

Anti-Corruption Law Program

Public Infrastructure Finance – Expectations for Ethical Behaviour

Thurs, Mar 25th, 2021 | 9 - 10:30am | Virtual Event

Moderator:



Susan Côté-Freeman
Chair and President,
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Panelists:



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European Investment Bank



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International Executive Advisor



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Corporate Secretary,
Canada Infrastructure Bank



Anti-Corruption Law Program: Public Infrastructure Finance – Expectations for Ethical Behaviour

March 25, 2021



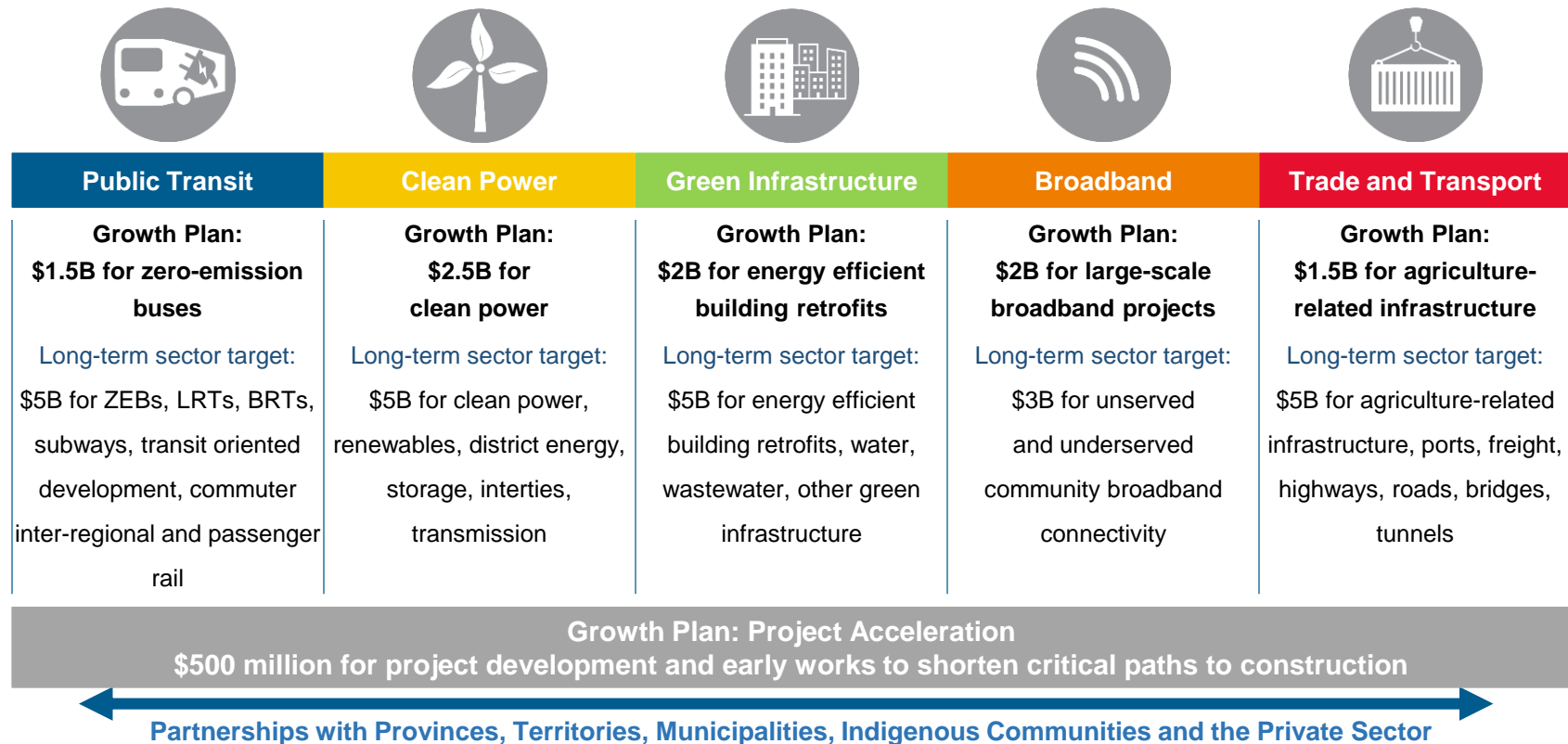
Canada Infrastructure Bank – About Us

- Crown corporation established under the *Canada Infrastructure Bank Act* and accountable for its affairs to Parliament through the Minister of Infrastructure and Communities.
- Section 6 of the *Canada Infrastructure Bank Act*
The purpose of the Bank is to invest, and seek to attract investment from private sector investors and institutional investors, in infrastructure projects in Canada or partly in Canada that will generate revenue and that will be in the public interest by, for example, supporting conditions that foster economic growth or by contributing to the sustainability of infrastructure in Canada.
