



**European Bank**  
for Reconstruction and Development

# **INTEGRITY AND ANTI-CORRUPTION REPORT 2019**



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# About this report

The reputation and impact of the EBRD depend on its integrity and ethical standing. We are, therefore, deeply committed to promoting integrity, good corporate governance and high ethical standards in all of our business operations.

The EBRD's Office of the Chief Compliance Officer (OCCO) is responsible for protecting the Bank's integrity and reputation, setting and reinforcing its ethical standards and acting as an independent check to ensure that those standards are met in all aspects of the EBRD's work. The department plays a critical role in making sure that the Bank's operations and business partners help to build well-governed, competitive and sustainable market economies.

The *Integrity and Anti-Corruption Report 2019* summarises the actions that were taken during the reporting period to ensure that the EBRD conducted its business activities with integrity. It also describes how OCCO responded to allegations of fraud and corruption associated with the EBRD's activities and how these responses enhanced business integrity in those economies where the EBRD invests.

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# Message from the Acting President

The EBRD's Office of the Chief Compliance Officer (OCCO) sets the EBRD's integrity and ethical standards and acts as an independent check to ensure we uphold those standards across the three continents where we invest, so that we can continue to change lives.

It is absolutely imperative that every aspect of our operations – be it the projects on which we work or the good standing and conduct of our clients, partners and EBRD staff – meets those standards, and that those standards reflect international best practice.

Of particular note in our work on integrity and anti-corruption in 2019, therefore, was the revision of our policy on the domiciliation of EBRD clients. This was the product of our newly established Domiciliation Unit, created in response to developments in international taxation. Our Board of Directors approved the updated policy, which reflects internationally accepted tax standards, in January and it entered into force in July. By strengthening our role as a model corporate citizen, the EBRD has positioned itself in the vanguard of efforts to counter tax evasion and other dishonest tax practices.

Another noteworthy aspect of OCCO's work in 2019 was the conclusion in November of a major investigation which resulted in the debarment of General Electric Power Sweden AB (formerly Alstom Power Sweden AB) for six years. This outcome was an eloquent illustration of the EBRD's zero-tolerance stance on corruption generally and OCCO's commitment, in particular, to ensuring that any misconduct in EBRD-financed projects is identified and punished, be it committed by a multinational corporation or an individual consultant. The episode further highlights our absolute commitment to safeguarding the funds that our donors so generously entrust to our care.

Good governance is becoming an increasingly important feature of the EBRD's work and of our understanding of how to deliver effective economic transition. "Well governed" has been one of our six "transition qualities" since the start of 2017. Last year's *Transition Report* made a persuasive case for the link between an economy's success, the life satisfaction of its citizens and better governance. It also highlighted a large "governance gap" between the countries in which the EBRD invests and the world's more advanced economies.

Our work on integrity and anti-corruption, spearheaded by OCCO, makes a major contribution to our efforts to promote good governance in 38 economies from central Europe to Central Asia and the southern and eastern Mediterranean. It is clear to me that in these exceptional times our values will be more critical than ever to the EBRD regions. Good governance is one of those key values, and this report provides many insights into the practical measures required to sustain and strengthen it.

**Jürgen Rigterink**  
EBRD Acting President

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# 1. Introduction

The European Bank for Reconstruction and Development (EBRD) was founded to help foster the transition of countries committed to, and applying, democratic principles with a view to becoming open and sustainable market economies. The *Integrity and Anti-Corruption Report 2019* summarises the work of the Office of the Chief Compliance Officer (OCCO) to advance the anti-corruption agenda and instil a culture of integrity and high ethical standards throughout the Bank, its projects, the community of international financial institutions (IFIs) and the countries in which the EBRD invests.

In early 2017, the EBRD refined its concept of transition.<sup>1</sup> Every project is evaluated using the EBRD's six "transition qualities", which emphasise that a sustainable open-market economy should be competitive, well governed, green, inclusive, resilient and integrated. The *Transition Report 2019-20*<sup>2</sup> was dedicated to the topic of good governance, exploring it at country, subnational, municipality and firm level. The report noted that the "governance gap" between the countries in which the EBRD invests and the world's advanced economies remains sizeable, preventing the efficient allocation of resources and creating an uneven playing field.<sup>3</sup> The effects of poor governance are manifold, from reducing profitability at firm level to spurring decisions to emigrate at national level. Better governance is associated with a significant improvement in people's general satisfaction with life.<sup>4</sup> Conversely, the report notes that the detrimental effect of corruption (the "twin brother of poor governance")<sup>5</sup> on corporate growth is three times that of an equivalent tax increase, because of the greater uncertainty and transaction costs associated with corruption.<sup>6</sup>

The Bank has long recognised that economies cannot be considered well governed or sustainable where corruption is prevalent. Corruption erodes trust and distorts the market. Therefore, the role of OCCO in combating corruption and promoting good governance – both within the organisation and in our projects, clients and countries of operation – has never been more central to the EBRD's objectives.

OCCO fulfils a critical role as the Bank's custodian of integrity. It is independent of all of the EBRD's operational departments. Chief Compliance Officer (CCO) Lisa Rosen heads the department and reports functionally to the EBRD President. She has full and free access to the Chair of the Audit Committee.

In 2019, OCCO had 34 staff members (up from 29 in 2018) and is divided into four teams: Policy and Ethics, Project Integrity, Investigations and the Project Complaint Mechanism (PCM).<sup>7</sup> Each team uses a combination of protective, proactive and remedial tools to help OCCO fulfil its mission to uphold the integrity and reputation of the Bank, to promote ethical standards of behaviour (both within the Bank and with respect to EBRD clients and counterparties) and to strengthen the EBRD's accountability and transparency. These tools include:

- robust integrity due diligence (IDD) and tax-domiciliation due diligence standards
- proactive capacity-building initiatives to improve the anti-corruption compliance programmes and corporate governance of EBRD clients
- a rigorous framework for investigating and, where necessary, sanctioning parties that have committed fraud or corruption in relation to projects financed by the EBRD, as well as facilitating remediation where appropriate
- well-established policies and procedures and related training aimed at ensuring that EBRD personnel uphold the highest standards of personal integrity and professional conduct in the performance of their duties.

In 2019, the Project Integrity team continued to provide timely advice and conduct *ex-ante* due diligence on prospective EBRD projects to ensure that operations had an acceptable integrity profile. The Policy and Ethics team continued to provide timely advice on policy- and Code of Conduct-related matters, in addition to finalising new procedures on material non-public information (MNPI) and conflicts of interest in relation to Bank activities.

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<sup>1</sup> See EBRD (n.d.a).

<sup>2</sup> See EBRD (2019a).

<sup>3</sup> *Ibid.*, pp. 4-5, 8.

<sup>4</sup> *Ibid.*, p. 13.

<sup>5</sup> *Ibid.*, p. 8.

<sup>6</sup> *Ibid.*, p. 20.

<sup>7</sup> The Project Complaint Mechanism issues its own annual report. See EBRD (n.d.b).

The Domiciliation Unit completed its review of the Policy on Domiciliation of EBRD Clients in response to developments in international taxation. The Board of Directors approved the revised policy on 17 January 2019 and it entered into force on 1 July 2019. The revised policy is based on internationally accepted tax standards and, consistent with the Bank's role as a model corporate citizen, places the EBRD at the forefront of efforts to tackle tax evasion and other harmful tax practices.

All teams engaged in bespoke and localised training for the EBRD's Resident Offices (ROs). Where EBRD personnel and/or counterparties failed to meet the Bank's integrity standards, the Investigations team examined all allegations in a timely manner and, where appropriate, recommended sanctions and oversaw the Bank's enforcement measures.

Throughout 2019, OCCO continued to proactively advance the anti-corruption agenda by promoting a culture of integrity and compliance in the economies where the Bank invests and among its clients. The Project Integrity team assisted with the implementation of, or made substantial progress on, 32 client-specific anti-corruption and compliance action plans – programmes in which EBRD clients agreed to improve their internal controls as a condition of Bank financing.

The Investigations team concluded a landmark investigation in November 2019, which culminated in the debarment of General Electric Power Sweden AB (formerly Alstom Power Sweden AB) for six years. See case study 13 for more details.

Where instances of fraud and corruption were established, but where clients demonstrated a genuine desire and willingness to reform and implement best international standards on fraud and corruption risk mitigation for future operations, the Investigations team facilitated client remediation through settlement agreements with anti-corruption conditions.

Throughout the year, each of the OCCO teams worked with other departments across the Bank, as well as with international organisations, such as the Organisation for Economic Cooperation and Development (OECD) and the Financial Action Task Force (FATF), on innovative and targeted programmes to enhance business integrity and curb corruption. OCCO also continued to work with fellow IFIs to encourage deeper cooperation and alignment on integrity-related issues.

## 1.1. OCCO highlights of 2019

Table 1. Summary of OCCO activity in 2019

New projects referred to Project Integrity	670
Training courses delivered	95
Code of Conduct queries	335
New projects referred to the Domiciliation Unit	220
Capital markets compliance advice	125
Anti-corruption action plans	32
Staff misconduct complaints (new)	22
Corruption-related complaints (new)	46

### 1.1.1. Standards and policies

OCCO's Policy and Ethics team develops and recommends the policies, rules, procedures and processes that govern the ethical behaviour and professional conduct of EBRD Board Officials, management and staff. The team also sets out the standards of integrity that the Bank expects of its clients, project sponsors and other counterparties and ensures that policies, rules, procedures and processes are effectively communicated, interpreted and implemented. It further aims to ensure that the EBRD's internal standards of integrity and professional conduct are in line with international best practice, so that they have a demonstration effect in the economies where the Bank invests.

The Code of Conduct for EBRD Personnel and the Code of Conduct for Officials of the Board of Directors (the Codes) are normally reviewed every five years. The last review was completed in 2018 and the revised Codes came into effect on 23 May 2018.

The Policy and Ethics team is also responsible for the Bank's approach to capital markets compliance. Here, the team finalised two new procedures in 2019: a Procedure on material non-public information and its impact on Banking Operations (the MNPI Procedure) and a Procedure on Conflicts of Interest in relation to Bank activities (the Conflicts of Interest Procedure). They complete the EBRD's suite of capital markets compliance-related procedures that ensure the Bank is in line with international best practice.

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Since 1 January 2018, the Policy and Ethics team has also been responsible for the EBRD's approach to client domiciliation (the selection of a particular country for the establishment of a client entity). Accordingly, the Bank set up a dedicated Domiciliation Unit and, at the start of 2018, began a formal review of the EBRD's policy on Domiciliation of EBRD Clients in response to developments in international tax policy. The EBRD Board approved the policy in January 2019 and it came into force in July 2019.

The revised policy incorporates global tax standards – including recent OECD standards on the automatic exchange of information and on base erosion and profit shifting (BEPS)<sup>8</sup> – to determine whether jurisdictions used in cross-border ownership structures are acceptable. It also includes enhanced project due diligence to ensure that individual projects meet new OECD standards on BEPS (for example, to avoid the abuse of tax treaties) and gives due consideration to other relevant standards. The updated policy puts the EBRD at the forefront of efforts to tackle tax evasion and other harmful tax practices.

The Domiciliation Unit also provides advice on Bank project acceptability, where clients invest through a different jurisdiction to where the EBRD project is based. In 2019, around 220 projects were referred to the Domiciliation Unit for guidance and review as part of the due diligence process.

In 2019, OCCO worked on developing a standalone whistleblowing policy. This new policy was approved by the Board of Directors on 6 May 2020.

