

Anti-corruption Report - 2009

For the year ending 31 December 2009



European Bank
for Reconstruction and Development

MESSAGE FROM THE PRESIDENT

The European Bank for Reconstruction and Development (EBRD) seeks to promote economic growth and the development of democratic market economies from central Europe to central Asia. Corruption represents a critical challenge to this work. Combating corruption has thus always been a critical aspect of the Bank's activities.

The EBRD's approach to combating corruption is broad and wide-ranging. It includes promoting good corporate governance, providing technical legal assistance to aid the development of national institutions, laws and policies that deter corruption, active participation in various international anti-corruption initiatives and maintaining robust integrity procedures and guidelines.

Each year, the Bank reports on the steps it has taken to promote integrity in the projects it finances, and the measures undertaken to combat fraud and corruption both inside and outside the Bank. This is the EBRD's fourth Anti-Corruption Report and covers the year 2009. Of particular importance are the Bank's new Integrity Risks Policy and the implementation of the Bank's Enforcement Policy and Procedures.

The causes of corruption are often transnational and its effects can have an impact on a wide range of individuals, businesses and institutions. Collaboration and coordination are therefore important cornerstones of the EBRD's anti-corruption strategy. The Bank therefore actively participates in many international fora and regularly cooperates with other multilateral development banks and international financial institutions to ensure that its strategy reflects current international best practice.

Exciting developments are on the horizon for 2010. This Report briefly describes the ongoing initiative towards an inter-organisational agreement on the mutual enforcement of debarment decisions, as a result of which it will become increasingly difficult for an entity that has been debarred by one international financial institution to receive funding from another.

While the global financial crisis continues to challenge us, we remain committed to ensuring that Bank projects remain free from corruption and to working collaboratively with a range of actors to combat corruption and the threat it poses to sound economic growth.

Thomas Mirow
President
European Bank for Reconstruction and Development

ABBREVIATIONS

| | |
|-----------|---|
| AML: | Anti-money laundering |
| BEEPS: | Business Environment and Enterprise Performance Survey |
| CFT: | Countering the Financing of Terrorism |
| The Bank: | EBRD: European Bank for Reconstruction and Development |
| EIB: | European Investment Bank |
| EPPs: | Enforcement Policy and Procedures |
| EU: | European Union |
| IDD: | Integrity Due Diligence |
| IFC: | International Finance Corporation |
| IMF: | International Monetary Fund |
| IRM: | Independent Recourse Mechanism |
| LTP: | Legal Transition Programme |
| ND: | Nominee Director |
| OCCO: | Office of the Chief Compliance Officer |
| OECD: | Organisation for Economic Co-operation and Development |
| PCM: | Project Complaint Mechanism |
| PEPs: | Politically Exposed Persons |
| PP&Rs: | Procurement Policies and Rules |
| PRISM: | Procedures for Reporting and Investigating Suspected Misconduct |

CONTENTS

| | |
|--|-----------|
| About the European Bank for Reconstruction and Development | 4 |
| 1. Introduction | 5 |
| 2. The Office of the Chief Compliance Officer | 5 |
| 3. Key 2009 Initiatives | 6 |
| 4. Preventing Corruption | 7 |
| 4.1. Internal prevention | 7 |
| 4.1.1. Institutional controls..... | 7 |
| 4.1.2. Integrity Due Diligence (IDD) | 7 |
| 4.1.3. Anti-money laundering and countering the financing of terrorism | 9 |
| 4.1.4. Promoting ethical standards | 9 |
| 4.2. External prevention | 9 |
| 4.2.1. Policy dialogue and technical assistance..... | 9 |
| 4.2.2. Strengthening corporate governance | 12 |
| 4.2.3. Inter-organisational cooperation | 14 |
| 5. Detecting corruption | 15 |
| 6. Investigating and sanctioning corruption | 16 |
| 6.1. Staff misconduct | 16 |
| 6.2. Enforcement Policy and Procedures | 16 |
| 6.3. Independent Recourse Mechanism and Project Complaint Mechanism | 17 |
| 7. Outlook for 2010 | 18 |
| 8. Contact information | 18 |
| Annex 1: Hotline details | 19 |

ABOUT THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

The European Bank for Reconstruction and Development (EBRD) was founded in 1991 to aid the development of democratic market economies in the former Soviet states of central and eastern Europe and central Asia (“the region”). Financing primarily private sector clients whose needs are not met by the market, the Bank’s investments promote entrepreneurship and support the transition from central planning to open markets in 29 countries in the region.

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

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

Every EBRD investment must:

- contribute significantly to a country’s transition to a market economy
- take risks that support private investors and do not crowd them out
- apply sound banking principles.

