IMF), the World Bank, the EIB and the African, Asian and Inter-American development banks, the EBRD is an active participant in the joint International Financial Institutions Anti-Corruption Task Force. Under the auspices of the 2006 Uniform Framework for Preventing and Combating Fraud and Corruption, the Bank has adopted harmonised definitions of corrupt, fraudulent, coercive and collusive practices and has undertaken to adhere to harmonised principles and guidelines for the conduct of corruption investigations. This cooperation led to the adoption in 2010 of the multilateral AMEDD, which is discussed below.

Because money laundering and terrorist financing are very often transnational phenomena, much inter-organisational anti-corruption cooperation relates specifically to those areas. The EBRD is involved in several intergovernmental initiatives, among them Moneyval, the AML compliance body of the Council of Europe, which makes assessments of the adequacy of money laundering legislation and regulation in almost all of the Bank's countries of operations; the Eurasian Group on Combating Money

Laundering and Terrorist Financing, a regional policy making body with a mandate to develop and implement legal and institutional frameworks to combat money laundering and the financing of terrorism; and the Financial Action Task Force, an intergovernmental body whose purpose is the development and promotion of national and international policies to combat money laundering and terrorist financing.

Much inter-organisational cooperation also relates to accountability. Each year, accountability and compliance practitioners from various IFIs meet to update each other on their work and share ideas. In June 2010, the officer in charge of the Bank's new accountability mechanism, the Project Complaint Mechanism – which is described below – travelled to Tokyo together with the Deputy Chief Compliance Officer to attend the 2010 International Accountability Mechanisms Annual Meeting. The meeting proved useful in furthering ongoing working relationships with the accountability mechanisms of the other participants.

While the International Accountability Mechanisms Annual Meeting is an important forum for professional interaction, its episodic nature does not allow for ongoing informal exchange on practical issues, as they arise. To fill this gap, an on-line network to facilitate regular collaboration among IFI accountability mechanisms has been established. The network is currently hosted by the ADB.

In 2010, OCCO initiated a staff exchange programme with World Bank, through which a member of OCCO spent three months working within the World Bank's Integrity Vice Presidency (INT) and a member of INT spent the same period of time in OCCO.

5. Detecting Corruption

Detection constitutes the second pillar of the EBRD's anti-corruption strategy. The Bank's efforts to combat corruption depend in part upon its detection, which requires the gathering and analysis of information that indicates or suggests corruption. The EBRD has implemented information-gathering systems that facilitate and, in certain circumstances, compel the reporting of corruption.

All Bank policies, procedures and projects are subject to some form of internal scrutiny. The Bank's Internal Audit Department is responsible for evaluating the adequacy and effectiveness of controls that deter, detect and address corruption. The Evaluation Department assesses the performance of completed projects through the systematic analysis of outputs or outcomes, measured against expected results and experience-based benchmarks. As part of this process, the Evaluation Department determines whether malfeasance has occurred. At least 60 per cent of Bank projects are subject to evaluation.

The detection of corruption relies heavily on the cooperation of Bank staff, who are required by internal mechanisms to report suspected misconduct and suspicions of fraud, corruption, collusion or coercion (each a Prohibited Practice) in relation to a Bank project. In return, the Bank ensures that employees who comply in good faith with their obligations to report are protected from acts of reprisal or retaliation from within the EBRD, contributing to an atmosphere of fear-free disclosure. Certain of the mechanisms governing reporting underwent significant review during 2010.

5.1. Conduct and Disciplinary Rules and Procedures

As part of its ongoing efforts to ensure that Bank policies remain up-to-date and reflect international norms, a detailed review of the Policy for Reporting and Investigating Suspected Misconduct (PRISM) began in 2010, together with a review of the Bank's Disciplinary Procedures (DPs), given their interface in the handling of allegations of misconduct. The review was undertaken jointly by OCCO, Human Resources and the Office of the General Counsel and resulted in the drafting of the Conduct and Disciplinary Rules and Procedures (CDRP). The CDRP establishes a consolidated set of rules and procedures concerning the conduct of staff, the procedures for reporting and investigating suspected misconduct, the process for imposing disciplinary measures and related matters. Once adopted, it will replace and supersede both PRISM and the DPs which were adopted in 2002.