### 1.1.2. Project Integrity

The Project Integrity team is responsible for giving IDD advice on EBRD projects. It works with partners across the Bank to ensure that operations have an acceptable integrity profile and provides independent, expert advice on managing integrity risks.

In 2019, 670 potential projects were referred to the team for guidance as part of the IDD process – a significant increase from 609 in 2018. The rise was due to the EBRD's expansion into new economies, its ambitious investment targets for 2019, the growing complexity of integrity issues and the fact that OCCO had provided more training to project-facing staff on the projects they should refer to the department.

Over the course of the year, OCCO helped to implement or made material progress on 32 client-specific anti-corruption or compliance action plans, through which EBRD clients agreed to improve their internal controls as a condition of Bank financing. In recognition of the importance of this work in supporting the transition to sustainable, open-market economies, the EBRD has now integrated anti-corruption and compliance work into the assessment of the Bank's transition impact.

### 1.1.3. Training

Through a course entitled *Integrity Matters!* OCCO provided classroom-based training on the EBRD's ethical principles to 300 members of staff (of whom 14 were trained at a regional session in Almaty) and 11 Board Officials. It also provided bespoke training on ethics-related matters to the Procurement Policy and Advisory Department, as procurement remains a high-risk area of activity from an integrity perspective.

OCCO continued to provide training to stakeholders across the public and private sectors in the economies where the EBRD invests, thus contributing to good governance and the Bank's wider capacity-building efforts. Highlights of 2019 included: expert working groups on financial crime, countering the financing of terrorism (CFT) and anti-money laundering (AML) for financial-sector regulators, intelligence, law-enforcement officials and banking-sector representatives from Central Asia; a two-day AML/CFT workshop for the financial sector in the West Bank and Gaza; and a tailored compliance workshop for a key public-sector client in Ukraine. These types of capacity-building initiative are designed to support both institutions and key stakeholders as they adapt to the evolving requirements of AML, CFT and sanctions, enabling them to respond to the challenges of de-risking.<sup>9</sup>

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<sup>8</sup> Base erosion and profit shifting refer to the tax-avoidance strategies multinationals use to "shift" profits from higher-tax jurisdictions to lower-tax jurisdictions, "eroding" the tax base of the higher-tax jurisdictions.

<sup>9</sup> De-risking is when banks reduce their activities in countries where they perceive the risks of AML, CFT and international sanctions to be too great.

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#### 1.1.4. Investigations

OCCO received and investigated 22 new complaints of suspected staff misconduct in 2019 and carried forward a further 5 matters from 2018. Of these, 25 were resolved and 2 remained under investigation in 2020.

The RO inspections programme continued in 2019. The initiative, undertaken with the EBRD's Client Services Group, aims to detect and deter misconduct and identify areas of vulnerability in the internal controls of ROs. In 2019, inspections took place in Almaty and Warsaw.

OCCO used both proactive and remedial measures, as appropriate, when it came to investigations of fraud and corruption in relation to Bank-financed activities. In 2019, the department entered into a formal agreement with one entity to address internal deficiencies and to resolve previous instances of fraud and corruption. The agreement enabled OCCO to impose specific conditions requiring the entity to improve its internal governance and anti-corruption controls. The entity was also required to devise and implement an anti-corruption action plan detailing the steps that had to be completed.

Moreover, following referrals from OCCO, the EBRD's Enforcement Commissioner debarred one entity and two individuals from becoming EBRD counterparties, after determining that the entity (General Electric Power Sweden AB, formerly Alstom Power Sweden AB) and the individuals had engaged in fraud or corruption in connection with an EBRD project (see case studies 12 and 13).

#### 1.1.5. International cooperation

In 2019, OCCO remained actively engaged with its international partners, either as part of intergovernmental initiatives or in cooperation with multilateral development banks (MDBs). Section 6 provides further details.

#### 1.1.6. EBRD Anti-Corruption Community of Practice

OCCO set up the EBRD Anti-Corruption Community of Practice (CoP) in 2019 with a view to presenting, discussing and coordinating the various anti-corruption activities of the Bank. Its goal is to facilitate the sharing of knowledge on initiatives and lessons learned among Bank staff, to develop a programme of anti-corruption products and to reinforce the need for effective anti-corruption controls to ensure sustainable transition. Membership is open to all EBRD staff interested in MDB anti-corruption programmes and anti-corruption issues generally. Participants in the CoP in 2019 included representatives of the Banking, Procurement Policy and Advisory Departments, the Trade Facilitation Programme, the Office of the General Counsel, Governance and Political Affairs, and the Civil Society Engagement Unit.

The CoP met every quarter and covered a wide range of themes including presentations on anti-corruption events attended by Bank staff, recent developments in the EBRD's top-down approach to anti-corruption, and client experiences with the development and implementation of anti-corruption action plans.

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## 2. Standards and policies

OCCO is responsible for the development and maintenance of the Bank's integrity and anti-corruption standards. It helps to identify, assess and monitor integrity risks arising from failure to comply with these standards and policies. This chapter outlines the main OCCO policies and procedures that are specifically and directly concerned with integrity and anti-corruption and highlights any material updates or amendments.

### 2.1. Integrity Risks Policy

The EBRD's Integrity Risks Policy sets out the Bank's corporate values and principles with regard to the management of its integrity risks. The policy identifies and defines the main types of integrity risk that concern the Bank and outlines integrity and ethics responsibilities within the EBRD, including OCCO's terms of reference.<sup>10</sup>

As part of the Bank's cyclical review of its three good governance policies – the PCM,<sup>11</sup> the Public Information Policy<sup>12</sup> and the Environmental and Social Policy<sup>13</sup> – OCCO worked to create a standalone PCM department, reporting directly to the Board of Directors (to be renamed the Independent Project Accountability Mechanism, or IPAM). The policy, which was approved by the Board of Directors in April 2019, came into effect on 1 July 2020. As a consequence of the IPAM becoming operational, the Bank will need to introduce further changes to its Integrity Risks Policy which are expected to be implemented over the course of 2021.

#### Integrity Risks Policy

### 2.2. Codes of Conduct

The Code of Conduct for Officials of the Board of Directors of the EBRD and Code of Conduct for EBRD Personnel are approved by the Bank's Board of Governors.<sup>14</sup> The Codes set out the values, duties, obligations and ethical standards that the EBRD expects of its Board Officials and staff. Together with the Conduct and Disciplinary Rules and Procedures (CDRPs)<sup>15</sup> for staff members, the Codes set out the types of act or omission that may be considered misconduct, the Bank's investigation procedures and the potential sanctions for unethical behaviour. To enhance internal governance, in December 2019, OCCO agreed a roadmap to review certain provisions of the Codes.

Throughout 2019, the department continued to provide extensive advice on the Codes to staff and Board Officials, responding to more than 335 compliance enquiries and providing 37 authorisations under the Codes. In comparison, 2018 saw 329 Code-related compliance enquiries and 47 authorisations.

#### Code of Conduct for Officials of the Board of Directors of the EBRD

#### Code of Conduct for EBRD Personnel

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<sup>10</sup> See EBRD (2016a).

<sup>11</sup> See EBRD (n.d.b).

<sup>12</sup> See EBRD (2014).

<sup>13</sup> See EBRD (2019b).

<sup>14</sup> See EBRD (2018a and 2018b).

<sup>15</sup> See EBRD (2016b).

### Case study 1. Outside activities

Mr A was an employee in an EBRD RO. It was brought to OCCO's attention that Mr A held an interest, as a founder and shareholder, in a local business.

Under Rule 4(a) of the Staff Code of Conduct, staff members must seek appropriate authorisation prior to conducting outside activities, including self-employment or the rendering of services to any outside entity.

The same Rule provides that "such authorisation will normally be given for outside activities so long as they are not incompatible with the full and proper performance of the Bank Personnel's official duties and do not give rise to a Conflict of Interest".

A conflict of interest in this context is defined under Rule 3(a) of the Code of Conduct as "a situation or circumstances in which private interests of Bank Personnel influence or may influence the objective and impartial performance of their official duties. In this regard, private interests include any advantage for themselves, their families or personal acquaintances."

Mr A requested authorisation from OCCO in relation to his outside activity. It was established that the business in question had a franchise agreement with a portfolio company of an equity fund in which the EBRD had an equity investment. At the same time, OCCO established that Mr A had not in any way influenced the awarding of this franchise agreement and had not misused confidential information obtained as a result of his employment with the EBRD in relation to his outside activity. Mr A was also not involved in any way with the work conducted by the funds team responsible for the (indirect) investment in the franchisor company.

On that basis, OCCO authorised the outside activity, but emphasised to Mr A that such activity should be carried out in a manner consistent with the Code, bearing in mind, in particular, the need to avoid even the appearance of a conflict of interest, as well as the need to ensure that the outside activity was not incompatible with the full and proper performance of Mr A's official duties.

### Case study 2. Post-employment activities

Mr B was a staff member who had left the Bank. After leaving the EBRD, he started working for a company involved in a tender submission for an energy-efficiency project to be financed by the EBRD.

Under Rule 6(d) of the Staff Code of Conduct, Mr B was restricted from (1) communicating or attending any business-related meetings with any Bank personnel, any official of the Board of Directors, or any other person connected with the Bank on behalf of the tendering company and (2) providing advice, guidance or direction to the tendering company in respect of the tender, in each case for a period of one year after his departure from the Bank.

OCCO advised Mr B accordingly, so the potential conflict of interest was avoided and the integrity of the procurement process was upheld.

## 2.3. Enforcement Policy and Procedures

The EBRD's Enforcement Policy and Procedures (EPPs) set out the Bank's policy and procedures for investigating and processing allegations of Prohibited Practices in relation to Bank assets and any activities and projects that the Bank has financed, or intends to finance, from any of its resources.<sup>16</sup>

In 2019, OCCO accepted 46 new complaints alleging the occurrence of a Prohibited Practice in either the EBRD's public-sector procurement or private-sector operations. It carried forward 12 complaints received in the preceding reporting periods. Of the 58 matters the Investigations team worked on in 2019, 38 were closed and 20 remained open at the end of the reporting period.

 **Enforcement Policy and Procedures**

 **Note on the EBRD's Enforcement Processes, including Settlement Agreements**

<sup>16</sup> See EBRD (2017 and 2018c).

## 2.4. Whistleblower protection

The EBRD has long recognised that whistleblowing is a fundamental aspect of the Bank's accountability framework and a critical element of good governance. The Bank's present Codes of Conduct and CDRPs make it clear that:

- EBRD staff members and Board Officials have an obligation to report suspected misconduct within the Bank and suspected Prohibited Practices in relation to the Bank's projects
- retaliation or reprisal against a person by reason of that person's good-faith compliance with this obligation (or because of that person's participation in the Bank's internal dispute-resolution regime) is prohibited and may amount to misconduct.

The Bank's approach contained all the key elements of a typical whistleblowing system, but they were spread throughout various EBRD instruments. In 2019, OCCO began to develop a standalone policy and to benchmark the Bank's system against the policies and practices of comparable MDBs, international organisations and other major players in this area. The new policy was approved by the Board of Directors on 6 May 2020.

## 2.5. Conduct and Disciplinary Rules and Procedures

Allegations of staff misconduct are investigated under the CDRPs. Here, there is a clear division of responsibility between the CCO as fact-finder with regard to complaints of misconduct and the Managing Director of Human Resources and Organisational Development (MD HROD) as decision-maker on any disciplinary action.