- Parliament has authorized \$35 billion, as needed, and the requisite authorities to participate in complex infrastructure deals in new and innovative ways.
- CIB is expected to prudently manage its portfolio so the net fiscal expense to the Government of Canada will remain under \$15 billion.
- Priority sectors for investment: **green infrastructure, clean power, public transit, trade and transportation and broadband infrastructure.**
 - Statement of Priorities and Accountabilities from the Minister also sets investment target of \$1 billion for Indigenous infrastructure projects across the priority sectors.

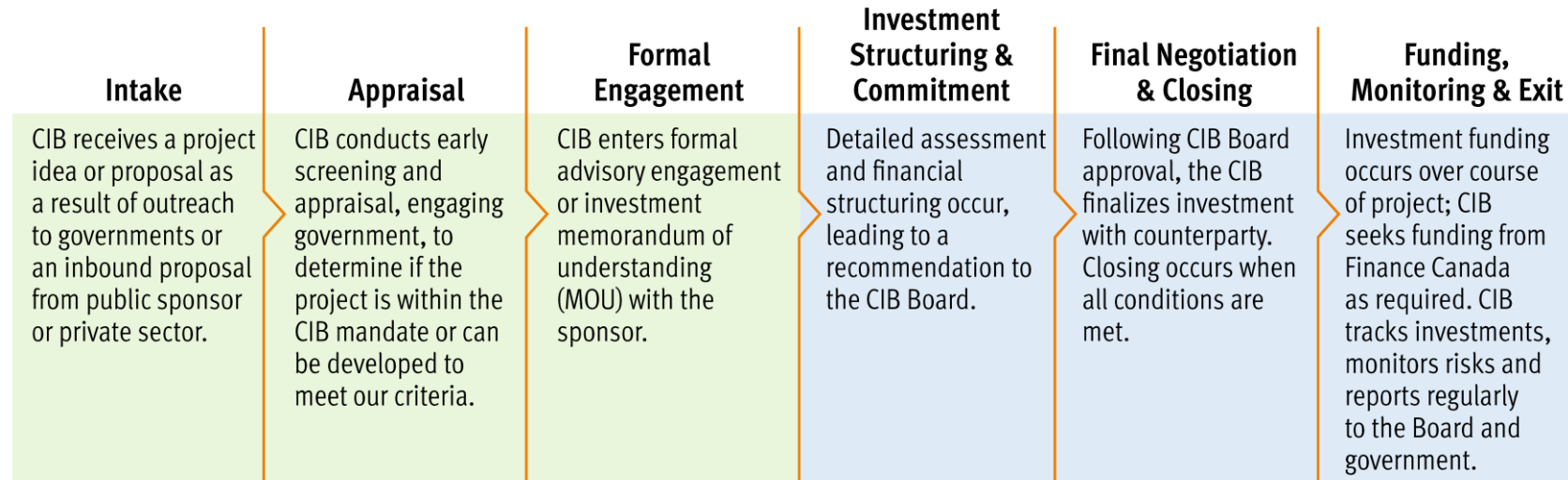
Our main functions



2020-21 Corporate Plan: Growth Plan



Investment Process



- When reviewing projects, the CIB also consider the impact of investments on priority outcomes such as (among others):
 - greenhouse gas (GHG) emissions reduction
 - improved connectivity through broadband
 - shorter commute times and reduced congestion through public transit
 - economic growth
 - Indigenous participation
- [Investment Policy](#) approved by the Board of Directors is posted on the CIB's website