The most significant changes to be introduced by the CDRP are:

- The procedures under PRISM and the DPs have been combined into one comprehensive document, with the aim of facilitating a better understanding of the processes to be followed in the investigation of alleged misconduct and, ultimately, in the imposition of disciplinary measures.
- While final recourse against findings of misconduct remains via an appeal to the Administrative Tribunal, an intermediate stage providing for review under the Grievance Procedures has been introduced.
- Various procedural revisions have been made to the investigative and disciplinary processes to strengthen their fairness, impartiality and effectiveness.

Other principal changes to be introduced by the CDRP include:

- The Policy includes a comprehensive (but non-exhaustive) definition of the types of behaviour by staff that may be considered misconduct and subject to disciplinary measures.
- The role and responsibilities of OCCO, in conducting investigations, and of the Vice President for Human Resources, in deciding whether to impose disciplinary measures, have been further elaborated and differentiated.
- The rights and duties of the Bank during the investigative and disciplinary processes, respectively, have been more expressly delineated.
- The rights and duties of staff with respect to an investigative process have been more expressly delineated, including safeguards to be afforded to the subject of the investigation.

It is noted that, as at the date of this report, the CDRP has been formally adopted and has entered into force effective 15 March 2011.

5.2. Whistleblower Protection

The EBRD's current practice regarding the reporting of wrongdoing and the protection of those who do so, while summarised on a whistleblower protection section of the Bank's web site, is based on several instruments, including the Bank's

Codes of Conduct,. Accordingly, in 2010 the Bank began work towards the adoption of a clear, stand-alone policy that describes reporting obligations and the protections afforded individuals who report. It is expected that the Bank's whistleblower protection policy will be adopted during 2011.

5.3. Procurement Policies and Rules

Whereas Bank clients are responsible to ensure that all Bank financed tendering and contracting complies with the Bank's Procurement Policies and Rules (PP&Rs) or other agreed procedures, the Bank's Procurement Department is responsible for reviewing the client's procurement procedures, documents, tender evaluation reports, award recommendations and final contracts to ensure that the tendering process and contract award has been carried out in accordance with the agreed procedures. Complaints are reviewed by the Bank's Procurement Complaints Committee of which the CCO is a member. As part of its compliance function, the Procurement Department also provides support to OCCO in reviews of allegations of fraudulent and corrupt practices in relation to a procurement exercise and works with other departments in the Bank and external stakeholders in various initiatives to combat the occurrence of fraud and corruption in procurement generally.

In addition, the Procurement Department initiates and manages Independent Procurement Reviews, which include the identification of any suspected prohibited practice. In the year 2010, the Procurement Department undertook two independent reviews which have not yet been finalised.

6. Investigating and Sanctioning Corruption

Investigating and sanctioning constitute the third and fourth pillars of the EBRD's anti-corruption strategy. Where an allegation of misconduct is made against staff, the investigation has to date been carried out under the PRISM and the imposition of disciplinary measures, if any, has been done pursuant to the DPs. Where such an allegation is made against a Board official, the investigation is governed by the provisions of the Bank's Code of Conduct for Board officials. In cases where Prohibited Practices are suspected or detected to have occurred in Bank projects, the investigation and sanctioning, if any, is governed by the Bank's EPPs.

6.1. Agreement for the Mutual Enforcement of Debarment Decisions

In 2010, the EBRD, the World Bank and the African, Asian and Inter-American Development Banks (the Participating Institutions) established a mechanism whereby a debarment decision made by one Participating Institution may be given effect by the others. The mechanism is set out in the Agreement for the Mutual Enforcement of Debarment Decisions (AMEDD), which was concluded on 9 April 2010. The Agreement combats corruption by making it almost impossible for an entity that has been debarred by one Participating Institution to receive funding from another. The Agreement is currently in force among the Asian Development Bank, the EBRD and the World Bank.