Revision of the CDRPs, together with the Harassment-Free and Respectful Workplace Procedures (RWPs), which set out processes for dealing with improper interpersonal behaviour, are due to commence in 2020. This work, to be led by HR with input from OCCO, will further strengthen the Bank's phased reporting mechanism, under which allegations of improper interpersonal behaviour are managed.

In 2019, OCCO accepted 22 new complaints of suspected misconduct and carried forward a further 5 from 2018. Of these, 17 were received under the CDRPs and 10 were referred by the MD HROD under the RWPs.

## 2.6. Nominee Director Rules and Procedures

To advance the transition impact of its equity investments and to add value to investee company business, the EBRD appoints Nominee Directors (NDs) to the boards of investee companies on a case-by-case basis. The NDs are experts in their field, with a particular skillset relevant to the Bank's investment. The nomination process is regulated by the Rules and Procedures Relating to the Selection and Appointment of EBRD Nominee Directors and Members of Equity Fund Committees (the Nominee Director Rules). These set out the procedures for the nomination, selection and approval of NDs (including background checks for certain external candidates) and members of equity fund committees, as well as any follow-up actions required.

Although the process is managed by the Equity team, OCCO continues to support the training of NDs and provide guidance on the Nominee Director Rules and the role of NDs more generally.

Over the course of 2019, the EBRD's equity investments gave rise to 29 new seats on the boards of investee companies. These included replacements for outgoing Bank-appointed NDs and brought the total number of board seats held by the EBRD to 232. They entailed the appointment of 19 men (8 internal and 11 external appointees) and 10 women (6 internal and 4 external NDs) – a total of 27 new appointees, as 2 of these individuals each took up 2 new roles during the year.

### Case study 3. ND conflict of interest

The Bank was considering entering into a loan agreement with a company in which it already had an equity investment. A question was raised with OCCO as to whether the Bank's ND should be involved in the deliberations of the board of directors regarding a proposed EBRD loan to the company.

The Nominee Director Rules state that an ND should not be involved in discussions of the board of the investee company to the extent that they give rise to a potential conflict of interest. Applying this principle, OCCO advised that the ND should recuse himself from these discussions, so as to avoid the perception of a conflict of interest between his fiduciary duties to act in the best interests of the investee company and all of its shareholders and his duties as an employee of the Bank.

In addition, 25 new appointments were made to the committees of equity funds in 2019. Of the 12 committee members who took up these new positions in 2019, 11 appointees were internal and 1 was external.

OCCO continues to provide advisory support to NDs when conflicts arise between the interests of different investors and/or other stakeholders, or where NDs are required to mediate between different interest groups. In 2019, OCCO received and responded to 29 such requests in addition to its role in approving new NDs.

OCCO also worked with Equity Banking to provide guidance on Bank personnel who may be current or future NDs, given heightened conflict-of-interest concerns in relation to such personnel where their managerial and oversight responsibilities overlap with the activities of investee companies.

## 2.7. Information barriers and capital markets compliance

OCCO created information barriers and/or provided capital markets compliance advice in relation to 125 projects in 2019 in order to mitigate potential conflicts of interest between various Bank projects or activities and to ensure the correct handling of MNPI. More than 100 of these projects involved investments in or divestments of listed securities. OCCO's advice on listed transactions was sought to ensure that the Bank was not investing in or divesting listed securities while in possession of MNPI and to restrict the flow of information relating to such listed securities. OCCO also handled 42 wall-crossing requests in 2019.

In 2019, OCCO finalised two new procedures: the MNPI Procedure, approved on 27 June 2019, and the Conflicts of Interest Procedure, approved on 13 December 2019.

The MNPI Procedure sets out the process that must be followed whenever the Bank invests in or divests from listed securities, so as to ensure that the EBRD does not do so while in possession of MNPI. For new projects with listed clients, it provides guidance on how to ensure that the Bank does not inadvertently come into possession of MNPI that could subsequently impact its ability to transact.

The MNPI Procedure also sets out the controls in place with regard to the information barrier between the public side of the EBRD's Treasury function and the rest of the Bank. It explains the expectations of Bank personnel with respect to the correct identification and handling of MNPI.

### Case study 4. Avoiding conflicts of interest

The EBRD was assisting a client, in which it had an equity investment, with a review of its strategic options. One option was a sale of the company. A potential buyer happened to be another EBRD client in which the Bank had an equity stake.

Banking raised this potential conflict of interest with OCCO, which advised that strict separation was required between Banking personnel supporting the company's strategic option review and Banking personnel working with the potential buyer, to ensure that both clients were treated fairly and that no preferential treatment was given to the buyer. This also ensured that no privileged confidential information was provided to the buyer to the detriment of other potentially interested parties.

### Case study 5. Working with competing clients

The EBRD was considering providing debt financing to two different companies in the same sector, both of which were looking to identify target businesses for further expansion. There was some overlap in the geographical reach of the companies.

After discussion with OCCO, it was established that there was no existing conflict of interest, as there was no overlap between the target companies being considered by each client. Nevertheless, given the geographical and sectoral overlap, it could not be ruled out that such a circumstance might arise in the future.

Therefore, OCCO advised that, as a precautionary measure and to address any perception of a conflict of interest, the Banking teams working with each client would be formally separated.

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The implementation of the Conflicts of Interest Procedure was the result of extensive work carried out by OCCO to update the EBRD's procedures for identifying and managing the many and varied potential conflicts of interest between Bank projects or activities. This Procedure replaces the previous Chinese Walls Guidelines and includes specific examples of the types of conflict that can arise between Bank projects and/or activities, the mitigating steps that might be appropriate in each case, and the requirement on Bank personnel to identify and escalate any such potential conflicts of interest with OCCO in a timely manner.

The MNPI Procedure and the Conflicts of Interest Procedure are the culmination of OCCO's work to bring its processes in line with best practice in the area of capital markets compliance. OCCO will now focus on increasing its training efforts in this regard to ensure that both procedures are fully integrated into the Bank's activities. An online training course to supplement classroom training is planned for release in 2020 and this will be mandatory for relevant Bank personnel.

Furthermore, in 2019, the capital markets compliance function worked on a number of projects to help identify potential enhancements to clients' handling of MNPI and/or institutional conflicts of interest. This was done both in connection with *ex-ante* IDD and as part of ongoing capacity-building. For example, it developed and delivered bespoke training on managing conflicts of interest to the compliance department of a major Bank client.

OCCO also worked with Banking management to provide specific guidance to staff on making public statements on Bank projects, to address the potential risks associated with Bank personnel making such statements before projects had received all necessary internal approvals.

## 2.8. Domiciliation

Since 1 January 2018, OCCO's remit has included responsibility for the EBRD's approach to client domiciliation (the rationale for selecting a particular country for the establishment of a client entity). Consequently, a dedicated Domiciliation Unit, with five staff, has been set up within OCCO's Policy and Ethics team to handle this remit.

As an IFI with a mandate to promote the transition of countries to well-functioning market economies, the EBRD supports global efforts to discourage tax evasion and other harmful tax practices. In this context, the EBRD's policy on Domiciliation of EBRD Clients (the Domiciliation Policy) sets out the conditions under which the EBRD may finance a project when the borrower, the investee or a controlling entity is domiciled in a jurisdiction other than the country where the project is located (a third jurisdiction).

At the start of 2018, OCCO began a formal review of its Domiciliation Policy in response to developments in international tax policy. The revised policy was approved in January 2019 and entered into force in July 2019. It is based on internationally accepted tax standards – including recent OECD standards on the automatic exchange of information and on BEPS – to determine whether jurisdictions used in cross-border ownership structures are acceptable.

The revised Domiciliation Policy has also enhanced project-by-project due diligence. In addition to identifying sound business reasons for using third jurisdictions, this will ensure that individual projects meet new global standards on BEPS (for example, to avoid the abuse of tax treaties) and give due consideration to other relevant standards. Additional changes clarify the scope of the Domiciliation Policy and exemptions to it. They also improve reporting. The EBRD has updated the relevant areas of its Treasury Authority and Liquidity Policy to reflect the revised Domiciliation Policy, for the purposes of treasury operations.

OCCO continued to provide advice on client domiciliation in individual Banking projects. In 2019, around 220 projects were referred to the Domiciliation Unit for guidance and review as part of the due diligence process on domiciliation.

Consistent with the revised Domiciliation Policy, project-by-project due diligence has been enhanced to ensure compliance with international tax standards. Box 1 sets out OCCO's enhanced approach to domiciliation, while case study 6 gives an example of how it has been applied in practice.

### Box 1. Enhanced project-by-project due diligence

In 2019, OCCO enhanced its project-by-project due diligence to ensure it complied with both the revised Domiciliation Policy and developments in international tax standards. OCCO assesses the main risks associated with the use of cross-border ownership structures by EBRD clients and recommends appropriate mitigating measures, as necessary. More specifically:

- **Business reasons and economic substance:** OCCO assesses the business reasons for using third jurisdictions, as well as the economic substance of the entities in those jurisdictions, to ensure that they are not used artificially to gain tax advantages. In a number of instances, OCCO has recommended, and clients have agreed, to simplify corporate ownership structures (for example, by removing entities or jurisdictions from the controlling ownership chain) or increase an entity's economic substance in the relevant jurisdiction.
- **Tax implications:** OCCO assesses the tax implications of using cross-border ownership structures to understand whether and where taxation occurs and to ensure that any elimination of or reduction in taxation is consistent with international standards. In a number of instances, OCCO has recommended, and clients have agreed, to forego domestic preferential tax regimes deemed harmful or to regulate the use of intra-group transactions (such as intra-group debt or service agreements) to mitigate the risk of BEPS.
- **Transparency and exchange of information:** OCCO assesses the compliance of cross-border ownership structures with international standards on transparency and the exchange of information for tax purposes. In a number of instances, OCCO has recommended, and clients have agreed, to change the self-classification of an entity to ensure effective exchange of information between relevant jurisdictions or voluntarily disclose the ownership structure to the relevant tax authorities.

To support this work, OCCO recruited two additional staff specialists in July 2019. The Domiciliation Unit now comprises a Head of Unit, three Principals (tax specialists) and a Senior Officer. It also had the support of a secondee from the German Ministry of Finance from February to July 2019.

### Policy on Domiciliation of EBRD Clients

#### Case study 6. Simplification of ownership structure

The EBRD was considering a loan to a real-estate company in a country where the Bank invests. The ownership structure initially involved a dozen interposed entities in seven jurisdictions. This structure was partly a legacy of previous business transactions, but project-by-project domiciliation due diligence showed that there were no strong business reasons for maintaining a number of the entities and that they had limited economic substance in their respective jurisdictions. There was, therefore, a risk of the ownership structure being considered artificial.

The Banking team and OCCO engaged with the client to identify those entities that were genuinely needed and to simplify the structure accordingly. As a result, the client agreed to maintain just two controlling entities that served a business purpose in two jurisdictions.

# 3. Training

To support the policies and standards detailed in section 2, OCCO provides extensive training to EBRD staff members, Board Officials, NDs and third parties in the economies where the Bank invests. This chapter describes the training courses that OCCO provided in 2019.

## 3.1. Ethics, integrity and ND training

OCCO bolstered its training strategy in 2019, conducting its core ethics course – *Integrity Matters!* – within the Bank to maintain the consistent, high-quality ethical behaviour of staff and Board Officials. The course provides guidance to staff on how to apply the Codes and the Bank’s ethical standards and principles. In 2019, OCCO delivered this classroom training to 300 staff members and 11 Board Officials.