Through its investments, the EBRD promotes:

- structural and sectoral reforms
- competition, privatisation and entrepreneurship
- stronger financial institutions and legal systems
- infrastructure development needed to support the private sector
- the adoption of strong corporate governance, including environmental sensitivity and higher standards of business conduct.

Functioning as a catalyst of change, the EBRD:

- promotes co-financing and foreign direct investment
- mobilises domestic capital
- provides technical assistance.

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

1. INTRODUCTION

This report summarises work undertaken by the Bank during the year 2009 to combat corruption and ensure the integrity of EBRD operations. Together with the Bank's Sustainability Report 2009, it provides an overview of how the Bank addresses integrity, anti-corruption, and governance matters. This report does not contain an analysis of corruption issues or trends in the Bank's countries of operations nor does it purport to evaluate countries on their anti-corruption efforts. This type of information is within the purview of specialised organisations, such as Transparency International, with which the Bank has a close relationship.

Rather, this report focuses on the Bank's anti-corruption strategy which includes prevention, detection, investigation and sanctioning, with particular emphasis on *ex ante* measures. In response to a changing business environment and lessons learned, every year the Bank's efforts to combat corruption produce new initiatives. This report highlights such developments and describes changes to ongoing integrity and anti-corruption activities.

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

2. THE OFFICE OF THE CHIEF COMPLIANCE OFFICER

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

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

To achieve these objectives, OCCO is responsible for developing, reviewing and enforcing the relevant Bank policies and practices. It conducts Bank-wide

AML/CFT/IDD training courses, advises on integrity risks in respect of the Bank's operations and investments, investigates instances of staff misconduct and allegations of corruption in Bank-financed projects and handles complaints from groups adversely affected by Bank-financed projects.

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

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

3. KEY 2009 INITIATIVES

New Integrity Risks Policy. In April 2009 the Bank's Board of Directors approved the EBRD's first Integrity Risks Policy and related terms of reference for OCCO. The new policy outlines, for the benefit of the Bank's stakeholders, the manner in which the Bank protects its integrity and reputation and manages the integrity risks related to both clients and personnel.

New Guidance on Politically Exposed Persons. Further to the 2008 revisions to the Bank's IDD Guidelines to recognise the potential reputational risks associated with entering into business relationships with politically exposed persons (PEPs) and to require enhanced due diligence of such entities, a guidance note was prepared in 2009 to provide clarification and additional guidance as to the considerations and treatment to be given to projects involving different categories of PEPs.

The Use of Offshore Jurisdictions in EBRD Projects. The year 2009 saw a great deal of work undertaken at both the international level as well as within the Bank regarding the extent to which jurisdictions conform to, and implement, the internationally agreed tax standard. In 2009, the Bank adopted an interim practice pending adoption of a policy, which is expected to be considered in 2010. The scope of that practice is extensive in that the Bank's enquiry extends not only to borrowers and investee companies but to those who control them. This approach is expected to continue if and when a policy is adopted that defers to the assessments of the Global Forum on Transparency and Exchange of Information. Prior to 2009, the practice was to defer to the assessments of the OECD.

New Enforcement Policy and Procedures. The Bank's new EPPs entered into force in March 2009. They provide a comprehensive mechanism to deal with allegations of fraud, corruption, collusion and/or coercion in any activity or project which the EBRD has financed or committed to finance from its ordinary capital resources, Special Fund resources or from cooperation funds administered by the Bank.

New Project Complaint Mechanism. In March 2008 the EBRD began a review of its Independent Recourse Mechanism (IRM) – the accountability mechanism providing local stakeholders a means of raising complaints about any adverse effects of Bank-financed projects – to evaluate whether it was fulfilling its objectives in an efficient and effective manner. This review led to the Board of Directors approving, in May 2009, the Rules of Procedure for a new Project Complaint Mechanism (PCM), to replace the IRM. While retaining the compliance review and problem-solving functions of the IRM, the PCM is clearer and more streamlined than its predecessor.

Each of the foregoing initiatives is discussed in some detail below.

4. PREVENTING CORRUPTION

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

4.1. Internal prevention

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

4.1.1. Institutional controls

The Bank’s objective is to conduct its business to the highest standards of integrity, ensuring that its project sponsors, clients, co-financiers and counterparties commit to the same level of integrity. As noted above, the Bank’s Integrity Risks Policy and related terms of reference for OCCO outline for the benefit of the Bank’s stakeholders the manner in which the Bank acts to protect its integrity and reputation and manages the integrity risks related to both clients and staff.

4.1.2. Integrity Due Diligence (IDD)

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

During 2009 a guidance note supplementing the IDD Guidelines was prepared to provide clarification and additional direction as to the considerations and treatment to be given to projects involving PEPs.

