

A photograph of a modern, curved glass building at sunset. The building's facade is composed of a grid of windows, and the sky is a mix of orange and blue. The building's reflection is visible in the foreground.

EIB and the Dodd-Frank Act

March 9, 2012



Summary

- ❖ EU's supranational financing institution
- ❖ Owned and governed by the 27 EU Member States
- ❖ End-user of swaps for hedging purposes only
- ❖ Exempted under EMIR
- ❖ Equivalent treatment in the U.S. appropriate since:
 - ❖ Compliance would have unintended consequences:
 - ❖ impede EIB's mission to implement EU public policy **or**
 - ❖ require EIB to avoid US counterparties
 - ❖ No systemic impact of excluding EIB from Title VII
 - ❖ Treaty regulated/supervised



European Investment Bank (EIB)

- ❖ Policy-driven not-for-profit financing institution
- ❖ EU vehicle for financing infrastructure and projects
- ❖ Not involved in any bail-outs
- ❖ Lending: €60 billion in 2011
- ❖ Funding: €76 billion in 2011
 - ❖ Bonds issued on international capital markets
 - ❖ 20 currencies, including EUR, USD, GBP
 - ❖ No deposit taking



Supranational Institution

- ❖ Created in 1958 under the Treaty of Rome
- ❖ Regulated/supervised in accordance with EU Treaty
- ❖ Own governance system subject to collective decision-making by member sovereigns
- ❖ Recognized in the US as/when needed, e.g.:
 - ❖ “Foreign government” issuer / “Schedule B filer” under the Securities Act of 1933 (SEC No-Action Letter, 12/9/1964)
 - ❖ “Public international organization” under the Securities Exchange Act of 1934 (Ex. Order 13259, 3/19/2002)
 - ❖ Excluded from the Patriot Act (31 CFR Part 103; Financial Crimes Enforcement Network, 67 Fed. Reg. 60562)



End-User of Swaps

- ❖ Hedging only, no speculation/arbitrage
 - ❖ Interest rate swaps to convert fixed to floating rates
 - ❖ Cross-currency swaps to hedge currency risk
 - ❖ Plain vanilla: 98.2%; Structured: 1.8% (2011 numbers)
- ❖ Exposures pose no systemic risk
 - ❖ Exposures to counterparties collateralized one way
 - ❖ Net exposure: €1.5 billion (US counterparties: €177 million)
 - ❖ Including potential future exposure: €12.7 billion (US counterparties: €2.2 billion)
- ❖ Europe based swap trading
 - ❖ All swaps traded via EIB's Luxembourg office
 - ❖ Usual counterparties European or Europe based



Exempted Under EMIR

- ❖ Exempt from clearing and collateral posting
- ❖ Reasons:
 - ❖ Compliance would impede EIB's public mission by limiting its lending or would require capital injection of public money
 - ❖ EIB swap usage not systemically important
 - ❖ Treaty regulated/supervised and direct oversight by the EU Member States



EIB Under the Dodd-Frank Act

- ❖ Treatment in the United States equivalent to treatment in Europe appropriate
- ❖ Should be excluded from swap clearing and collateral requirements and entity definitions
- ❖ Reasons:
 - ❖ Compliance would have unintended consequences:
 - ❖ impede EIB's mission to implement EU public policy or
 - ❖ require EIB to avoid US counterparties
 - ❖ No systemic impact of excluding EIB from Title VII
 - ❖ Treaty regulated/supervised



Unintended Consequences

- ❖ Compliance would impede EIB's implementation of EU's public policy
 - ❖ Significant amount of new funds to be raised to acquire collateral
 - ❖ Potentially resulting in up to €500 million of extra funding costs
- ❖ Forced to avoid US counterparties (25% of total)
 - ❖ Extraterritorial reach: *de jure vs. de facto*
 - ❖ US-EU tradition of comity/reciprocity/mutual recognition