OCCO participates in the EBRD’s training programme for NDs. It holds a course for new and prospective NDs on their roles and responsibilities under the Nominee Director Rules, their reporting obligations (also with regard to suspected Prohibited Practices) and how they should identify and manage any potential conflicts of interest (including any conflicts between their obligations to the investee company and their obligations to the Bank). In 2019, it provided this specialist training to 26 NDs.

Table 2 summarises the courses provided in 2019.

## 3.2. Training for staff on IDD, anti-corruption, capital markets compliance and domiciliation

In addition to the mandatory *Integrity Matters!* training for new joiners, OCCO provides all project-facing staff members with a suite of compulsory training programmes on IDD, anti-corruption and capital markets compliance. These programmes involve mandatory training when joining the Bank and refresher courses on IDD at three-year intervals thereafter.

OCCO also provides additional, optional training to boost the effectiveness and skills of staff members. To date, the department has designed 12 distinct courses on IDD. OCCO staff members deliver all of these internal courses, thus improving the consistency, relevance and usefulness of the training.

Moreover, when on business trips to ROs, OCCO staff members often take the opportunity to provide any supplementary training required, with a specific emphasis on IDD refresher courses. In 2019, OCCO delivered IDD and anti-corruption training for 739 staff members in 80 sessions at Headquarters and in the ROs. This compared with 1,081 staff trained in 2018.

Table 2. **Integrity and ND training**

Course description	Attendees in 2018	Attendees in 2019	Courses held in 2019
<b>Integrity Matters! training for staff</b> A mandatory four-hour training course that all new staff are required to take within six months of joining the Bank. The course explains how to apply the Codes of Conduct and outlines the ethical standards that all staff and Board Officials are expected to fully understand and to which they must adhere.	366	300	11 (including ROs)
<b>Integrity Matters! training for Board Officials</b> As above, for all Board Officials.	19	11	1
<b>Training for NDs</b> A mandatory two-day training programme for all EBRD staff and the external consultants the Bank appoints to act as NDs on its behalf.	22	26	3
<b>Total</b>	<b>407</b>	<b>337</b>	<b>15</b>

As mentioned, the mandatory programme on IDD includes training in capital markets compliance. In 2019, in addition to the mandatory training at EBRD Headquarters, capital markets training was provided separately to staff in the Kyiv and Istanbul ROs, to increase awareness of the Bank's requirements when handling MNPI in projects involving publicly listed securities, as well as its approach to handling institutional conflicts of interest. Table 3 summarises the IDD, anti-corruption and capital markets compliance training courses provided in 2019.

Lastly, following its review of the Bank's policy on Domiciliation of EBRD Clients, OCCO began to provide training to relevant staff on the revised policy, including how to conduct project-by-project due diligence. OCCO made an initial presentation on the revised Domiciliation Policy to all staff in February 2019 and followed up with tailored training sessions for seven Banking teams over the course of 2019. OCCO will start providing training on the revised policy to ROs in 2020.

**Table 3. IDD and anti-corruption training**

Course description	Attendees in 2018	Attendees in 2019	Courses held in 2019
<b>IDD and anti-corruption training</b> A mandatory three-hour course to educate all new project-facing staff on AML, CFT and IDD, including a 45-minute session on capital markets compliance.	353	186	10
<b>IDD refresher course</b> A mandatory three-hour course designed to update project-facing staff who received IDD training more than three years previously.	307	156	17
<b>IDD second refresher workshop</b> A 90-minute workshop for project-facing staff who attended the IDD refresher course more than three years previously.	106	192	18
<b>Business IDD</b> A three-hour course on business IDD that helps project-facing staff at all levels to hone their questioning and intelligence-gathering skills, enabling them to obtain as accurate a picture as possible of the integrity status of projects at the pre-approval stage.	28	33	5
<b>Banking academy</b> A 75-minute IDD course provided to prospective Operation Leaders (OLs). The programme includes case-study presentations, giving prospective OLs valuable exposure to real-life scenarios.	65	65	4
<b>Essentials of IDD</b> A 90-minute course for all professional staff involved in Bank projects. The training introduces the Bank's IDD procedures and guides bankers through effective strategies for conducting IDD.	126	59	8
<b>Compliant or complacent?</b> A 90-minute interactive course for all professional staff involved in Bank projects. The training equips bankers with additional skills to assess a client's anti-corruption measures and other internal controls, including compliance with AML, CFT and sanctions.	45	94	11
<b>Portfolio Operation Leader training</b> A 90-minute training session for all prospective portfolio OLs. The programme includes a 1.5-hour session on how to monitor the integrity of Bank projects and what to do if fraud and/or corruption are suspected. The course includes real-life case studies and a practical, interactive exercise.	16	35	2
<b>Assessing the integrity of co-financiers in banking operations</b> A 90-minute training session for the Loan Syndications Team, giving an overview of OCCO's approach to assessing the integrity of Bank counterparties participating in A/B and parallel loans. The course is discussion-led, includes real-life case studies and elaborates on the relevant guidance note on this topic from OCCO.	n/a*	35	1
<b>Clients with poor integrity – handling difficult communications</b> A 90-minute interactive course for all professional staff involved in Bank projects. It offers strategies for handling discussions with potential clients who have been found to be unacceptable under the EBRD's IDD Guidelines.	30	40	4
<b>Total</b>	<b>1,076</b>	<b>895</b>	<b>80</b>

\* Not applicable

### 3.3. International Anti-Corruption Day 2019

The General Assembly of the United Nations has designated 9 December 'International Anti-Corruption Day' to raise awareness of the problems of corruption and how they are being addressed.

For the fourth time, the EBRD marked International Anti-Corruption Day with a public event. This year, Bradley Hope, a *Wall Street Journal* journalist and bestselling author of *Billion Dollar Whale*, gave a talk entitled, *The Dark Side of Global Finance: The 1MDB Scandal and Corruption from Wall Street to Hollywood, and Beyond*. Mr Hope gave a riveting account of the development-bank scandal that originated in Malaysia, then followed a path of corruption to Wall Street, various offshore tax havens and even Hollywood.

EBRD CCO Lisa Rosen welcomed the audience and moderated the event. EBRD First Vice President Jürgen Riegerink gave the opening remarks and introduced Mr Hope.

Mr Hope described how Low Taek Jho, a Malaysian national from an inconspicuous upper middle-class family, insinuated himself into the Malaysian political and business elite through connections and cronyism. According to Mr Hope, these connections went back to Mr Low's time at an exclusive British boarding school, when he became a close friend of the family of Najib Razak, then Prime Minister of Malaysia. He used these connections and the Razak influence to create the 1 Malaysian Development Bank (1MDB). To the outside world, 1MDB was an investment fund for financing development in Malaysia. In reality, the entity was used almost exclusively to launder vast quantities of money through offshore vehicles into the accounts of Mr Low, Mr Razak and their associates.

With the funds Mr Low diverted to himself, he paid for lavish parties attended by Hollywood celebrities, purchased extravagant gifts, including a US\$ 7 million Picasso painting for a friend and a US\$ 1.29 million diamond for his then girlfriend. In an ironic twist, Mr Low used some of the diverted 1MDB funds to create the Red Granite Pictures film company, which financed *The Wolf of Wall Street*, the 2013 film depicting the corruption of a New York-based securities broker. Eventually, the discovery of the 1MDB scandal brought down the Malaysian government and led to the arrest of Mr Razak and his wife, Rosmah Mansor. Low is currently in hiding from numerous national authorities.

Although accounts vary, it is estimated that Mr Low facilitated the theft of as much as US\$ 4.5 billion from the Malaysian government. Despite the extraordinary magnitude of the fraud, Mr Hope posited that the 1MDB scandal illustrated "how the world really works". His conclusion was based on the fact that Mr Low was able to pull off the astounding scheme with the active connivance or unwitting facilitation of sophisticated global financial institutions, which either failed to conduct adequate due diligence or turned a blind eye when faced with the prospect of extremely high fees. In fact, Mr Hope said he believed that the vast amounts involved made it easier to convince outsiders that the fraudulent transactions were authentic.

The event was a fitting reminder of the role that financial institutions play in either facilitating or preventing corruption. It was also a reminder to Bank staff and the EBRD community to remain ever vigilant in the fight against corruption.



## 4. Project integrity

The EBRD believes that identifying and resolving issues at the project assessment and approval stages is the most effective way of protecting the integrity of Bank transactions. OCCO plays a key role in these protective efforts and also helps to monitor projects after investment. This chapter describes OCCO's approach to IDD and its contribution to the Bank's transition mandate, by strengthening client governance and promoting integrity and compliance in the economies where the EBRD invests.

### 4.1. Ex-ante IDD

OCCO takes a robust approach to assessing prospective projects. IDD includes, but is not limited to, examining and assessing integrity risks and issues, such as:

- the ownership structure and identity of ultimate beneficial owners
- the origins of a company and the source of wealth of key figures
- business practices and associations with counterparties
- the presence of politically exposed persons
- the quality of AML and CFT controls
- government-issued licences and permits
- the use of offshore jurisdictions
- links to countries or individuals subject to international sanctions.

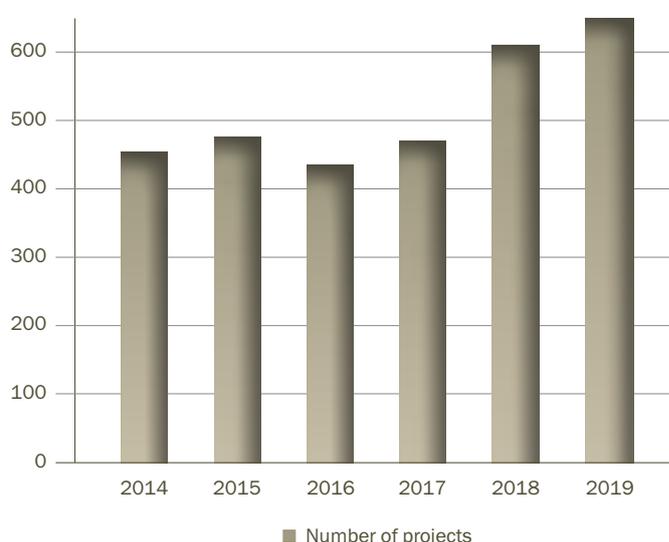
Although responsibility for the integrity of EBRD projects lies with the Banking teams as the first line of defence, where the IDD process identifies significant integrity concerns or where a potential project meets certain criteria, these issues must be referred to OCCO. The Project Integrity team, as the second line of defence, provides independent advice to the Operations Committee (OpsCom) or Small Business Investment Committee on whether the potential risk is acceptable to the EBRD. OpsCom, comprising representatives of most of the Bank's Vice Presidencies and advised by OCCO, decides on the acceptability of potential integrity risks before submitting the project for approval by the Board of Directors.

In 2019, 670 potential projects were referred to the Project Integrity team for guidance, compared with 609 in 2018. In a number of cases, the team's advice included "integrity conditions", such as the completion of an anti-corruption action plan to secure EBRD financing. In other cases, OCCO objected to the project on integrity or reputational grounds. While it is not possible to determine the precise number of projects that do not proceed based on integrity risks alone,

OCCO rejected 22 potential projects on this basis in 2019, compared with 23 in 2018. This number does not include early-stage prospects that Banking teams may have rejected for integrity reasons without OCCO's input.