Separately, the Bank started to re-examine its policy (existing since 1998) as regards how to deal with projects whose offshore domicile suggests an illegitimate tax purpose. Whereas the Bank is not currently relying on the assessments of other institutions (as it did before 2009) in evaluating the acceptability

of an offshore jurisdiction in a given project, it is now considering how to use the work of the re-established Global Forum on Transparency and Exchange of Information and the results of its peer reviews. Work on this issue is expected to continue into 2010.

The September 2008 Internal Audit Report on IDD prompted improvements to be made to the integrity checklist completed by bankers in relation to each project to be considered by the Bank for financing. In addition, as a result of the audit, OCCO now provides the Bank's Operations Committee with weekly written notes on all transactions it reviews and has launched and made available to Banking and Credit a searchable integrity database, which has helped eliminate the duplication of integrity reports.

OCCO regularly provides advice on compliance with the Bank's IDD Guidelines. During 2009 OCCO provided integrity advice on 1,035 transactions (representing approximately 385 distinct projects). The number of transactions exceeds the number of projects as OCCO is typically involved throughout a project's life cycle, including the pre-investment stage, during investment monitoring and upon equity exits. The amount of transaction advice provided by OCCO in 2009 represents a significant increase over the previous year. This is largely due to the increased volume of business activity resulting from the Bank's crisis response as well as the increased volume of higher risk projects, which are referred to OCCO under the Bank's IDD Guidelines.

It is also worth noting that approximately 20 new projects did not proceed due to integrity concerns. These concerns often relate to opaque ownership structures that do not permit identification of the ultimate beneficial owner, abuse of judicial procedures to obtain commercial advantage, ongoing criminal investigations or criminal convictions, as well as credible allegations of serious past wrongdoings.

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

In the course of 2009 the Bank commissioned a refresher AML/CFT/IDD training course designed for experienced bankers. This course is intended to ensure that experience, best practice in information gathering as well as recent developments in the fields of integrity, AML and corruption are shared. The first of the advanced workshops will take place in 2010.

Lastly, in 2009 OCCO began a competitive tender process with a view to identifying and appointing five consulting firms to a panel of external due diligence specialists. Twenty expressions of interest were received in response to the invitation to tender

that was issued. It is expected that the process will be completed, and the panel of selected firms appointed, in the first half of 2010.

4.1.3. Anti-money laundering and countering the financing of terrorism

Following the 2008 Internal Audit Report on IDD, improvements were also made in 2009 to the AML checklist, which forms part of IDD procedures. Furthermore, a new requirement of completing AML and CFT checklists was introduced with respect to all kinds of pooled vehicles, including investment funds.

Also in response to the 2008 Internal Audit Report on IDD, OCCO made a significant effort to increase the number of AML/CFT/IDD training sessions offered during the year, resulting in 10 sessions at the Bank's Headquarters and 13 sessions held in various Resident Offices, covering a total of 378 staff members. OCCO has also enhanced its intranet pages to better disseminate AML and CFT information across the Bank.

4.1.4. Promoting ethical standards

To ensure awareness of responsibilities under the Board and staff codes of conduct, OCCO offers a range of training courses on integrity-related issues. The "Integrity Matters!" course is compulsory for all staff as part of the new employee orientation programme "Exploring EBRD". In 2009 OCCO organised seven "Integrity Matters!" sessions as part of the Exploring EBRD programme, which 220 employees attended. In addition, eight sessions were delivered at the Bank's Headquarters to staff who had been in the Bank for over six months but had yet to attend the programme, covering 100 individuals. A major effort to train staff in EBRD Resident Offices resulted in "Integrity Matters!" being delivered in nine sessions covering all 34 of the Bank's Resident Offices and 67 individuals.

OCCO also actively participated in the delivery of a course focused on the obligations of nominee directors (NDs) appointed to the supervisory boards/boards of directors of investee companies, with particular emphasis placed on the avoidance of conflicts of interest. This training was delivered to 41 Bank employees who were newly appointed during the year to sit on the boards of Bank investee companies.

In December 2009 OCCO introduced a new electronic training programme on the "Chinese wall" guidelines adopted in 2008. Chinese walls are information barriers to ensure the proper handling and use of confidential information and the proper management of potential conflicts of interest. At the end of that month, the Chinese walls training quiz had been downloaded 33 times.