Prior to the adoption of the AMEDD, the EBRD was the only member of the International Financial Institutions Anti-Corruption Task Force with a mechanism to

cross-debar an entity on the basis of a debarment decision made by another IFI or national authority. Such decision could be treated as a Third Party Finding under the Bank's EPPs, which is described in more detail below. However, such cross debarment was not automatic. With the adoption in 2010 of the AMEDD, by contrast, the mutual recognition of enforcement actions amongst the Participating Institutions for which the AMEDD has entered into force has become quasi-automatic.

For mutual enforcement to take place, the original debarment decision must meet the following conditions:

- The debarment decision must be based on a finding of a commission of one or more Prohibited Practice, as defined in the International Financial Institutions Anti-Corruption Task Force's 'Uniform Framework for Preventing and Combating Fraud and Corruption'.
- The debarment decision must be made public by the sanctioning institution;
- The period of debarment must exceed one year.
- The debarment decision must have been made after the AMEDD entered into force.
- The debarment decision must have been made within ten years of the commission of the Prohibited Practice.
- The debarment decision must not have been made further to a decision of a national or other international forum, such as a debarment on the basis of a Third Party Finding under the EBRD's EPPs.

If these six conditions are met, a participating IFI may decide not to enforce the debarment decision of another institution only if, exceptionally, the cross-debarment would be inconsistent with legal or other institutional considerations. Nevertheless, since the entry into force of the AMEDD it has become difficult, if not impossible, for an entity that has been debarred by one IFI to receive funding from another. The AMEDD is a powerful example of IFIs acting in unison to fight fraud and corruption.

Since its entry into force in June 2010, 26 entities have been cross-debarred by the EBRD in the year 2010 pursuant to notices of debarment decisions received from the World Bank and ADB. A table listing all current sanctions resulting from the mutual enforcement of debarment decisions is detailed on the EBRD compliance web page at www.ebrd.com/pages/about/integrity/list.shtml

6.2. Enforcement Policy and Procedures

The EPPs provide a mechanism to deal with allegations of Prohibited Practices in any activity or project which the EBRD has financed or committed to finance from its ordinary capital resources, Special Fund resources or from cooperation funds administered by the Bank. Under the provisions of the EPPs, first introduced in March 2009, OCCO performs a preliminary investigation of any allegation having specific regard to the applicability of the EPPs and the reliability of the information received, following which the matter is either closed or subjected to a further investigation. It is the responsibility of the Enforcement Committee (comprised of at least five senior members of staff representing the Bank's four Vice Presidencies and the Office of the General Counsel) and ultimately the President of the Bank to make a determination as to whether the allegation of a Prohibited Practice is substantiated. In the event that it

is, enforcement actions ranging from a reprimand to cancellation of financing to restitution and/or debarment of the individual(s) and/or entity(ies) responsible may be imposed. Further, any decision to debar is subject to publication on the Bank's web site.

The EPPs were amended in 2010 in three principal respects. Each change was effectuated to bring the EPPs into conformity with the new AMEDD. First, the procedures relating to Third Party Findings were altered. Prior to the revision of the EPPs, the CCO would have to assess the authenticity, relevance and seriousness of a Third Party Finding. In determining the seriousness of the finding, the CCO was required to consider whether the Third Party Finding was rendered in a jurisdiction that affords appropriate due process guarantees and the gravity of the conduct at issue, having regard to international standards. Where deemed appropriate, the CCO would refer the matter to the Enforcement Committee, which would assess the likelihood that the Bank's operations or reputation would be harmed or impaired if the Bank did not make a cross-debarment. The process the Bank will apply to enforce debarment decisions of institutions party to the AMEDD is, however, intended to operate more automatically. The EPPs were thus revised accordingly. Under the revised EPPs, the assessment the CCO will make of a participating institution's debarment decision will be more limited than that applied to Third Party Findings. The process before the Enforcement Committee will be similarly circumscribed.

