



**European Bank**  
for Reconstruction and Development

Ms. Nilmini Rubin  
United States Senate  
Committee on Foreign Relations  
Washington, DC 20510-6225  
USA

6 September 2010

Dear Ms. Rubin,

President Mirow has asked that I respond to Senator Lugar's letter of 3 August 2010.

Like Senator Lugar, we welcome the recently signed MDB Agreement for Mutual Enforcement of Debarment Decisions as a significant milestone in the MDBs' coordinated efforts against corruption. As you may already be aware, since 1998, well prior to the coming into force of this Agreement, the Bank has had a policy permitting cross debarment based on a final judgment of a judicial process in a member country of the Bank or a finding of another international organisation that an individual or entity has engaged in a fraudulent or corrupt act, more recently a "Prohibited Practice".

In contrast to our fellow MDBs, EBRD's investment and lending activities are mostly in the private sector, approximately 80%. This private sector focus has led the Bank to develop robust screening on prospective clients and projects in an effort to avoid the Bank's funds being diverted for improper purposes. The Bank relies heavily on preventive measures such as integrity due diligence rather than on ex-post measures. In the past three years, the use of integrity due diligence has resulted in the Bank's refusal to finance over 50 projects. Irrespective of this focus, the EBRD's Enforcement Policy and Procedures set out the Bank's policy and procedures for processing allegations of fraud, corruption, collusion or coercion in relation to activities and projects financed by the Bank. Instances of misconduct involving EBRD staff members are addressed in the Bank's Procedures for Reporting and Investigating Suspected Misconduct. Both of these policies and procedures provide for referral of cases to national authorities.

In response to your specific request, we are pleased to advise as follows:

- Project related debarments

In the past five years, one entity has been cross debarred in 2007 following a finding of a corrupt practice by the World Bank; the entity has since been reinstated as an eligible



contractor having satisfied the conditions precedent to its re-instatement, most notably the establishment of a compliance management system to the Bank's satisfaction.

No other entities or individuals have been debarred by the Bank. This may, in part, be explained by the fact that prior to the Bank's Enforcement Policy and Procedures coming into effect in 2009, debarment/cross debarment was provided for under the Bank's Procurement Policy and Rules and only available relative to public procurement exercises carried out pursuant thereto, which as explained above, represents a relatively small portion of our investment activities. Since the entry into force of the Enforcement Policy and Procedures covering both public and private sector operations, the Bank has actively investigated 14 allegations of Prohibited Practices; the majority of which were dismissed as unsubstantiated.

Currently, there is a case involving fraudulent misrepresentation pending before the Bank's Enforcement Committee that may lead to an eventual debarment decision by the Bank's President. Also, there is an open investigation being conducted into a client of the Bank that may result in the case being referred to the Enforcement Committee.

- Sanctioning of Staff

There have been two instances of staff misconduct referred to local (UK) law enforcement authorities. In the first case, criminal prosecution and a guilty plea ensued for fraudulent withdrawals of cash using staff members' credit cards. In the second instance, following referral by the Bank to the UK Police, the staff member was arrested and released on bail in connection with allegations of fraud and money laundering under the Prevention of Corruption Act and related Fraud Act. Whilst the investigation is ongoing, the staff member has been suspended without pay and disciplinary proceedings launched.

- Prosecution Policy

The EBRD has a formal policy regarding prosecution in cases of corruption regarding staff, individuals and entities. In the case of *allegations against Bank staff*, the matter is provided for under the Bank's Procedures for Reporting and Investigating Suspected Misconduct. The decision to refer allegations of criminal conduct by a staff member to local authorities is taken by the President, once informed of the matter by the Chief Compliance Officer and after consultation with the Bank's General Counsel. Whilst there are no set criteria as to when a matter should be referred, the practice has been to refer those cases where the conduct complained, if proven, would be a criminal offence under applicable law. In conjunction with the referral to authorities, internal disciplinary procedures can be undertaken which may lead to dismissal of the employee.

In cases of *allegations of Prohibited Practices in relation to Bank operations*, the matter of referrals is provided for under the Bank's Enforcement Policy and Procedures. The decision to refer allegations of criminal conduct involving Bank operations is taken by the President in consultation with the Executive Committee of the Bank. Again, there are no set criteria as to when a matter should be referred to the appropriate national or international authorities. In the case where the Bank's internal investigation



has established a prima facie case that a crime has been committed in contravention of a national law, the Bank would refer the matter to appropriate authorities. In other cases, depending on the nature of the act and the jurisdiction involved, the decision to refer will be made on a case by case basis. If referral results in a prosecution and finding of a Prohibited Practice, the Bank can use the judicial finding to publicly debar the individual or entity. If the referral does not result in a prosecution or judicial finding of a Prohibited Practice, the Bank may very well decide, notwithstanding, that it will not do business with that individual or entity.

In both cases there are no restrictions or limitations on Bank personnel cooperating with the prosecuting authorities other than those required to safeguard the Bank's institutional immunity, which can be waived in the interests of furthering the course of justice.

We trust you find the foregoing information responsive to your queries. Further information as to Bank-wide measures to prevent fraud and corruption can be found in the Bank's Annual Anti-Corruption Reports:  
[www.ebrd.com/pages/about/principles/integrity/reports.shtml](http://www.ebrd.com/pages/about/principles/integrity/reports.shtml).

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Enery Quinones', with a long, sweeping horizontal stroke extending to the right.

Enery Quinones  
Chief Compliance Officer