CIB's projects

1 Réseau express métropolitain (REM)

2 GO Expansion – On Corridor

3 VIA Rail

4 Lulu Island District Energy

5 Contrecoeur Port Terminal

6 Taltson Hydroelectricity Expansion

7 Pirate Harbour Wind Farm

8 Kivalliq Hydro-Fibre Link

9 Calgary-Banff Rail

10 Alberta Irrigation

11 Oneida Energy Storage

12 New Westminster Rail Bridge

13 Highway 697 Toll Bridge

Public Transit

Clean Power

Green Infrastructure

Broadband

Trade and Transport

Map not to scale

Governance and Accountabilities

- **Statement of Priorities and Accountabilities (December 20, 2017)**

“[t]he Board will be responsible for ensuring that the Bank's governance, including its by-laws and policies, are informed by corporate governance best practices in both the public and private sectors.”

“The Board should work with the Bank's senior management to develop and monitor policies and practices for the Bank that are beyond reproach regarding values and ethics as well as preventing and managing against conflicts of interest.”

- **CIB is subject to federal legislation and policies that apply generally to Crown corporations**

- *Conflict of Interest Act*
- *Public Servants Disclosure Protection Act*
- *Access to Information Act*
- *Privacy Act*
- Values and Ethics Code for the Public Sector

- **Government of Canada Priorities and Direction**

- Open and Accountable Government
- Federal Sustainable Development Strategy

Policies – Responsible Business Conduct



Code of Conduct

- Available on the CIB's Website

- Five Core Values**

Integrity	We are trustworthy, show that actions and words are consistent, act honestly, communicate openly, adhere to policies and follow guidelines and procedures
Accountability	We take responsibility and accept accountability, show a commitment to continuous improvement, learn from mistakes and share best practices
Respect	We treat everyone with respect and demonstrate understanding and empathy towards others
Inclusion	We place equal value on individuals regardless of their roles, job titles or standing within the organization. We are considerate of all aspects of diversity
Leadership	We role-model positive behaviour and create a culture that supports mentoring, individual motivation and enhanced team performance

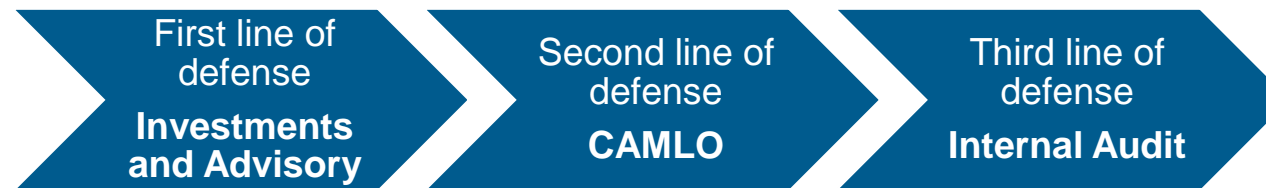
- Seven Guidelines for Ethical Conduct**

1. We promote a diverse, inclusive and respectful workplace
2. We maintain a healthy, safe and security workplace
3. We communicate openly and honestly
4. We avoid and disclose conflicts of interest
5. We decline inappropriate gifts, hospitality and other benefits
6. We protect the CIB's assets and information
7. We comply with laws and regulations