Second, in order to ensure that debarred entities are not able to circumvent the consequences of cross-debarment by serving as a sub-contractor, sub-supplier or sub-consultant of an otherwise eligible contractor, supplier or consultant, the definition of Bank Counterparty under the EPPs was expanded. The new definition includes individuals or entities that serve as subcontractors, sub-suppliers or sub-consultants. Similarly purposed amendments were also made during 2010 to the Bank's Corporate Procurement Policy and its PP&Rs.

Finally, in recognition of the need for, and the benefits of, a common standard of proof across the sanctions regimes of IFIs participating in the AMEDD, the standard of proof under the EPPs was amended from 'more likely than not' to 'more probable than not'. The underlying requirement that 'upon consideration of all the relevant evidence and materials, a preponderance of the evidence and materials supports the finding' remains unchanged.

During 2010, OCCO received five allegations of Prohibited Practices in respect of procurement exercises subject to the Bank's PP&Rs, two allegations of Prohibited Practices in relation to the Bank's Corporate Procurement Rules and seven allegations of Prohibited Practices relating to the Bank's private sector operations. Of these fourteen complaints, three are presently under going preliminary assessment and seven were dismissed following preliminary assessments. A further three were dismissed following a further investigation. The remaining complaint (involving theft of EBRD funds by a contractor engaged under an EBRD Consulting Services contract) was dealt with, in part, by the consultant repaying the stolen funds and the EBRD terminating the contract.

6.3. Misconduct

In early 2010, the Bank was confronted with a very serious case of misconduct which allegedly involved potential criminal behaviour on the part of an EBRD employee. The Bank reacted swiftly by referring the matter to criminal authorities in the UK who arrested the employee. The case has also been referred to the Vice President for Human Resources for further consideration under the Bank's Disciplinary Procedures. In the course of the year, OCCO received five other reports of suspected misconduct under PRISM. In addition, the CCO received a report of suspected misconduct by a member of the Bank's Board of Directors. The allegation against the Board official involved various breaches of the Code of Conduct for Board Officials including conflicts of interest between the Board member's duty to the Bank and personal interests. The allegations were investigated in accordance with the procedures set out in the Code of Conduct for Board Officials and the findings were referred to the relevant Bank Governor. Ultimately, the Board Director in question resigned from the Bank. Separate but related investigations into alleged criminal activities of the former Director have since been undertaken in both the United Kingdom and Russia.

Of the staff cases, two involved allegations of improper benefits received or petty cash fraud and two cases involved allegations of bullying and harassment by the staff member's line manager. One of the complaints regarding bullying also included an allegation regarding misappropriation of donor funds. Two staff resigned resulting in the closure of those matters; one case was closed following preliminary assessment. One of the bullying and harassment allegations remains under consideration.

7. Outlook for 2011

It is anticipated that during 2011 the CDRP will be formally adopted and several amendments will be made to the Bank's Grievance Procedures to ensure their proper interface with the new CDRP. Furthermore, during 2011 the Bank will finalise work that began in 2010 to revise its system for whistleblower protection, which will likely culminate in the adoption of a stand-alone whistleblower protection policy. In addition, reviews of both the Code of Conduct for Officials of the Board of Directors (hereinafter "Board Code") and the Code of Conduct for Bank Personnel and Experts (hereinafter "Staff Code") will take place. In this regard, it should be noted that both codes were approved by the Board of Governors in 2006 and entered into force at that time and that each Code calls for a review as and when necessary, but no later than 5 years from the date on which it became effective. Thus, it is both timely and appropriate to review, and possibly revise, both Codes in light of the Bank's experience since their enactment, as well as in light of current best practices of comparator institutions. Finally, in the coming year, the IFIs participating in the AMEDD hope to agree harmonised sanctioning guidelines to underpin debarments under the AMEDD.

8. Contact Information

Questions regarding this report should be addressed to:

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Please note that as from 1 January 2011 the Hotline has been discontinued. Complaints, including reports of suspected fraud or corruption, can be submitted via compliance@ebrd.com, by phone, or by writing to OCCO at the above address.