

Toby McIntosh
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Luxembourg, 16 November 2005

SG-JU/AG/C&I/YB

Subject: Disclosure policy comment letter

Dear Mr McIntosh,

Thank you very much for your letter dated 7 November 2005 and received by e-mail on 8 November. We also refer to our acknowledgment of receipt of 9 November.

We have tried to reply immediately to as many questions as possible. However many of your questions raise complex legal issues, which we have passed on to our Legal Department. We will come back on these as soon as possible.

Concerning paragraph 26 referring to the EIB's legal obligation to respect business confidentiality, Article 287 of the Treaty establishing the European Community prohibits staff members of the EU institutions (including the EIB) disclosing "information covered by the obligation of professional secrecy, in particular information about undertakings, their business relations or their cost component". In its banking relationships with its business partners the EIB is subject to European and national regulations and laws covering business contracts and market activity. There are national variations, and EIB business relations and contacts are conditioned by nationally applied laws and custom and practice. In Luxembourg for instance, breach of banking confidentiality is a criminal offence.

The EIB's legal personality and the extent of its financial autonomy are defined in the Bank's Statute, a Protocol to the Treaty establishing the Economic Community. This can be consulted on the Bank's website and includes reference to other Treaty provisions relating to the EIB (<http://www.eib.org/publications/publication.asp?publ=14&page=3&categories=1&txtFreeSearch>).

Concerning paragraph 11, as stated, the EIB is required to follow the law in the markets in which its securities are offered. It should be noted that these matters cover items which would generally be considered as material to EIB as an issuer of securities. The variability is defined in the laws and regulations applied by the relevant regulatory authority, and covers any financial institution offering securities in these markets. For instance, the regulations covering financial capital market operations in the UK are different from those in the US, which are different to those in Japan.

A common requirement in the jurisdictions in which the EIB operates is non-discrimination in the disclosure of information on financial actions that would provide someone with an unfair competitive advantage in trading. In general the EIB will seek to ensure that information on such matters will be released simultaneously through appropriate regulatory approved channels as well as on its website. Non-discrimination, also outlined in paragraph 6 of Draft II, is a commitment by the Bank to avoid circumstances where discrimination could occur. The Bank has not published any documents on securities laws and regulations, a complex matter on which the EIB is not properly competent to provide guidance or advice.

Concerning paragraph 41, as you are aware, the EIB is not responsible for implementation of EIAs or EISs, and nor does it have a regulatory responsibility for publication of such these

documents. However, the Bank has decided to provide access to either an electronic version or a link to the Non-Technical Summary (NTS) of an EIA, and, outside the EU, the equivalent of the NTS, along with the Environmental Impact Statement (EIS), through the Project Summaries on the Project List. You will appreciate that the full range of documents making up the EIA process are frequently very complex and too large to be provided via the website. The EIB assists in helping the public to identify where the EIA/EIS can be consulted.

The projects listed in Annual Report, as referred to in paragraph 45, are all those for which the EIB has signed loan contracts, and thus records the financial lending commitments by the Bank

Paragraph 48 refers to the Evaluation Reports prepared by the Bank's Evaluation Department. The Bank publishes these thematic, sector, and region/country evaluation reports of its financing activities by the Evaluation Department, after discussion by the Board of Directors.

Article 8 points out that there is no impediment to the public contacting the independent European Ombudsman. However, from experience, the Ombudsman prefers the public to explore all the established procedures of an EU institution or body before appealing to him. Paragraph 56 mentions the EIB's internal complaint mechanism with the Secretary General, while Paragraph 58 mentions a second, new, EIB appeal mechanism with the Bank's Inspector General. This latter recourse is for cases which are not being handled by the European Ombudsman. As you know, the Ombudsman's remit does not cover complaints originating from outside the EU. The EIB Group Chief Compliance Officer, mentioned in Paragraph 55, oversees internal compliance issues and does not deal with appeals from the public.

We hope this information is useful.

Yours sincerely,

EUROPEAN INVESTMENT BANK

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