4.2. External prevention

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

4.2.1. Policy dialogue and technical assistance

As part of the EBRD's approach to preventing corruption across the whole range of its activities, the Bank engages in policy dialogue with, and provides technical assistance to, policy-makers and businesses in the Bank's region. Such dialogue and assistance is aimed at reducing corruption by strengthening legal and economic institutions and promoting good corporate governance and sound business environments. In that connection, the Bank regularly offers training workshops to financial actors in the areas of AML and CFT. The purpose of the programme is to raise the AML/CFT awareness of compliance officers in financial institutions in the Bank's countries of operations, to provide assistance and advice in the development and effective implementation of AML/CFT policies, practices and procedures and to afford the participants the opportunity to network and exchange information with fellow compliance officers as well as with local representatives of financial monitoring units and central banks. During 2009, OCCO, with the assistance of external AML/CFT specialists, delivered one such workshop in Krasnoyarsk, in the Russian Federal District of Siberia. Twenty-one representatives from local commercial banks together with representatives from Rosfinmonitoring (the Federal Service for Financial Monitoring of the Russian Federation), the General Prosecutors Office and the Central Bank participated in practical exercises regarding their respective roles, as well as with respect to the application of the risk-based approach to compliance and of Russian AML/CFT legislation and in relation to PEPs.

Also during 2009, in response to a specific request from Armenia's financial intelligence unit, OCCO secured funding from the Bank's Early Transition Countries Initiative to assist with the establishment of a certification scheme for key AML staff of the country's financial institutions.

In December 2009, with a grant from its Technical Cooperation Special Fund, the EBRD sponsored the attendance of 25 participants from its region at the Geissbach III seminar on CFT, hosted in Lucerne, Switzerland by the Basel Institute on Governance. The programme afforded 33 speakers and 125 stakeholders from around the world the opportunity to explore the current CFT typologies as well as strategies and practicalities to combat the financing of terrorism and to share experiences, lessons learned and best practices.

4.2.1.1. Evidence-based policy dialogue and technical assistance

The policy advice and technical assistance the Bank provides is based in part on surveys of businesses in the region. The Bank's ability to provide sound advice and assistance depends in part on its appreciation of citizens' experiences of transition and their opinions on the extent of corruption and its impact on doing business in their respective countries. The surveys serve as one tool to elucidate such views.

The Business Environment and Enterprise Performance Survey (BEEPS) examines the quality of the business environment as determined by a wide range of interactions between firms and the state. A joint initiative of the EBRD and the World Bank Group (the World Bank), BEEPS is a large-scale face-to-face survey covering perceptions of corporate governance and administrative (petty) and grand corruption among entrepreneurs in the services and manufacturing sectors. The results of the survey – which are reported as statistics and provide feedback from enterprises in the EBRD region on the state of the private sector – inform the Bank's understanding of

transition in its region and hence impact a broad range of Bank activities. Results are also used to assist in building a panel of enterprise data that make it possible to track changes in the business environment over time. The fourth round of the BEEPS was conducted in 2008, with results published in 2009. Over 11,800 enterprises in 29 countries, including Mongolia for the first time, were polled. This most recent round of the survey was restructured to improve cross-country comparability and to render it compatible with the Enterprise Surveys that the World Bank's Enterprise Analysis Unit has been implementing in other regions of the world over the past two years.

4.2.1.2. Technical legal assistance

A legal system firmly rooted in the rule of law is a critical tool in any country's fight against corruption. This is why legal reform is a core dimension of the EBRD's work. The Legal Transition Programme (LTP) administered by the Office of the General Counsel focuses on fostering the development of the legal rules, institutions and culture on which a vibrant market-oriented economy depends. While LTP's primary purpose is to support the Bank's operations, it has a secondary objective of impeding corruption.

During 2009 the Bank boosted its efforts to help create a predictable, investor-friendly legal environment in transition countries. While pursuing its well-established set of activities in standard-setting, assessment, technical assistance and outreach, the EBRD LTP also aligned itself with the Bank's crisis response strategy. This effort, which will continue to be pursued during 2010, translated into specific initiatives:

- *Helping restore investor confidence through legislative reform and institution building*

The 2008-09 global financial crisis has highlighted the importance of strengthening market-supporting institutions, including sound and well-functioning legal systems, to combat corruption, minimise risk, restore confidence and ensure an attractive investment climate in transition countries as the global economy recovers. Institutional quality has been highlighted as the key area of unfinished business in transition. It is also the first time in their transition history that the EBRD countries of operations have tested the efficiency of their legal systems on a real, systemic scale. This initiative provided an opportunity for the EBRD, through its LTP, to monitor and evaluate how the legal systems in its countries of operations actually fare and, as a result, to encourage a number of reforms and priorities which might not have received the same attention in more favourable economic circumstances.

Over the past year, the LTP's efforts in this sector culminated in the creation of a dedicated unit within the Bank's Legal Transition Team to deal with financial law issues. Capitalising on the synergies among several focus areas of financial law, the new unit aims to address legal reform challenges in corporate governance, insolvency, secured transactions and securities market regulation. Highlights of 2009 include increased EBRD technical assistance with respect to the licensing and monitoring of insolvency administrators (in particular in Russia and Serbia), as well as a series of public events focused on bank governance in the Western Balkans and central Asia. The Bank also devoted a high-level roundtable discussion to the theme of corporate governance of financial institutions at its May Annual Meeting in London. In

addition, a section of the spring issue of the Bank's legal journal *Law in Transition* dealt with the same subject.