The number of requests for integrity advice on new projects has increased steadily since 2013, rising 10 per cent in 2019 alone. This is due to the EBRD's expansion into new economies, its ambitious investment targets for 2019, the growing complexity of integrity issues and the fact that OCCO has provided more training to project-facing staff on the projects they should refer to the department. To cope with this rise in volume, during the reporting period, the Project Integrity team grew to 13 staff members (as of 31 December 2019) from 12 (31 December 2018). In 2019, one team member was seconded to the International Finance Corporation's (IFC) OCCO team, while one was placed on short-term assignment in the EBRD's Kyiv office, both to broaden their experience and skillsets and (in the case of the Kyiv assignee) to better evaluate the local environment.

Figure 1. Referrals from project teams



## 4.2. Enhancing our project integrity work

In 2019, the Project Integrity team continued to deepen its programme of regional specialisation and greater engagement with ROs. This work aims to provide more nuanced integrity advice and to increase OCCO's visibility and engagement in the economies where the Bank invests. Each member of the Project Integrity team focuses on a certain number of economies and travels regularly to those ROs to build relationships and gain a deeper understanding of integrity issues from a local perspective.

In 2019, members of the team travelled to 18 ROs to provide training and meet Bank staff and local partners. This regional focus allowed team members to become more familiar with the issues facing particular markets.

In 2019, OCCO remained involved in the *ex-ante* IDD review of all projects in Lebanon and in the West Bank and Gaza, in line with its commitment to the Board.

### Case study 7. Governance improvements pay off

The Bank was considering an investment in an infrastructure project. The project was referred to OCCO because of a number of concerns about the client, including fraud charges against a senior manager and regulatory fines for bid rigging and collusion. After a comprehensive integrity analysis, it was established that, since the past wrongdoings, the company had developed and implemented an effective corporate-governance improvement programme, resulting in the establishment of a compliance office and the appointment of external directors. Because of the clear enhancement to the company's systems and controls, it was concluded that the risk was acceptable and OCCO did not object to the project proceeding.

OCCO regularly reviews and updates the IDD guidelines, procedures and integrity checklists to ensure that the EBRD's integrity approach responds to evolving integrity risks, the increasing complexity of integrity requirements and the ever-changing global context.

As part of the process of continuous improvement and a drive towards automation, in 2019, work commenced on developing an integrated and seamless process for

undertaking IDD, which is expected to improve the quality of the data obtained, avoid the duplication of data entry and reduce the time needed to complete the Bank's integrity process. The enhanced approach is due to be implemented on a new IT platform in 2020.

## 4.3. Capacity-building

Integrity and compliance are central to the Bank's efforts to promote transition in the economies where the EBRD invests.

In recent years, OCCO has expanded the support it offers to clients, promoting compliance and anti-corruption efforts, as well as compliance and integrity norms beyond the EBRD's projects. These efforts have included supporting the development and implementation of anti-corruption action plans, as well as organising seminars and targeted training sessions on AML, CFT and sanctions compliance.

In 2019, OCCO enhanced its framework for the delivery of AML, CFT and sanctions-targeted training and workshops. The new framework facilitates the Bank's engagement with financial institutions seeking to strengthen and update their internal controls to manage the risks arising from money laundering, terrorist financing and exposure to sanctioned counterparties. The framework also simplifies the approval process for donor funds.

Under the framework, EBRD partner financial institutions can benefit from the advice of an AML or CFT expert consultant to review their internal controls and identify any gaps. The external consultant will help the financial institution to develop and implement an action plan to address those gaps and to align the institution with international best practice. This can be achieved in a variety of ways, including targeted consultancy services and training for key staff. The framework also enables the EBRD to reach out to the broader financial community through workshops, typically bringing together representatives of financial institutions with AML/CFT experts, regulators, international peers and EBRD personnel. Both types of engagement are aimed at enhancing the overall governance of the financial sector in the economies where the EBRD invests.

In 2019, OCCO implemented or made substantial progress on anti-corruption action plans with 32 clients (up from 21 in 2018). Among these were large state-owned enterprises, as well as a number of companies operating in the power and energy and agribusiness sectors.

#### Case study 8. Project halted over integrity concerns

The Bank was considering a new investment in a privately owned financial institution. The project was referred to OCCO, as both the financial institution and its ultimate beneficial owners had been subject to serious integrity and reputational concerns, including allegations of money laundering, political protection and extensive political exposure. Enhanced due diligence confirmed that the company posed a risk as a result of the plethora of allegations and questionable practices. OCCO concluded that it would not be able to support the project and, as a result, it was abandoned by the Banking team.

#### Case study 9. Project proceeds after due diligence

The Bank was considering an investment in a project where the engineering, procurement, construction (EPC) contractor selected by the client was a large state-owned enterprise that had faced numerous overseas corruption allegations. However, the contractor denied the allegations and confirmed to the Bank in writing that it had not faced any criminal charges. The EBRD, through its own research and extensive due diligence, was able to establish that the allegations were unfounded. The EPC contractor had also implemented governance improvements to manage bribery and corruption risks in its operations, which OCCO concluded were effective. On this basis, OCCO did not object to the project proceeding.

Following joint work by OCCO and the EBRD's Economics, Policy and Governance Department to incorporate anti-corruption action plans into the Bank's assessment of whether a project is "well governed", such plans were added to the transition ratings of two projects in 2019.

The capacity-building work of the Project Integrity team is not only relevant to client-specific initiatives. OCCO coordinates with other EBRD teams on international efforts to address the threats posed by de-risking (when international banks reduce activities in countries where they perceive the risks of AML, CFT and international sanctions to be too great). The resulting withdrawal from jurisdictions that are perceived to be excessively risky limits financial access. It can also threaten financial stability where the de-risking results in the concentration of large business volumes among a small number of financial institutions.

In 2019, OCCO continued its close cooperation in this regard with the EBRD's Trade Facilitation Programme. Its work included launching a technical assistance programme in all of the economies where the EBRD invests to support the banking sector on the issue of de-risking and the promotion of international compliance practices, thereby underpinning the wider good governance and resilience of financial institutions. As part of the Trade Finance Capacity Development initiative with partner banks, the EBRD teamed up with the International Compliance Association, the London Institute of Banking and Finance and the Association of Certified Anti-Money Laundering to deliver training and certification to professionals from various economies on a range of topics related to AML and broader compliance risks in trade finance.

In 2019, in partnership with the Palestine Monetary Authority, OCCO conducted a two-day AML/CFT workshop for the financial sector in the West Bank and Gaza, focusing on the implementation and operation of a risk-based approach. OCCO also devised a regional AML/CFT initiative in Central Asia to draw together regional experience on these important topics and to promote meaningful international cooperation and information exchange. The inaugural Tashkent gathering of 24 financial-institution regulator, intelligence and AML officials from Kazakhstan, the Kyrgyz Republic, Mongolia, Tajikistan, Turkmenistan and Uzbekistan in early 2019 led to a second, follow-up event in Almaty in late 2019. The initiative sought to develop cooperation between these countries on issues related to terrorist financing and illicit financial flows. OCCO also organised a workshop for a major state-owned enterprise client in Ukraine, focusing on key compliance risks.

All of these initiatives were well received. They also produced recommendations on reforms that the financial institutions subsequently implemented. All of the initiatives were funded by the EBRD Shareholder Special Fund, the Ukraine Stabilisation and Sustainable Growth Multi-Donor Account and the governments of Luxembourg, the Netherlands and the United Kingdom.

Lastly, throughout the year, OCCO continued to engage with the private sector to increase awareness of anti-bribery and corruption compliance, AML and CFT. Among other initiatives – and in cooperation with the Banking teams – OCCO arranged compliance workshops in Albania, Bosnia and Herzegovina, Egypt, Georgia and Turkey. The workshops brought together participants from a wide range of private and public companies and provided them with practical support to develop and strengthen their anti-bribery and compliance controls.

See section 6.1 for details of OCCO's thematic capacity-building work in 2019.

#### Case study 10. Project proceeds after thorough research

The Bank was considering a new investment in a real-estate company. The project was a mandatory referral to OCCO due to the high-risk nature of the sector (real estate) and certain allegations concerning the company's former parent entity. During IDD, media reports emerged alleging that the company's former parent entity was fronting for senior politicians and other prominent individuals outside of the country of the investment. After additional inquiries, it was confirmed that these reports were untrue, and both the company and its ultimate beneficial owners had a positive reputation. Furthermore, the former parent entity was never subject to an investigation as a result of those reports. In light of these factors, OCCO did not object and the project proceeded.

## 4.4. Monitoring support

In addition to providing advice at the pre-investment stage, OCCO's Project Integrity team advises and supports the Banking and other teams as needed on investment monitoring and equity exits. On a quarterly basis, the Project Integrity team also reviews the information the Banking teams provide for all projects that have passed final review by OpsCom, in order to monitor compliance with IDD procedures. Of those projects not previously reviewed by OCCO, 20 per cent are selected for comprehensive assessment to confirm the overall adequacy of the IDD conducted by the Banking teams in question, including the adequacy of the disclosure of integrity issues to decision-making committees and the Board. The review carried out for each period in 2019 produced satisfactory results for the projects monitored. Of the 20 projects that were subject to comprehensive assessment during this period, 4 were found to have minor procedural deficiencies, although in no case would these issues have affected the outcome of the project. The concerns were brought to the attention of the relevant Banking team and, where warranted, to the attention of EBRD senior management.

#### Case study 11. Project does not proceed amid corruption 'red flags'

The Bank was considering a new property investment with a client with a positive reputation in that jurisdiction. During due diligence, which included a review of the activities of the client's majority owner in multiple jurisdictions, the team discovered that the owner had a mixed reputation in another jurisdiction, with historical allegations of ties to controversial individuals associated with organised crime. Further work to understand the extent of such links confirmed initial concerns and raised further suspicions of corruption. Because of all these red flags, the project did not proceed.

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# 5. Investigations and sanctions

The Agreement Establishing the EBRD<sup>17</sup> expressly states that the Bank must take all necessary measures to ensure that the proceeds of its financing are used for the intended purposes. The Bank's Integrity Risks Policy mandates that the EBRD take all necessary steps to ensure that Bank staff and Board Officials comply with the highest standards of integrity in performing their work, so as to avoid or minimise any risks arising from or in connection with the Bank's activities.

Under the EBRD's Integrity Risks Policy and the Terms of Reference for OCCO<sup>18</sup> the department is responsible for investigating allegations of fraud and corruption in the Bank's projects, as well as for investigating allegations of staff failure to meet the Bank's rules and standards of ethical behaviour and integrity. Consequently, OCCO's Investigations team conducts two distinct types of investigation: investigations of fraud and corruption in relation to Bank-financed activities under the EPPs and investigations of allegations of staff misconduct under the CDRPs or the Code of Conduct.

This chapter describes the work of OCCO's Investigations team in 2019.

## 5.1. Investigations under the EPPs

The EBRD's EPPs are the policy and procedures governing the investigation and sanctioning (if necessary) of parties alleged to have engaged in Prohibited Practices in relation to Bank assets or a Bank project and the sanctioning of parties on whom a third-party finding (as defined by the EPPs) has been imposed. The EPPs define Prohibited Practices as coercion, collusion, corruption, fraud, misuse of EBRD resources or EBRD assets, obstruction and theft.

### Enforcement Policy and Procedures

#### 5.1.1. Settlements under the EPPs

In 2015, the EPPs were revised to permit, among other things, the settlement of cases, including allegations of Prohibited Practices. The introduction of settlements has allowed the Investigations team to contribute to transition by focusing on remediation, rather than debarment alone. Settlement agreements are both an efficient means of resolving matters and of achieving durable and meaningful improvements to companies' anti-corruption efforts through the imposition of robust anti-corruption action plans as a condition of settlement. Since the 2015 amendments to the EPPs, OCCO has entered into eight formal settlement agreements.