Anti-Money Laundering and Combating Terrorism Financing

■ AML/ATF/S Policy

- Approved by the Board of Directors
- Outlines the CIB's commitment to managing AML/ATF/S risk and preventing the use of its organization for money laundering, financing terrorism or other financial crimes by aligning with applicable laws and regulations intended to prevent and combat these activities



■ KYC Due Diligence Procedure

- Identification and verification of identify of counterparties (including beneficial owners)
- Stages to complete KYC Review



- Enhanced Due Diligence and On-Going Monitoring

Industry Risks / Red Flags – Large Infrastructure Projects

- Public Safety Canada – [Organized Crime Research Brief no. 27 – Commercial Construction and OC](#) (2011, updated Dec 2018) – “...the economic and regulatory environment in which the Canadian commercial construction sector operates is at moderate to high risk of corruption and organized criminal activity”
- Politically Exposed Persons (“PEPs”) – FATF has determined, with respect to PEPs, that there is a greater risk with persons involved in the following:
 - Public procurement
 - Large infrastructure projects
 - Financing of government projects
 - Those who have political connections
- Under OECD and FAFT Research, P3 Infrastructure projects with the following characteristics are more prone to corruption:
 - Lack of due diligence by financiers on, *inter alia*, financial crime including involvement of politically exposed persons, domestic and foreign
 - Large projects with greater complexities or novel features
 - Lack of transparency in the process
 - Too much discretionary decision-making authority exercisable by several officials



Thank you

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**European
Investment
Bank**

The EU bank



All figures in this presentation are provisional

The EIB: The bank of the European Union (EU)

Improving quality of life in Europe and beyond



The world's largest multilateral lender



Leading provider of climate finance



Governed by the EU Member States

At a glance



Largest multilateral lender and borrower in the world

- | We raise our funds on the international capital markets
- | We pass on favourable borrowing conditions to clients



Annual lending of approx. EUR 65bn

- | Approx. 90% in EU. Public, Private and Financial Institution sectors
- | Priorities: Innovation, Environment, Infrastructure, Small and Medium Enterprises



Headquartered in Luxembourg

- | Around 3,500 staff: In addition to finance professionals, we have engineers, economists and socio-environmental experts
- | 51 offices around the world

A responsible bank



We monitor the environmental and social sustainability of all of our investment projects