- *Fostering transparency in governments*

Increased transparency of government and in the legal environment generally, is a critical aspect of corruption prevention. One element of the EBRD's law reform work therefore focused on enhancing public access in its region to information. In October 2009 the regular LTP publication *Law in Transition Online* was launched in Zagreb, Croatia. The autumn edition examined a range of issues relating to freedom of information, including the impact of freedom-of-information legislation on public access to legal information, public participation and policy-making in Hungary and public access to legal information in Russia.

- *Increasing judicial capacity in the commercial sector*

Raising the technical skills of judges handling commercial cases is always an important part of the efforts aiming to increase confidence in the judicial sector and to limit corrupt practices. During 2009 the Bank continued to support the Kyrgyz Supreme Court in strengthening capacity among the country's judges. This led to the organisation of training seminars, the issuance of a bench book in the Kyrgyz language and the preparation of a training programme for candidate judges that will be implemented in 2010.

4.2.2. Strengthening corporate governance

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

In January 2009 representatives of the EBRD attended two International Financial Corporation (IFC) events in Baku, Azerbaijan. The first focused on developing and implementing codes of best practice in corporate governance in Eurasia; the second concerned the development of a code of corporate governance for Azerbaijan. The meetings served as a discussion basis for the development of a new corporate governance code applicable to joint-stock companies (both listed and non-listed), state-owned enterprises, banks and insurance companies, which is currently being finalised and should be adopted in mid-2010.

In February 2009 representatives of the Bank attended a conference on capital markets in Armenia, held in Yerevan, where they made a presentation on the development of a corporate governance code for Armenia. The code includes a general section applicable to all listed companies, banks and state-owned enterprises and three annexes with specific provisions for each of them. The code is voluntary but companies will be required to report on their compliance with the proposed solutions (the so-called "comply or explain" approach). The code should be formally adopted in the second half of 2010.

The Bank was also co-organiser, along with the IFC and Global Corporate Governance Forum, of the Eurasia Regional Workshop on Developing and Implementing Corporate Governance Codes, held in November 2009 in Tbilisi, Georgia. Attendees, including government officials and representatives of financial institutions such as banks and stock exchanges, focused their discussions on how to improve corporate governance of banks in the region. In particular, attention was given to the “Policy Brief on Corporate Governance of Banks in Eurasia”, a report prepared jointly by the EBRD and OECD, which identifies key corporate governance challenges affecting banks in that region and makes recommendations to address them. Its purpose is to support policy-makers, banking supervisors, capital market regulators, banks and banking associations in their work of strengthening corporate governance practices.

Also in November 2009, EBRD representatives attended the fourth annual Development Financial Institutions Conference on Corporate Governance in Rio de Janeiro, Brazil. The conference was aimed at discussing and progressing the joint Corporate Governance Approach Statement signed by 30 development financial institutions in October 2007. The statement, which is based on the OECD’s Principles of Corporate Governance, commits signatories to, among other things, develop guidelines, policies and procedures on the corporate governance of their investment operations. The EBRD has a leading role in the initiative. A working group including the EBRD has met regularly since 2007 to review and facilitate the statement’s implementation and recently published a toolkit to be used by signatories for assessing corporate governance of investee companies. The proposed toolkit implements the first item of the Corporate Governance Approach Statement.

In December 2009 the EBRD, with its partners the Global Corporate Governance Forum, organised a two-day meeting in Belgrade, Serbia focusing on improving corporate governance practices among banks in south-eastern Europe. In attendance were banking and securities regulators, banking associations and representatives of banks from the region. They discussed lessons learned from the recent financial crisis, international trends and best practices in bank governance, and worked on developing policy recommendations on bank governance in south-eastern Europe and assisting individual countries to develop action plans for improved bank governance. Building on from the discussions held at the Belgrade meeting, the Bank is now developing a strategic approach focusing on how to strengthen corporate governance of banks in the region. This approach is also expected to lead to new projects aimed at providing specific assistance to regulators in implementing better corporate governance practices for financial institutions.

Corporate governance is also a key motivation behind the Bank’s direct equity investments. As the largest equity investor in the Bank’s countries of operations, the EBRD sees improving corporate governance as an important element of its overall transition impact. The benefit of having the Bank as a shareholder and the appointment of Bank nominee directors (NDs) to the supervisory boards/boards of directors of investee companies as a way of importing improved governance standards to these entities is well-recognised by its investee companies. As at the end of 2009, the Bank held approximately 180 ND positions in relation to 238 Bank equity investments.