In 2019, the department continued to monitor the implementation of the six anti-corruption action plans agreed in previous years. One of the plans was successfully concluded, with the relevant corporate group developing and implementing a comprehensive code of business conduct, supported by a compliance officer and a network of managers.

#### 5.1.2. Investigations under the EPPs

OCCO classifies EPP complaints as relating to EBRD public-sector projects or EBRD private-sector operations.

In 2019, OCCO accepted 46 new complaints alleging the occurrence of a Prohibited Practice in either the EBRD's public-sector procurement or private-sector operations. It carried forward 12 complaints that had been received prior to this. Of the 58 matters on the Investigations team's books in 2019, 38 matters were closed and 20 remained open at the end of the reporting period.

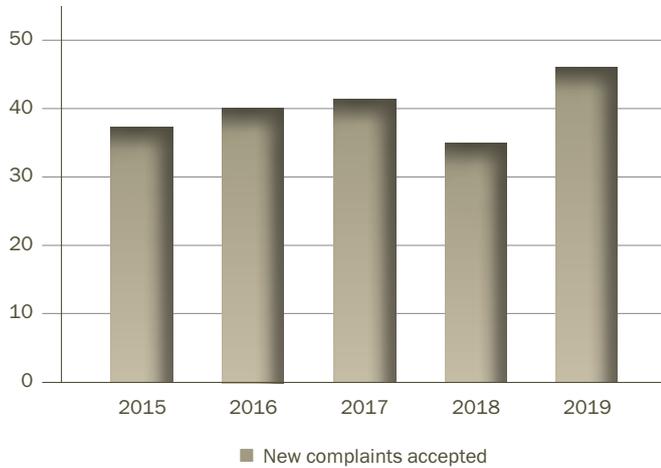
In 29 of the closed cases, the matter did not proceed beyond preliminary assessment. In 4 cases, the issue was closed following a formal investigation (see Table 4). The remaining 5 cases were referred to the Bank's Enforcement Commissioner for determination on whether enforcement action should be taken under the EPPs.

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<sup>17</sup> See EBRD (1990).

<sup>18</sup> See EBRD (2016).

Figure 2. **EPP cases**



### 5.1.3. Public-sector investigations

In 2019, OCCO registered 22 new complaints of a Prohibited Practice in public-sector procurement exercise and continued to investigate 8 cases opened in an earlier period. Complaints of this kind typically allege malfeasance in connection with public tenders, including corruption, fraud or collusion. Of the 22 new complaints, more than half were referred directly by the EBRD staff members responsible for monitoring the tenders (12 cases), while 8 were referred by external parties, including 2 received anonymously via the compliance reporting mailbox (compliance@ebrd.com).

Of the 30 public-sector matters dealt with in 2019, 14 were closed after a preliminary assessment, 3 were closed after a formal investigation and 3 were referred to the Bank's Enforcement Commissioner for enforcement action. The latter concerned 3 entities and 2 individuals and are currently before the Enforcement Commissioner for determination. Ten matters remained open as of the end of 2019.

### 5.1.4. Private-sector investigations

In 2019, OCCO registered 24 new complaints of a Prohibited Practice in the EBRD's private-sector operations. Complaints like these typically involve allegations of misuse of EBRD funds, often through unauthorised related-party transactions or an EBRD client engaging in illegal activities.

Fourteen of these matters were reported directly to OCCO by external parties, 12 of which were received through the Bank's compliance mailbox. Twelve matters were referred directly to OCCO by Bank staff members, including three that were referred by the team managing the Bank's PCM.

Along with these new complaints, OCCO continued to investigate four complaints from previous periods.

Of these 28 private-sector inquiries actioned, 15 were closed after a preliminary assessment, while a further matter was closed following a formal investigation. Two matters were referred to the Bank's Enforcement Commissioner for enforcement action and 10 are subject to ongoing investigations by OCCO.

## 5.2. Enforcement Commissioner matters

In 2019, the Bank's Enforcement Commissioner was asked to consider three matters following public-sector investigations and three matters in the wake of private-sector investigations, including one that had been referred in 2018. The Enforcement Commissioner considered one further request that an EBRD counterparty be temporarily suspended from receiving more EBRD business until such time as an investigation had been completed.

Of the six matters before the Commissioner in 2019, three have been concluded and three have yet to be determined. In 2019, the Enforcement Commissioner issued the following determinations after OCCO investigations.

- OCCO referred a matter to the Enforcement Commissioner alleging that an individual respondent from Lithuania had engaged in the Prohibited Practice of theft in connection with an EBRD project. The matter has not proceeded to debarment because of questions concerning the applicability of the EPPs. This matter is also being investigated by the Lithuanian authorities; OCCO and the Bank are providing assistance.
- In June 2019, the Enforcement Commissioner issued a decision to debar two individuals for a period of five years as a result of a third-party decision. This matter is outlined in case study 12.
- In November 2019, following an extensive OCCO investigation, the Enforcement Commissioner debarred General Electric Power Sweden AB (formerly known as Alstom Power Sweden AB) for six years for corruption. This matter is outlined in case study 13.

In 2019, OCCO submitted a further three matters to the Enforcement Commissioner. These are currently under deliberation. In all three matters, which involve three entities and two individuals, OCCO has requested that the Enforcement Commissioner apply debarment action following alleged fraudulent practices. The Enforcement Commissioner will decide on these cases in 2020.

Table 4. **Complaints about Prohibited Practices**

	2018	2019
New complaints reported to OCCO	35	46
Complaints carried forward from previous periods	13	12
Complaints closed at preliminary assessment or formal investigation	28	33
Complaints referred to the EBRD's Enforcement Commissioner	6	5
Complaints resulting in other remedial action (for example, referrals to national authorities, cease-and-desist undertakings)	2	-
Complaints carried forward to a new period	12	20
Number of individuals and entities subject to enforcement action by the EBRD's Enforcement Commissioner	11	3*
OCCO personnel assigned to investigate fraud and corruption complaints	2.5	2.5

\* Three additional matters involving three entities and two individuals are currently before the Enforcement Commissioner for determination.

### 5.2.2. Cross-debarments

In 2019, OCCO received 99 separate Notices of Debarment Decisions from the co-signatories of the Agreement for the Mutual Enforcement of Debarment Decisions (AMEDD), namely, the African Development Bank (AfDB), the Asian Development Bank (ADB), the Inter-American Development Bank (IADB) and the World Bank.<sup>19</sup> The Bank consequently cross-debarred 56 individuals and 281 entities based on the debarment decisions of these referring institutions.

The EBRD issued one notice under AMEDD, requesting the cross-debarment of one entity and one individual. This entity and individual have subsequently been cross-debarred. The list of all debarred entities and individuals is available on ebrd.com:

<https://www.ebrd.com/ineligible-entities.html>

### 5.2.3. Complaints of retaliation

In 2019, the EBRD received a number of complaints from representatives of civil society that, as a result of expressing concerns about an EBRD project, they had been subject to retaliation. The EBRD does not tolerate actions by EBRD clients or other project counterparties that amount to retaliation – including threats, intimidation, harassment or violence – against those who voice their opinion on the activities of the EBRD or its clients. The EBRD takes all credible allegations of reprisals seriously.

In January 2019, the EBRD published a statement on how it will manage complaints in relation to Retaliation Against Civil Society and Project Stakeholders (the Retaliation Statement).<sup>20</sup>

<https://www.ebrd.com/documents/strategy-and-policy-coordination/ebrd-statement-on-retaliation.pdf>

The key principle behind these guidelines is that every individual or group has the right to voice criticism or file complaints related to EBRD projects without threats to their safety or fear of retribution. OCCO considers retaliation to be a form of coercion, which is a Prohibited Practice under the EPPs.

Following the publication of the Retaliation Statement, OCCO received four complaints from individuals and civil-society organisations that they had been subject to retaliation by Bank clients following complaints about an EBRD project. The alleged retaliation included threats of violence, intimidation and harassment. OCCO investigated all four complaints to determine in each case whether there was any credible evidence that the Bank's client was behind or had encouraged this activity.

An evidential link could not be established in any of the four cases. However, pursuant to the Bank's internal guidelines, the matters were referred to the relevant Banking teams, which, with the support of OCCO, would work with the client to create a safe space where concerns about EBRD operations could be made without fear of recrimination. The EBRD clients responded constructively to these requests and good progress has been made. OCCO will continue to monitor the action the Bank and its clients take in these matters.

<sup>19</sup> See ADB, AfDB, EBRD, IADB and World Bank (2010).

<sup>20</sup> See EBRD (2019c).

## 5.2.4. Fraud and corruption case studies

### Case study 12. Fraud in public-sector procurement

The EBRD's public-sector clients are required to undertake their EBRD-funded procurement activities in full compliance with Bank rules. The aim of these rules is to ensure a fair procurement process, with robust controls, resulting in the supply of goods, services or works that best meet the project's needs. To be eligible to tender, prospective bidders are usually required to reference similar, completed projects as proof that they have the ability and experience to deliver.

In 2019, OCCO initiated two investigations, following allegations that two companies had submitted false supporting documents with their bids for contracts to improve a municipal water supply (the tenders were financed by the EBRD). The investigations determined that both companies had submitted false documents in an attempt to mislead the tender evaluation committee as to their eligibility. OCCO proposed a three-year term of debarment for both companies and for the high-ranking individual at each company directly responsible for the bid submissions.

### Case study 14. A third-party finding

On 19 July 2019, the Enforcement Commissioner imposed a three-year term of debarment on two Kazakh individuals in connection with fraudulent practices to funnel hundreds of millions of dollars out of a group of Kazakh companies, one of which was partially owned by the EBRD. The two individuals conspired to divert funds from the companies to entities controlled by or related to them.

The group of Kazakh companies brought a civil case against the two individuals in the High Court in the United Kingdom. The Court found that the two individuals had violated various provisions of Kazakh law and ordered them to pay around US\$ 315 million in compensation and interest. The Enforcement Commissioner determined that the findings of the UK High Court amounted to a fraudulent practice by the two individuals under the EBRD's EPPs and, therefore, issued a third-party finding, which allows the Bank to recognise the final judgment of a judicial process in a member country.

### Case study 13. An unprecedented six-year debarment

On 23 September 2019, the Enforcement Commissioner imposed a six-year term of debarment on GE Power Sweden AB, the successor entity to Alstom Power Sweden AB, for corrupt practices in connection with a project to install flue gas desulphurisation (FGD) units at the Lithuanian Power Plant (LPP), a project financed by donor funds administered by the EBRD.

A five-year investigation by OCCO, in cooperation with the UK Serious Fraud Office, found that from 2002 to 2009, Alstom Power Sweden AB employees had conspired with an Alstom entity in the UK (Alstom Power Limited) to funnel payments to Lithuanian government officials to improperly influence the award and the performance of the contract to install FGD units.

A tender was announced in 2004 for the installation of FGD units at the LPP, a contract worth approximately €208 million. However, almost two years before the announcement of the tender, Alstom employees were already conspiring with Lithuanian public officials to manipulate the tender specifications in their favour.

During OCCO's investigation, the Alstom Group completed the sale of its power and grid businesses, including Alstom Sweden, to General Electric Company for €9.7 billion, and Alstom Power Sweden was renamed GE Power Sweden AB.

The six-year debarment, the longest ever imposed by the EBRD, means that GE Power Sweden will not be eligible to be a Bank counterparty from 27 November 2019 until 26 November 2025. The EBRD will be submitting the decision for cross-debarment by the World Bank, AfDB, ADB and IADB under AMEDD.