We appraise all human, technological, or natural resources used by the project



We exclude certain economic activities completely



We report greenhouse gas emissions from all project with a significant impact

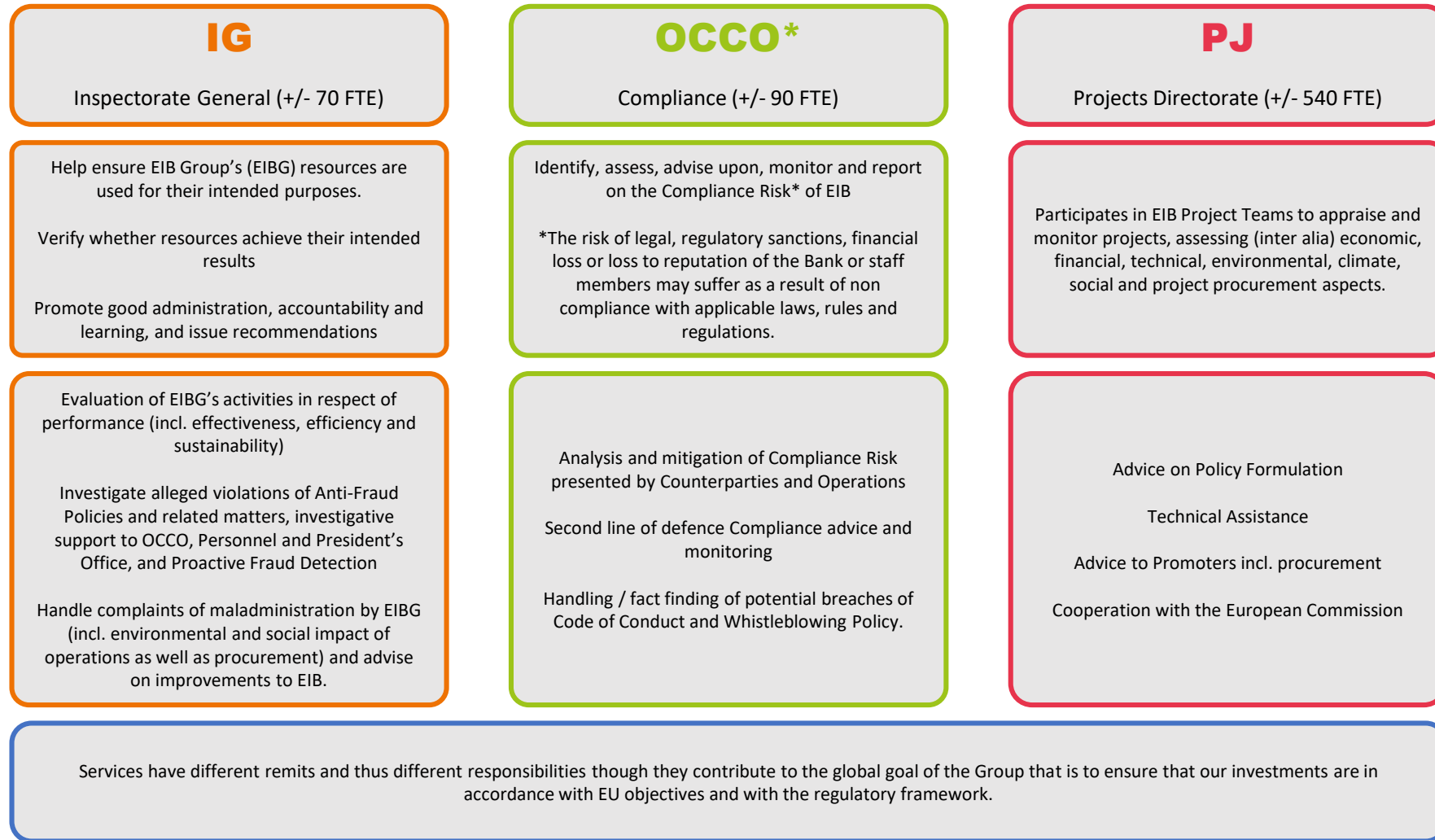


We monitor, report and implement reduction of our own environmental footprint



We ensure strong governance, transparency and accountability for ourselves and our counterparts

Demarcation of responsibilities



* Part of Group Chief Risk Office

Compliance Policy framework*



- Other key policies incl. Transparency Policy, Anti-Fraud Policy, Environmental & Social Standards Framework as well as Procurement Guidelines
- †Anti Money Laundering and Countering the Financing of Terrorism

Hot topics driven by Statutory Requirement to align with Best Practice

1

AML CFT

- Strengthening of 3 Lines of Defence (LoD) Model; Expansion of 1LoD activities, and Focus of OCCO on 2LoD work
- Systems and Data Quality
- Policy Enhancements
- Know Your Counterparty

2

Market Risks

- Market Abuse
- Markets in Financial Instruments Directive
- 2 LOD Control

3

Governance reforms

- Provisions on Ethics and Integrity of staff members and members of the governing bodies
- Group dimension