4.2.3. Inter-organisational cooperation

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

The Bank continued its involvement with civil society and private sector initiatives in 2009, while maintaining its relationships with non-governmental organisations such as Transparency International. The EBRD is a member of the steering committee of Transparency International's Business Principles for Countering Bribery initiative, and in that capacity helped to develop both the original 2003 Principles and the updated version published in 2009 which reflects developments in anti-bribery practice and incorporates experience-based improvements to the original text. The Business Principles, created to provide practical anti-bribery guidelines, serve as a good practice model for corporate anti-bribery policies, including the bribery of public officials and private-to-private transactions. Since their introduction, the Business Principles have encouraged the development of other anti-bribery codes, with companies and researchers looking to them as a benchmark. The Business Principles have been translated into over 10 languages and have been introduced to corporate and governmental audiences around the world through seminars and workshops.

In addition to formal initiatives such as the Business Principles for Countering Bribery, the Bank also engages informally with civil society stakeholders to exchange views on the Bank's approach to stakeholder engagement. In this regard, in early 2009 the Bank's President and other senior management figures convened a meeting with civil society representatives from around the region. Topics of discussion included EBRD transparency and accountability, human rights in central Asia and the impact of the global financial crisis on Bank activities. The meeting marked a good start to the then new President's discussions with civil society, which continued during the civil society programme of the Bank's 2009 Annual Meeting. The Bank also engages with the private sector banks, primarily through organisations such as the Wolfsberg Group of International Financial Institutions, an association of 11 global banks working together to develop financial services industry standards for Know Your Customer, AML and CFT policies.

The EBRD maintains close bi- and multi-lateral relationships in the field of anti-corruption with other international financial institutions. Alongside the International Monetary Fund (IMF), the World Bank, the EIB and the African, Asian and Inter-American development banks, the EBRD is an active participant in the joint International Financial Institutions Anti-Corruption Task Force. Under the auspices of the 2006 Uniform Framework for Preventing and Combating Fraud and Corruption, the Bank has adopted harmonised definitions of corrupt, fraudulent, coercive and collusive practices and has undertaken to adhere to harmonised principles and guidelines for the conduct of corruption investigations. The Uniform Framework has also served as the catalyst for the development and adoption of the

Bank's Enforcement Policy and Procedures (EPPs), which are more fully discussed in section 6 of this report.

Because money laundering and terrorist financing are very often transnational phenomena, much inter-organisational anti-corruption cooperation relates specifically to those areas. The EBRD is involved in several inter-governmental initiatives, among them Moneyval, the AML compliance body of the Council of Europe; the Eurasian Group on Combating Money Laundering and Terrorist Financing, a regional policy-making body with a mandate to develop and implement legal and institutional frameworks to combat money laundering and the financing of terrorism; and the Financial Action Task Force, an inter-governmental body whose purpose is the development and promotion of national and international policies to combat money laundering and terrorist financing.

5. DETECTING CORRUPTION

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

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

Whereas Bank clients are responsible to ensure that all Bank financed tendering and contracting complies with the Bank's Procurement Policies and Rules (PP&Rs) or other agreed procedures, the Bank's Procurement department is responsible for reviewing the client's procurement procedures, documents, tender evaluation reports, award recommendations and final contracts to ensure that the tendering process and contract award has been carried out in accordance with the agreed procedures. As part of its compliance function, the Procurement department also provides support to OCCO in reviews of allegations of fraudulent and corrupt practices in relation to a procurement exercise and works with other departments in the Bank and stakeholders in various initiatives to combat the occurrence of fraud and corruption in procurement generally. In addition, the Procurement department initiates and manages Independent Procurement Reviews, which include the identification of any suspected prohibited practice. In 2009, the Procurement department finalised two independent reviews, focusing on projects in the municipal and environmental infrastructure and transport sectors in Poland and Romania. The main findings arising from these two reviews relate to the unsatisfactory capacity of the client to undertake the project; no prohibited practices were identified.

The detection of corruption relies heavily on the cooperation of Bank staff, who are required by the Procedures for Reporting and Investigating Suspected Misconduct (PRISM) to report any suspected misconduct, and by the EPPs to report any suspicion of fraud, corruption, collusion or coercion (each a Prohibited Practice) in relation to a Bank project. In return, through its Whistleblower Protection Mechanism, the Bank ensures that employees who comply in good faith with their obligation to report misconduct or corruption are protected from acts of reprisal or retaliation from within the EBRD, contributing to an atmosphere of fear-free disclosure. The EBRD will be reviewing its Whistleblower Protection Mechanism in 2010, as part of its ongoing efforts to ensure that Bank policies remain up-to-date and reflect international norms.