The Bank's cooperation with the UK Serious Fraud Office also led to the successful prosecution in the UK of three individuals and one entity involved in the misconduct.

### 5.3. Investigations under the CDRPs and the Codes of Conduct

Reports of suspected misconduct may be received from any source, inside or outside the EBRD, including anonymous sources. OCCO also receives complaints from the EBRD’s MD HROD, referred under the Bank’s RWPs.

Allegations of misconduct are investigated in accordance with the CDRPs, which clearly distinguish the role of the CCO as fact-finder on complaints of misconduct and the role of the MD HROD as decision-maker on any disciplinary action. Further action, such as referral to law-enforcement agencies, may be taken on a case-by-case basis, as appropriate.

Reports of suspected misconduct against the Bank President, or any of the Vice Presidents, are dealt with in accordance with the Code of Conduct for EBRD Personnel. Similarly, an allegation of suspected misconduct by a Board Official is dealt with in accordance with the Code of Conduct for Officials of the Board of Directors of the EBRD.

All complaints received under the CDRPs are subject to an initial inquiry, in which OCCO undertakes a number of steps. These include obtaining additional information from the complainant, gathering evidence (including data from the Bank’s IT systems) and interviewing possible witnesses or others who may be in a position to provide relevant information.

Following an initial inquiry, if a complaint is deemed sufficiently reliable and grave, further investigation will be warranted. The matter will proceed to a formal investigation to allow individual(s) and subject(s) of the complaint to respond to the allegation(s).

In 2019, OCCO accepted 22 new complaints of suspected misconduct. It continued to investigate a further 5 matters from 2018. Of these 27 complaints, 17 were received under the CDRPs, while 10 were referred by the MD HROD under the RWPs.

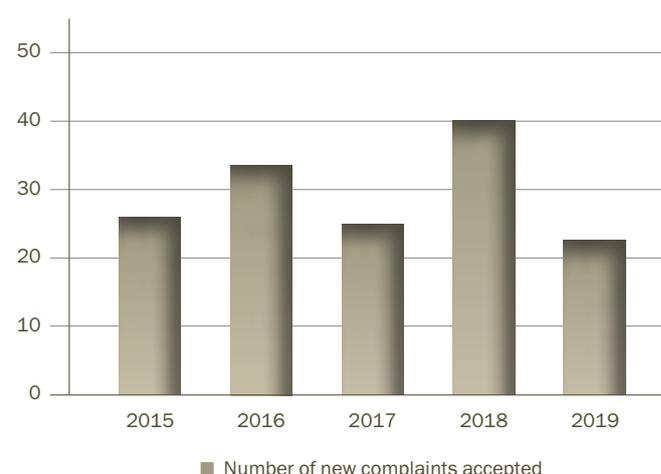
The location of the subjects of the complaints was split fairly evenly between the EBRD’s Headquarters and its ROs – 14 and 13, respectively – with the complaints spanning a wide range of alleged misconduct.

Table 5. Complaints received in 2019, by type of misconduct

Type of misconduct*	Headquarters	RO
Rule 1. General standard of conduct	1	9
Rule 2(d). Harassment and bullying	7	5
Rule 3. Conflicts of interest	2	3
Rule 4. Outside activities	-	2
Rule 5. Political activities	-	-
Rule 6. Employment	-	-
Rule 7. Gifts and hospitality	-	-
Rule 8. Financial interests	-	-
Rule 9. Disclosure of financial interests	-	-
Rule 10. Confidentiality	4	-
Rule 11. Misuse of EBRD assets	-	1
Rule 12. Retaliation	1	-
<b>Total</b>	<b>15*</b>	<b>20*</b>

\* In six matters, the investigation involved two categories of misconduct.

Figure 3. Staff misconduct cases



### 5.3.1. Summary of investigations into allegations of staff misconduct

Of the 22 new matters that OCCO accepted in 2019 and the 5 carried forward from 2018 (for a total of 27), 14 complaints advanced to formal investigations (up from 11 in 2018), 11 cases were closed following an initial inquiry and 2 remained open at the end of the reporting period (see Table 6). The 25 investigations completed in 2019 had various outcomes.

- Three separate formal investigations into breaches of Rule 1 of the Staff Code of Conduct (General Standard of Conduct) resulted in one recommendation for disciplinary action under Part III of the CDRPs, with the staff member concerned resigning from the Bank during the disciplinary process. In the other two matters, there was no finding of misconduct.
- Two initial inquiries into allegations of breaches of Rule 1 were closed, with no further action being taken, as it was determined that the allegations were not sufficiently reliable to warrant further investigation.
- Three separate formal investigations into breaches of Rule 3 of the Staff Code of Conduct (conflicts of interest), resulted in recommendations for disciplinary action under Part III of the CDRPs in each matter. In each case, the disciplinary process resulted in termination of employment.
- Three further initial inquiries into allegations of breaches of Rule 3 were closed with no further action being taken, as it was determined that the allegations were not sufficiently reliable to warrant further investigation.
- Two separate formal investigations into allegations of breaches of Rule 2(d) (harassment and bullying) resulted in recommendations for disciplinary action under Part III of the CDRPs in each matter. In one of these cases, the staff member concerned resigned from the Bank during the disciplinary process.
- A further formal investigation into allegations of breaches of Rule 2(d) resulted in a recommendation for a non-disciplinary written warning to be issued to the staff member concerned, who resigned from the Bank during the disciplinary process.
- A further four formal investigations into allegations of breaches of Rule 2(d) resulted in no findings of misconduct.
- Four initial inquiries into allegations of breaches of Rule 2(d) were closed, with no further action taken, as it was determined that the allegations were not sufficiently reliable to warrant further investigation.
- OCCO conducted three separate initial inquiries into breaches of Rule 10 of the Staff Code of Conduct (confidentiality). In all cases, the allegations were determined not to be sufficiently reliable to warrant further investigation under the CDRPs.

Table 6. Misconduct complaints 2018-19 – a comparative analysis

Misconduct complaints	2018	2019
New complaints of staff misconduct reported to OCCO	43	27*
RWP referrals from the MD HROD	3	10
Complaints closed with no finding of misconduct	33	18
Staff who left the Bank during the course of an investigation	1	2
Referred to the MD HROD for written warning	2	1
Referred to the MD HROD for disciplinary action	4	6
OCCO personnel assigned to assist with staff misconduct matters	2.5	2.5

\* Includes five matters carried over from 2018.

### 5.3.2. Trends in misconduct investigations

#### Bullying and harassment

In 2019, OCCO received 10 referrals under the Bank's RWPs – a substantial increase from the 3 referrals received in 2018. The increase is believed to be the result of significant efforts to increase awareness among staff on the importance of 'speaking up' and reporting negative interpersonal behaviour. The Bank's efforts in this regard included more visits to ROs by OCCO and HROD personnel to gain a better understanding of regional and country-specific issues, and encouraging RO colleagues to 'speak up' more readily when they observe unacceptable conduct in the workplace.

#### Conflicts of interest

In its *Integrity and Anti-Corruption Report 2018*,<sup>21</sup> OCCO noted that there had been a significant increase in the number of complaints from staff members in ROs in relation to alleged conflicts of interest. This was attributed to the increase in outreach and training OCCO had provided to RO staff, particularly with regard to their obligations under the Code of Conduct. In 2019, OCCO noted a significant decrease in reported conflicts of interest.

#### Confidentiality

Following a sharp increase in reports of breaches of confidentiality in 2018, including a number of complaints about leaks of information, OCCO made a number of recommendations with a view to boosting IT controls. As a result, 2019 saw a significant decrease in reported breaches of confidentiality and no reports of breaches involving abuse of the Bank's IT systems.

#### Fraud

In 2019, OCCO conducted formal investigations into two allegations of fraud, including one allegation of expenses fraud under the Bank's medical plan.

### 5.3.3. Complaints of retaliatory conduct

In 2019, OCCO received one complaint in relation to retaliatory acts against an individual who had carried out protected activities (a whistleblower). Following a review, OCCO determined that the purported act was not an act of retaliation as defined in the CDRPs.

### 5.3.4. RO inspections

The RO inspection programme was established in 2017. Inspections are conducted by OCCO twice a year, in close cooperation with the EBRD's Vice President of Banking, in order to review and assess compliance with the EBRD's internal control procedures.

In 2019, OCCO conducted unannounced inspections in the Almaty and Warsaw ROs. Both ROs were found to be functioning effectively and, where minor weaknesses in internal control procedures were identified, RO staff responded appropriately and efficiently to address them.

The EBRD intends to undertake two further inspections in 2020. In the meantime, OCCO continues to work with Banking teams, the Operational Risk Management team and Internal Audit team to ensure that the findings from the inspections conducted to date are shared appropriately and addressed with effective action.

### 5.3.5. Staff misconduct case studies

The EBRD rightly expects that, in the course of performing their duties, its employees observe the highest standards of integrity and honesty, consistent with the policies and practices that govern their employment at the Bank. These are set out in the EBRD Staff Handbook, which includes, among other things, the Staff Code of Conduct and the CDRPs.

Case studies 15, 16 and 17 outline the actions of Bank employees who, aware of the provisions of the Staff Code of Conduct and Staff Handbook, acted in breach of those provisions.

#### Case study 15. Code of Conduct Rule 1 (General Standard of Conduct)

OCCO received a report that a staff member, Ms C, had failed to notify the Bank of a material change in her personal circumstances. It was alleged that this failure had resulted in Ms C continuing to receive a number of Bank allowances to which she was no longer entitled.

OCCO's investigation established that not only had Ms C's personal circumstances changed, but there was evidence to support a finding that her failure to disclose these changes had been deliberate, rather than unintentional. As a result, she had received more than £40,000 in allowances to which she was not entitled.

The formal investigation resulted in a recommendation to the MD HROD for disciplinary action under Part III of the CDRPs, resulting in Ms C's separation from the Bank and the reimbursement of allowances to the Bank.

OCCO actively pursues all reports of breaches of the Code of Conduct, including failures to comply with the provisions of the Staff Handbook.

<sup>21</sup> See EBRD (2019d).

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**Case study 16. Code of Conduct Rule 2(d) (bullying and harassment)**

The MD HROD referred a complaint of suspected misconduct to OCCO under the RWPs. The complaint alleged that a staff member, Mr Z, had, over a period of months, engaged in conduct towards colleagues that was both hostile and offensive.

The OCCO investigation involved interviews with a substantial number of staff and managers. The evidence gathered supported the allegations against Mr Z.

The formal investigation resulted in a recommendation to the MD HROD for disciplinary action under Part III of the CDRPs. Prior to finalisation of the disciplinary process, Mr Z left the Bank.

**Case study 17. Code of Conduct Rule 3 (conflicts of interest) and Rule 4 (outside activities)**

OCCO received a report that a staff member, Mr X, had engaged in outside business activities that might give rise to an undeclared conflict of interests and were, therefore, incompatible with the full and proper performance of his official duties.

The OCCO investigation revealed that Mr X was, indeed, involved in outside activities that were not only being undertaken during the working day, but providing remuneration far in excess of his Bank salary. The investigation also found that, at the time of his appointment, Mr X had deliberately misled the Bank when disclosing his personal business interests.

The formal investigation resulted in a recommendation to the MD HROD for disciplinary action under Part III of the CDRPs, resulting in the termination of Mr X's employment with the Bank.

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## 6. International cooperation

This chapter describes OCCO's international cooperation in 2019.