4

Other

- COVID Response
- Climate Roadmap
- Training and Awareness
- Reporting



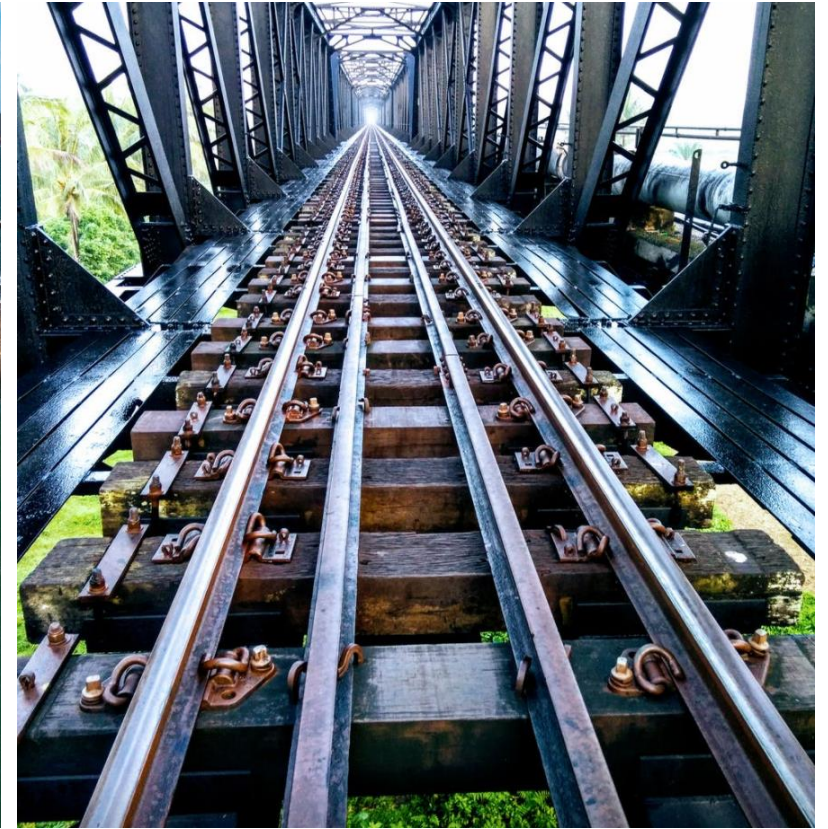
European
Investment
Bank

The EIB bank



More information at: www.eib.org
info@eib.org

Thank you



If it goes well



If it goes badly

BAD ROAD. GOOD ROAD.



TROUBLED ROADWAY The Gardez-Khost Highway is over budget but far from complete. Finished stretches are already falling apart and remain treacherous.

