# Banking on Europe Policy Brief

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## Should the European Investment Bank be Accountable to Financial Supervisors?


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### Key Points

- The European Investment Bank (EIB) is not subject to European Union (EU) banking rules or external financial supervision.
- The EIB's Best Banking Principles (BBP) selectively apply the EU's prudential banking requirements, leaving the Bank with a self-selected set of stability indicators.
- The European Parliament and some EU member states have argued that the Bank should be externally supervised by an EU public entity.
- External supervision is legally difficult, and the Bank's conservative lending practices mean that it is financially robust.
- Financial supervisors should support the EIB's Board of Directors without compromising the Bank's autonomy.

### Introduction

The European Investment Bank (EIB) occupies an ambiguous position within European Union (EU) economic governance. Legally, the Bank is an EU institution which is owned by the EU's member states. On the other hand, the EIB is, as its name suggests, a bank that finances investments and it is one of the largest issuers of debt on EU capital markets.

Whereas the EIB's political accountability towards both its shareholders and other EU institutions has been studied (Ban and Seabrooke, 2016), there is a lack of academic work on its accountability as a bank.

This policy brief offers insights into the financial supervisory arrangements that apply to the EIB. Over the past 15 years, several arguments have been advanced that the Bank should be financially supervised – yet legal and political objections have so far prevented external supervision.

The brief argues that there are some steps that could be introduced quickly to involve financial supervisors in the existing scrutiny of the Bank. If the Bank is to engage in more risky lending — as some advocate (Christie, 2023) — its current supervisory status should be reconsidered.

### The EIB's current regulatory position

Legally, the EIB is subject to relatively few prudential banking requirements. Article 16.5 of its statutes states that its loans and guarantees must not exceed 2.5 times the Bank's subscribed capital – imposing an effective cap on the maximum size of its balance sheet (EIB, 2020). Beyond that, however, the EIB determines its own financial stability indicators autonomously in its 'Best Banking Principles' (BBP).

The BBP comprise a set of 'Guiding Principles', which were most recently set by the Bank's governors (the EU's finance ministers) in 2018, and an internal 'BBP Book', approved by the Bank's national directors, which applies these principles (EIB, 2018). While the BBPs may draw on the EU's financial regulation, the Bank may decide to apply some provisions only in part, or not at all. For instance, the Bank does not apply the EU's large exposure limits to individual member states or adjust its capital requirements in light of national exposures.

Whether the Bank complies with its BBPs is monitored by the Bank's Audit Committee which reports to the Board of Governors annually (EIB Statutes, Art 12). The BBP Guidelines (point e) explicitly state that the EIB is not subject to the supervisory review and evaluation process (SREP) through which the Single Supervisory Mechanism (SSM) assesses the stability of euro area banks (ECB, 2016).

Under the current arrangements, therefore, the EIB not only autonomously decides which of the EU's financial rules it applies; it is also in charge of monitoring its own compliance with these rules.

## The case for supervising the EIB

There have been several instances when the possibility of external supervision of the EIB has been discussed. The European Parliament (EP) has demanded that the EIB be supervised by the SSM in a number of resolutions (e.g. European Parliament, 2016, para. 81). And seven member states, including Germany, have advocated stronger supervision in the context of the Bank's recapitalization following Brexit (Barker and Khan, 2018; Khan, 2018).

The principal argument in favour of involving external financial supervisors is the complexity of the Bank's operations. With a balance sheet of over €500 billion, the EIB is the world's largest multilateral development bank by some measures.

Even though the shareholder government's directors have full access to the Bank's internal documentation, it is difficult for the member states to monitor all aspects of the Bank's performance. Unlike other multilateral banks, such as the World Bank or the European Bank for Reconstruction and Development (EBRD), the EIB does not have a resident Board of Directors. The national civil servants on the EIB's Board of Directors meet just ten times a year. Additionally, they may lack the staff capacities, and sometimes the expertise, to review more technical aspects of the Bank's policies and operations upon which a financial supervisor might focus.

Moreover, the EIB has since 2009 enjoyed access to the Eurosystem's deposit and lending facilities (EIB, 2009). The EIB can thus borrow liquidity from the Central Bank of Luxembourg (BCL) – though it has not yet needed to do so. While the EIB already reports to the BCL about some of its liquidity risk data (BBP Guidelines, para. k), one might argue that the EIB should be subject to similar supervisory arrangements as the Eurosystem's other counterparties.

## The case against supervising the EIB

There are several obstacles that have so far prevented the EIB from being subjected to external supervision. Legally, the EIB is a European public institution, anchored in EU primary law. As such, the EIB enjoys legal autonomy and immunities which would, for instance, render it impossible for the SSM to decide to resolve or recapitalise the Bank. The ECB (2022) has therefore concluded that the EIB's legal status places the Bank outside the scope of the SSM's responsibilities.

The EIB's autonomy is also jealously guarded by the Bank and some of its shareholders. The Bank likes to emphasise that it does not operate like a commercial bank: its lending responds to EU policy priorities and the EIB does not pay a dividend. To allow the Bank to perform this political role, many national shareholders prefer to follow a bespoke approach to supervision.

Lastly, there is the argument that supervision by the ECB would have little added value (McGlashan, 2018). Member states have access to internal documents through their directors. For other multilateral banks, such as the World Bank or the EBRD, supervision by national directors is considered sufficient. Moreover, the EIB publishes lists of all projects it finances and is rated AAA by all major rating agencies which indicates that its financial standing is strong. Testimony to its solid finances, the EIB is often criticised for its conservative lending practices.

## Ways forward

Outright external supervision of the EIB appears to be difficult to accomplish, both for legal and political reasons. Nevertheless, it may be desirable to open the EIB up to more external scrutiny and to draw on the expertise of financial supervisors.

One recent step in that direction has been to have ECB supervisory staff assist the Board of Directors in reviewing the Bank's finances. Building on this pilot to have financial supervisors from the SSM (and, additionally, from member states outside the Banking Union) support the EIB Board of Directors in a structural capacity appears a feasible way forward. These reports could also be made available to the European Parliament.

Another possibility would be to involve the European Court of Auditors in reviewing all of the EIB's projects. It already does so for EIB loans that are guaranteed through the EU budget (EIB, 2021), but these loans accounted for only 8.4% of the Bank's lending in 2021 (EIB, 2022).

Ultimately, the EU's member states have an interest both in ensuring that the directors from national shareholders can fully scrutinise the EIB's finances, and in preserving the EIB's autonomy. Especially if the Bank is supposed to take more risks in the future, they might benefit from enrolling assistance from the EU's banking supervisory bodies.

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## Further Information

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