No Systemic Impact

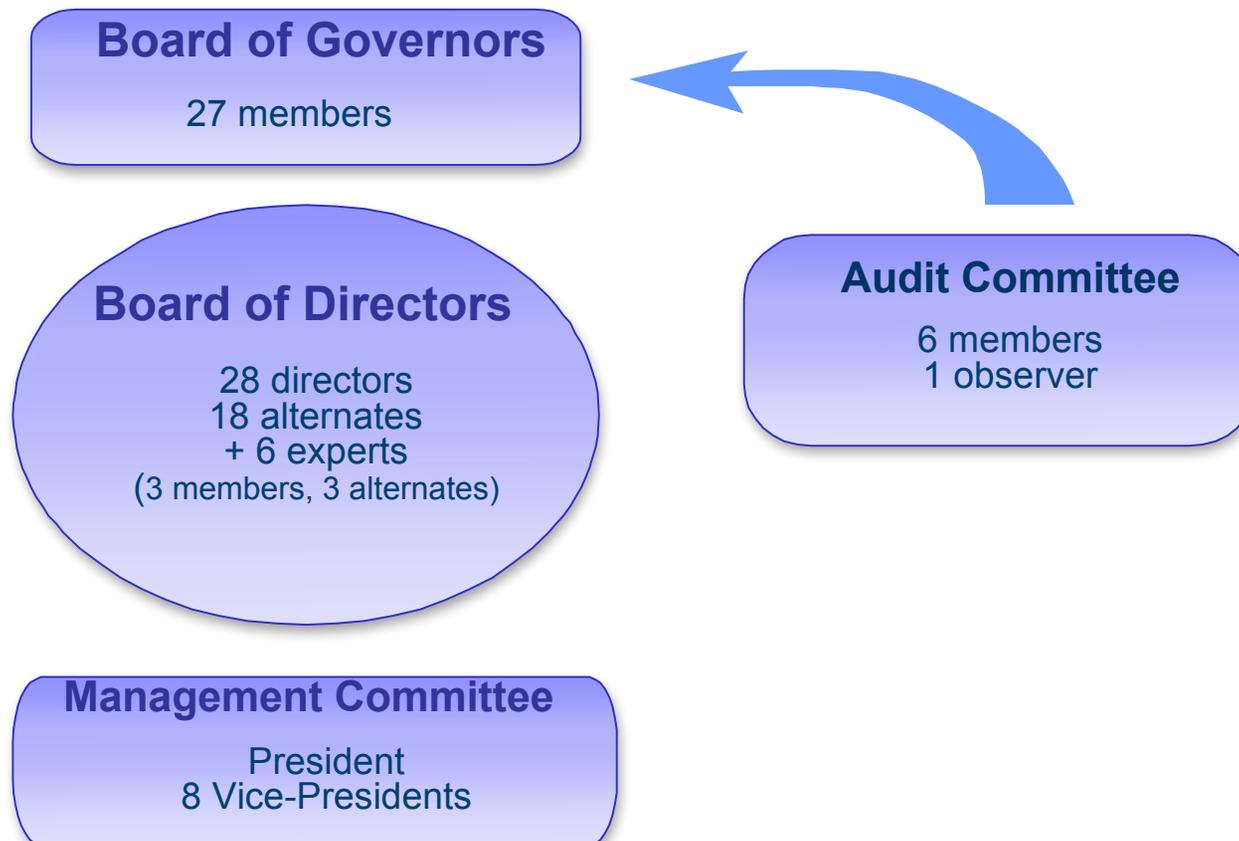
- Total nominal value of swaps with US counterparties: €128 billion
- Gross exposure to US counterparties: €8.5 billion
- Net exposure to US counterparties: €177 million
 - Including potential future exposure: €2.2 billion
- Liquidity: € 71 billion
- Supported by predictable loan disbursements



Treaty Regulated/Supervised

- ❖ Swaps usage restricted through EIB's governance structure
 - ❖ EIB Statute, Art. 21:
 - ❖ *Without prejudice to the provisions of Article 23, the Bank shall not, in managing its investments, engage in any currency arbitrage not directly required to carry out its lending operations or fulfil commitments arising out of loans raised or guarantees granted by it.*
 - ❖ EU Ministers (mostly Finance Ministers) are EIB's governors (EIB Statute, Art. 7)
 - ❖ EIB's Board of Directors made up by deputized ministry officials from the 27 EU Member States
 - ❖ Supervised collectively by the EU Member States through EIB audit/oversight organs
 - ❖ Audited by a committee comprising bank supervisors, financial and auditing experts (Art. 12):
 - ❖ *A Committee consisting of six members, appointed on the grounds of their competence by the Board of Governors, shall verify that the activities of the Bank conform to best banking practice and shall be responsible for the auditing of its accounts.*

EIB Governing Bodies





Conclusion

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For more information

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