OCCO engages in international cooperation on integrity and anti-corruption issues in order to:

- keep up to date with and support the efforts of relevant international and industry organisations
- participate in the development and dissemination of best practice
- work effectively with other international institutions in the common fight against corruption in emerging and transition economies.

### 6.1. Intergovernmental initiatives

In 2019, OCCO continued to engage in key intergovernmental initiatives, including those specifically focused on AML, CFT and tax, such as FATF, the Global Forum on Transparency and Exchange of Information for Tax Purposes, the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting, the Council of Europe's AML body and the Eurasian Group on Combating Money Laundering and Financing of Terrorism.

The EBRD has observer status in each of these bodies, so a representative of OCCO regularly attended their meetings in 2019. In line with the EBRD's focus on the southern and eastern Mediterranean region and to ensure that the Bank's activities in the region adequately respond to any AML/CFT threat, the Bank applied for observer status at the Middle East and North Africa Financial Action Task Force, FATF's regional body. A decision on this application is pending.

The EBRD's engagement with the FATF and associated bodies is critical to the Bank's assessment of integrity risk in the regions these organisations monitor.

Where the FATF has identified a jurisdiction as having strategic deficiencies in AML and/or CFT, the EBRD undertakes enhanced due diligence on all proposed counterparties in that jurisdiction, in order to satisfy itself that those counterparties have appropriate AML and CFT procedures to mitigate these deficiencies.

In 2019, this was particularly relevant to the Bank's operations in Serbia, Tunisia and Mongolia. The EBRD is also an active participant in the FATF working group which assesses and promotes technical assistance globally.

The EBRD continues to be closely involved in the work of the FATF and Financial Stability Board (FSB) on de-risking. This focuses not just on whether countries and financial institutions are meeting the standards expected by correspondent banks, but also on the degree to which correspondent banks can or wish to embrace the cost and resource implications of aligning with banks that may become de-risked. OCCO participated in the Wolfsberg Forum, where de-risking has been a consistent theme, and is part of the FSB's Working Group on the issue. De-risking reduces the financing of international trade and can lead to a greater concentration of risk in banks in those economies where the EBRD invests.

To underscore the importance of anti-corruption reforms in the EBRD regions and to support its efforts to build capacity, OCCO is active in the OECD's annual Integrity Week and a member of the OECD Anti-Corruption Network (ACN) for Eastern Europe and Central Asia. In 2019, together with the OECD, the United Nations Development Programme, the United Nations Global Compact and the International Chamber of Commerce, OCCO organised and presented at business integrity seminars in Egypt, Georgia, Turkey, Bosnia and Herzegovina, and Albania. These seminars contributed to the Bank's goal of promoting business integrity and compliance across the economies in which it invests.

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## 6.2. Cooperation with MDBs

In the field of anti-corruption, OCCO maintains close relationships with other MDBs. Alongside the World Bank, European Investment Bank (EIB), AfDB, ADB and IADB, OCCO is active in the meetings of the MDB Heads of Integrity.

In March 2019, representatives from OCCO attended the MDB meeting on private-sector integrity hosted by the ADB in Manila. The meeting was an opportunity to share effective practices in evolving areas of concern, in particular, tax avoidance and evasion. On the margins of this meeting, OCCO participated in a two-day Heads of IDD meeting. At this annual event, the Heads of Integrity of the MDBs that participate in the Uniform Framework for Preventing and Combating Fraud and Corruption meet to discuss themes of common interest.

In May 2019, OCCO hosted the annual European Chief Compliance Officer meeting in Kyiv. Topics discussed included whistleblowing regimes in the participating IFIs, enhanced IDD and compliance with ethical standards across IFIs.

In 2019, OCCO representatives attended two Heads of Integrity meetings in Luxembourg and Geneva, Switzerland. The Luxembourg meeting was followed by the inaugural EIB Ethics Forum and a meeting of the MDB Ethics CoP. The EIB Ethics Forum included presentations on the impact of artificial intelligence and the use of behavioural science in bringing fresh perspectives to ethics-related challenges. The MDB Ethics CoP discussed issues such as how to measure the effectiveness of ethics programmes and how to link such programmes to performance appraisal and incentives.

At the Geneva meeting, the discussion topics included the harmonisation of approaches and better sharing of information, the potential to further enhance the harmonisation of sanctions, and standards for release from conditional non-debarment. The MDB meeting was followed by a larger meeting of the Heads of Integrity from other IFIs, including the Asian Infrastructure Investment Bank, the Caribbean Development Bank, the International Fund for Agricultural Development, the Council of Europe Bank and the Nordic Investment Bank. This covered issues including referrals to national authorities and the reporting and updating of investigations.

OCCO also maintains close relationships with other MDBs in the field of domiciliation, including the ADB, AfDB, EIB, IADB and IFC. In 2019, OCCO presented its revised approach to domiciliation at tax events organised by the Black Sea Trade & Development Bank and the IFC. In addition, OCCO actively participates in regular tax calls between MDBs to exchange information on approaches to domiciliation and responses to tax developments.

## 6.3. Other international cooperation activities

As in previous years, the EBRD supported standard-setting by working closely with governments, civil-society representatives and the private sector.

OCCO continued to participate in meetings of the OECD ACN in 2019. Significantly, representatives from OCCO (along with the Procurement Policy and Advisory Department) attended a workshop to provide comments and guidance on the ACN's development of indicators to assess progress on tackling corruption in its monitoring mechanism.

In November 2019, representatives from OCCO (along with EBRD personnel from the Procurement Policy and Advisory Department) participated in various panels as part of the Deloitte Fraud Awareness Weeks in Sarajevo and Zagreb. They discussed how companies in the Western Balkans could address anti-corruption challenges and risks within their business. In Zagreb, an OCCO representative led a workshop for 25 Croatian companies on how to develop and implement an effective anti-corruption compliance programme.

Other notable meetings at which representatives of OCCO presented on the theme of anti-corruption and proactive compliance in 2019 included:

- the 20th Conference of International Investigators, held in Geneva
- the 7th C5 Conference on Anti-Corruption France, held in Paris, along with representatives from the EIB and World Bank
- the Roundtable on Anti-Corruption and Business Integrity, held at the OECD in Paris.

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## 7. Outlook for 2020

In 2020, OCCO will continue its work on the activities summarised in this report, but with a particular focus on supporting the EBRD's role in meeting the unprecedented challenges arising from the Covid-19 pandemic. Despite these challenges, OCCO will continue to maintain the Bank's high standards on integrity and anti-corruption, both within the EBRD and in relation to its projects and operations.

Priorities will include:

- **Training:** OCCO will work to increase the number of training courses that can be completed online and/or delivered remotely, both for existing courses, and for the additional training requirements highlighted below.
- **Domiciliation:** Priorities will include embedding the new Domiciliation Policy, finalising the upgrade of the Bank's procedures and toolkit for domiciliation due diligence, and providing staff training.
- **Whistleblower framework:** OCCO will finalise its standalone policy and amend its existing training materials to increase the focus on whistleblowing. OCCO will proactively roll out the implementation of the policy once approved by the Board.
- **Anti-corruption capacity-building:** OCCO will, to the extent feasible in current circumstances, endeavour to continue its proactive work with clients and potential clients on the development and implementation of anti-corruption and compliance action plans. To enhance the Bank's transition impact by promoting good governance, OCCO, in conjunction with other EBRD departments and international partners, will try to develop virtual seminars, consultancies and other innovative programmes that can be delivered remotely in the economies where the Bank invests.
- **Codes of Conduct review:** OCCO will commence a review of the investigative provisions of the Code of Conduct for EBRD Personnel and the Code of Conduct for Officials of the Board of Directors of the EBRD.
- **Capital markets compliance and institutional conflicts of interest:** OCCO will further advance its capital-markets compliance function by rolling out training on the newly approved procedures on MNPI and managing institutional conflicts of interest.
- **RWPs and CDRPs:** OCCO, HR and the Office of the General Counsel will work together to review both the procedures in place to ensure a harassment-free and respectful workplace.
- **EPPs:** A review will be conducted to update the Bank's EPPs. This will include incorporating the revised definition of "obstructive practice" as agreed by the investigative offices of the ADB, AfDB, EBRD, EIB and IADB.
- **Convergence of IDD work with other MDBs.** The EBRD is part of an initiative to further increase cooperation between MDBs, especially in respect of projects that are co-financed. While each MDB retains its decision-making sovereignty, the MDB community is seeking to reduce the potential for duplication of effort. This initiative is particularly important in light of the common challenges the sector faces in relation to Covid-19.
- **Knowledge management:** OCCO will strengthen its knowledge-management function throughout the department, aiming to streamline processes and enhance decision-making, with a focus on consistency of outcomes.
- **Anti-Corruption CoP:** OCCO will continue to work together with other EBRD departments to facilitate the sharing of knowledge in relation to anti-corruption, in particular through the Anti-Corruption CoP set up in 2019.

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**EBRD (2019c)** *Retaliation Against Civil Society and Project Stakeholders*, London.

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# Acronyms and abbreviations

Abbreviation	Description
<b>1MDB</b>	1 Malaysian Development Bank
<b>CAN</b>	Anti-Corruption Network
<b>ADB</b>	Asian Development Bank
<b>AfDB</b>	African Development Bank
<b>AMEDD</b>	Agreement for the Mutual Enforcement of Debarment Decisions
<b>AML</b>	Anti-money laundering
<b>BEPS</b>	Base erosion and profit shifting
<b>CCO</b>	Chief Compliance Officer
<b>CDRPs</b>	Conduct and Disciplinary Rules and Procedures
<b>CFT</b>	Countering the financing of terrorism
<b>CoP</b>	Community of Practice
<b>EBRD</b>	European Bank for Reconstruction and Development
<b>EIB</b>	European Investment Bank
<b>EPC</b>	Engineering, procurement, construction
<b>EPPs</b>	Enforcement Policy and Procedures
<b>FATF</b>	Financial Action Task Force
<b>FSB</b>	Financial Stability Board
<b>HR</b>	Human Resources
<b>HR0D</b>	Human Resources and Organisational Design
<b>IADB</b>	Inter-American Development Bank
<b>IDD</b>	Integrity Due Diligence
<b>IFC</b>	International Finance Corporation
<b>IFI</b>	International financial institution
<b>IPAM</b>	Independent Project Accountability Mechanism
<b>IT</b>	Information technology
<b>MDB</b>	Multilateral development bank
<b>MD HR0D</b>	Managing Director of Human Resources and Organisational Design
<b>MNPI</b>	Material non-public information
<b>ND</b>	Nominee Director
<b>OCCO</b>	Office of the Chief Compliance Officer
<b>OECD</b>	Organisation for Economic Co-operation and Development
<b>OpsCom</b>	Operations Committee
<b>PCM</b>	Project Complaint Mechanism
<b>RO</b>	Resident Office
<b>RWPs</b>	Harassment-Free and Respectful Workplace Procedures

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# Contact information

## Questions regarding this report should be addressed to:

### Office of the Chief Compliance Officer (OCCO)

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Telephone: +44 (0)20 7338 6000  
Email: [compliance@ebrd.com](mailto:compliance@ebrd.com)



<https://www.ebrd.com/who-we-are/our-values/investigating-fraud-and-corruption.html>

## How to report fraud, corruption and misconduct to the EBRD

Complaints, including reports of suspected fraud, corruption and misconduct, can be submitted to OCCO by email, telephone or in writing at the above address, or via the online form at:



<https://www.ebrd.com/eform/contact/1390580844264>

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