The Bank operates a toll-free hotline for use by individuals inside and outside the EBRD to anonymously and confidentially report suspected corruption in Bank activities. Details regarding the hotline, which is administered by an external contractor, are available on the Bank's web site, as well as in annex 1 of this report. Individuals may also report suspected corruption by emailing OCCO's compliance inbox (compliance@ebrd.com) or by contacting relevant Bank staff directly. The latter two methods of reporting suspected corruption have proven more popular than, and are preferred over, the hotline.

6. INVESTIGATING AND SANCTIONING CORRUPTION

Investigating and sanctioning constitute the third and fourth pillars of the EBRD's anti-corruption strategy. In cases where Prohibited Practices are suspected or detected, the Bank will, under its EPPs, investigate to determine whether the allegation is substantiated. Cases of corruption will then face sanction in line with established procedures, both to punish the offender and deter future corruption. Allegations of misconduct against staff members are investigated in accordance with PRISM.

6.1. Staff misconduct

Throughout the course of 2009, OCCO received 10 reports of suspected misconduct under PRISM. Three of the cases reported involved alleged conflicts of interest between the staff member's duty to the Bank and personal interests, three involved allegations of benefits fraud and three cases involved allegations of bullying and harassment by the staff member's line manager. Of these, eight were dismissed following preliminary assessment, one was dismissed following further investigation and one was ultimately referred to the Vice President for Human Resources for further consideration under the Bank's Disciplinary Procedures. There were no proceedings lodged under the Bank's Disciplinary Procedures in 2009.

6.2. Enforcement Policy and Procedures

The EPPs were approved in December 2008 and entered into force in March 2009. They provide a mechanism to deal with allegations of Prohibited Practices in any activity or project which the EBRD has financed or committed to finance from its ordinary capital resources, Special Fund resources or from cooperation funds administered by the Bank. Under the provisions of the EPPs, OCCO performs a preliminary investigation of any allegation having specific regard to the applicability of the EPPs and the reliability of the information received, further to which the matter

is either closed or subjected to a further investigation. It is the responsibility of the Enforcement Committee (comprised of at least five senior members of staff representing the Bank's four Vice Presidencies and the Office of the General Counsel) and ultimately the President of the Bank to make a determination as to whether the allegation of a Prohibited Practice is substantiated. In the event that it is, enforcement actions ranging from a reprimand to cancellation of financing to restitution and/or debarment of the individual(s) and/or entity(ies) responsible may be imposed. Further, any decision to debar is subject to publication on the Bank's web site.

Since the entry into force of the EPPs in March 2009, OCCO has received seven allegations of Prohibited Practices in respect of procurement exercises subject to the Bank's PP&Rs and seven allegations of Prohibited Practices relating to the Bank's private sector operations. Of these 14 complaints, all but two were dismissed following preliminary assessments. One (involving an allegation of collusion among four tenderers for a contract being awarded by lots) was dismissed following a further investigation, which was unable to establish an improper purpose behind the tenders. The remaining complaint (involving allegations of fraudulent misrepresentation in the submissions of the winning tenderer) was, at the end of the year, still under investigation.

6.3. Independent Recourse Mechanism and Project Complaint Mechanism

Since 2004 the IRM has been the Bank's accountability mechanism. Administered by OCCO, it provides local stakeholders a means of raising complaints about the adverse effects of Bank-financed projects through a compliance review or a problem-solving initiative, in which the Bank initiates a dialogue with the affected parties with a view to resolving the issues underlying the complaint.

Following a review that began in 2008, the Board of Directors in May 2009 approved rules of procedure for a new PCM to replace the IRM. While retaining the compliance review and problem-solving functions of the IRM, the PCM is clearer and more streamlined than its predecessor.

Key changes introduced by the new PCM include:

- the appointment of a dedicated PCM officer responsible for the day-to-day administration of the mechanism
- greater accessibility through easier registration of complaints
- the PCM contemplates an expanded universe of potential complainants. One or more individuals located in the impacted area or having an economic interest in the area may submit a complaint requesting either a problem-solving initiative or compliance review. Civil society organisations may now also bring a request for a compliance review
- compliance reviews are now possible with regard to a failure by the Bank to monitor client commitments pursuant to relevant Bank policies
- the PCM features greater transparency, including more consultations with complainants and opportunity for Bank management to formally respond to allegations.

The PCM will enter into force in early 2010 following the appointment of a dedicated PCM Officer and at least three experts to the Panel of PCM Experts.

7. OUTLOOK FOR 2010

In 2010 the Bank and other members of the International Financial Institutions Anti-Corruption Task Force (the EIB, the IMF, the World Bank and the African, Asian and Inter-American development banks) will continue to work together to combat fraud and corruption, in particular by establishing a mechanism whereby a debarment decision made by one of the participating institutions will be given effect by others. Such an agreement for the mutual enforcement of debarment decisions would combat corruption by making it impossible for an entity that had been debarred by one of the participating organisations to receive funding from another. It is expected that the agreement on mutual enforcement of debarment decisions will be finalised in 2010. Until then, the EBRD will continue to be the only international financial institution that recognises a final judgment of a judicial process or findings/debarments by other international organisations as the basis for a debarment decision by the Bank.

The Bank will also begin or complete reviews of several of its integrity-related policies during 2010: the review of the policy regarding the appointment of NDs which commenced in 2009 is expected to be completed in 2010 as well as a review of PRISM, the Bank's Disciplinary Procedures and any revisions to the EPPs required by the forthcoming agreement on the mutual enforcement of debarment decisions. In addition, the Bank intends to take a fresh look at its Whistleblower Policy and to benchmark it against the policies of the other international financial institutions, as well as automating the annual code of conduct financial disclosure exercise. Furthermore, as mentioned above, the new PCM is expected to enter into force in early 2010.

8. CONTACT INFORMATION

Questions regarding this report should be addressed to:

The Office of the Chief Compliance Officer
European Bank for Reconstruction and Development
One Exchange Square
London EC2A 2JN
United Kingdom
Telephone: +44 207 338 6944/7487
Fax: +44 207 338 7633
Email: compliance@ebrd.com

ANNEX 1: HOTLINE DETAILS

Hotline procedure and contact details

The Hotline is accessible from all countries. It is operated by an independent contractor under the strictest confidentiality, and calls will not be recorded. Calls are answered in English by trained specialists. Interpreters are available. The report form serves as a guide to the kind of information that will be requested of you when you contact the Hotline.

From the United States and Canada

From the US and Canada, dial **+1 866 299 7404**. The call is free of charge.

From all other countries

Callers from countries other than the US and Canada must first dial the AT&T operator in their country for the call to be put through free of charge. The list of AT&T access codes is available at www.att.com/traveler.

For the EBRD's countries of operations and the United Kingdom, the access codes are:

| | |
|--|---|
| Albania: 00 800 0010 | FYR Macedonia: 00 800 4288 |
| Armenia: 0 800 10 111 | Moldova ¹ : n/a |
| Azerbaijan ¹ : n/a | Poland: 0 0 800 111 1111 |
| Belarus: 8^800101 | Romania: 0808 03 4288 |
| Bosnia: 00 800 0010 | Russia: 755 5042 (from Moscow) 8^ 10 800 110 1011 (from other cities) 8^ 10 800 120 1011 (from other cities) |
| Bulgaria: 00 800 0010 | Croatia: 0800 22 0 111 |
| Slovak Republic: 0 800 000 101 | Czech Republic: 00 800 222 55288 |
| Slovenia ¹ : n/a | Estonia: 800 12001 |
| Tajikistan ¹ : n/a | Georgia ¹ : n/a |
| Turkmenistan ¹ : n/a | Hungary: 06 800 011 11 |
| Ukraine: 8^100 11 | Kazakhstan: 8^800 121 4321 |
| United Kingdom: 0 800-89-0011 0 500 89 0011 | Kyrgyz Republic ¹ : n/a |
| Uzbekistan: 8^641 744 00 10 (from Tashkent) | Latvia: 8000 2288 |
| Lithuania ¹ : n/a | Montenegro ¹ : n/a |
| Serbia ¹ : n/a | Mongolia ¹ : n/a |
| ^ denotes second dial tone | |
| ¹ There are no AT&T access codes for Azerbaijan, Georgia, the Kyrgyz Republic, Lithuania, Moldova, Mongolia, Montenegro, Serbia, Slovenia, Tajikistan and Turkmenistan. | |

Step-by-step calling instructions

First check that the phone you are using can handle international calls. In certain countries you will be required to pay a minimum charge for local calls to connect to the access number.

1. Enter the AT&T access number for the country from where you are calling.
2. When you hear the voice message, or series of tones, enter the Hotline number: **866 299 7404**. (Do **not** press 1 or 0 before dialling this telephone number).
3. Your call will be connected to the EBRD Compliance Hotline.

If you do not speak English, or prefer to have an interpreter assist you during the call, immediately inform the Hotline specialist which language you speak, if possible in English. You will hear pre-recorded music as the specialist calls an interpreter. Do not hang up. You will then hear a recorded message in your language to confirm that an interpreter will come online shortly. An interpreter will join your conversation to assist you in completing the call.

Calling collect

There is also an international number that will accept collect calls. This number is available from most countries through the international operator. It is **+1 704 731 7258**. When using this service, you will be asked to identify yourself. If you do not wish to give your name, you may say “EBRD caller”.