Mauricio Lima for The New York Times



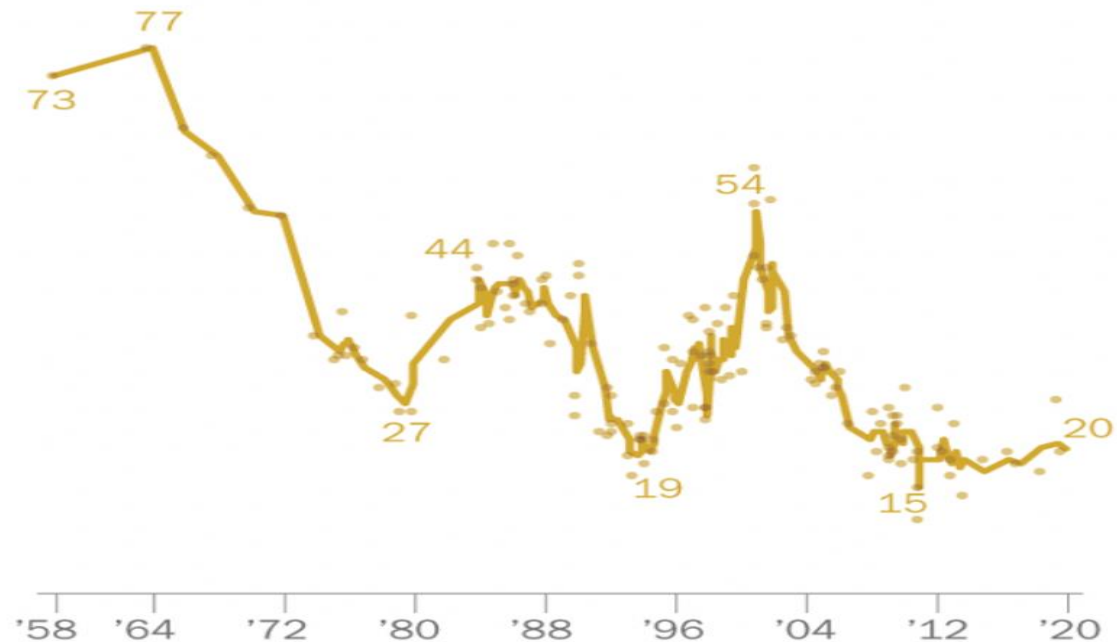
BAD RESULTS CAN BE CAUSED BY A NUMBER OF CAUSES

- Poor planning, coordination and execution.
- Financing gaps.
- Weather/Force Majeure.
- **Corruption →**
 - Delays.
 - Raised costs and debts for governments and private investors.
 - Hurts fair competition.
 - Bad quality.
 - Undermines trust in government.

According to a 2020 Pew Research study, only 20% of Americans say they trust the government to mostly “do the right thing.”

Public trust in federal government near historic lows for more than a decade

% who say they trust the federal government to do what is right just about always/most of the time



Note: From 1976-2020 the trend line represents a three-survey moving average.

Source: Survey of U.S. adults conducted July 27-Aug. 2, 2020.

Trend sources: Pew Research Center's American Trends Panel (2020), Pew Research Center phone surveys (2019 and earlier), National Election Studies, Gallup, ABC/Washington Post, CBS/New York Times, and CNN polls.

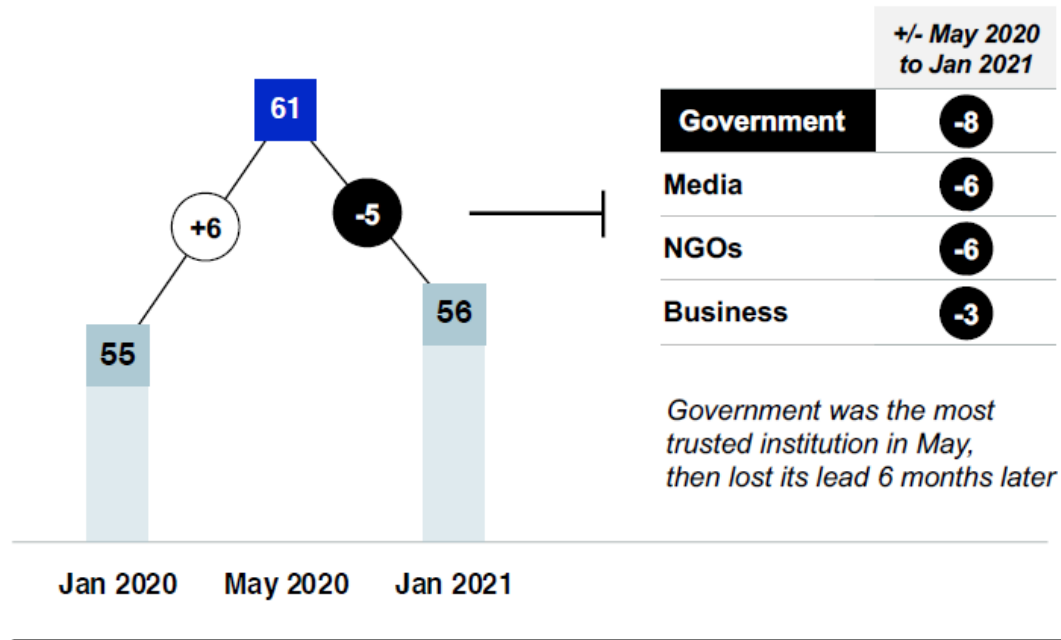
PEW RESEARCH CENTER

SPRING TRUST BUBBLE BURSTS; BIGGEST LOSS FOR GOVERNMENT

Trust Index, 11 countries included in the 2020 Trust Barometer Spring Update



Global 11



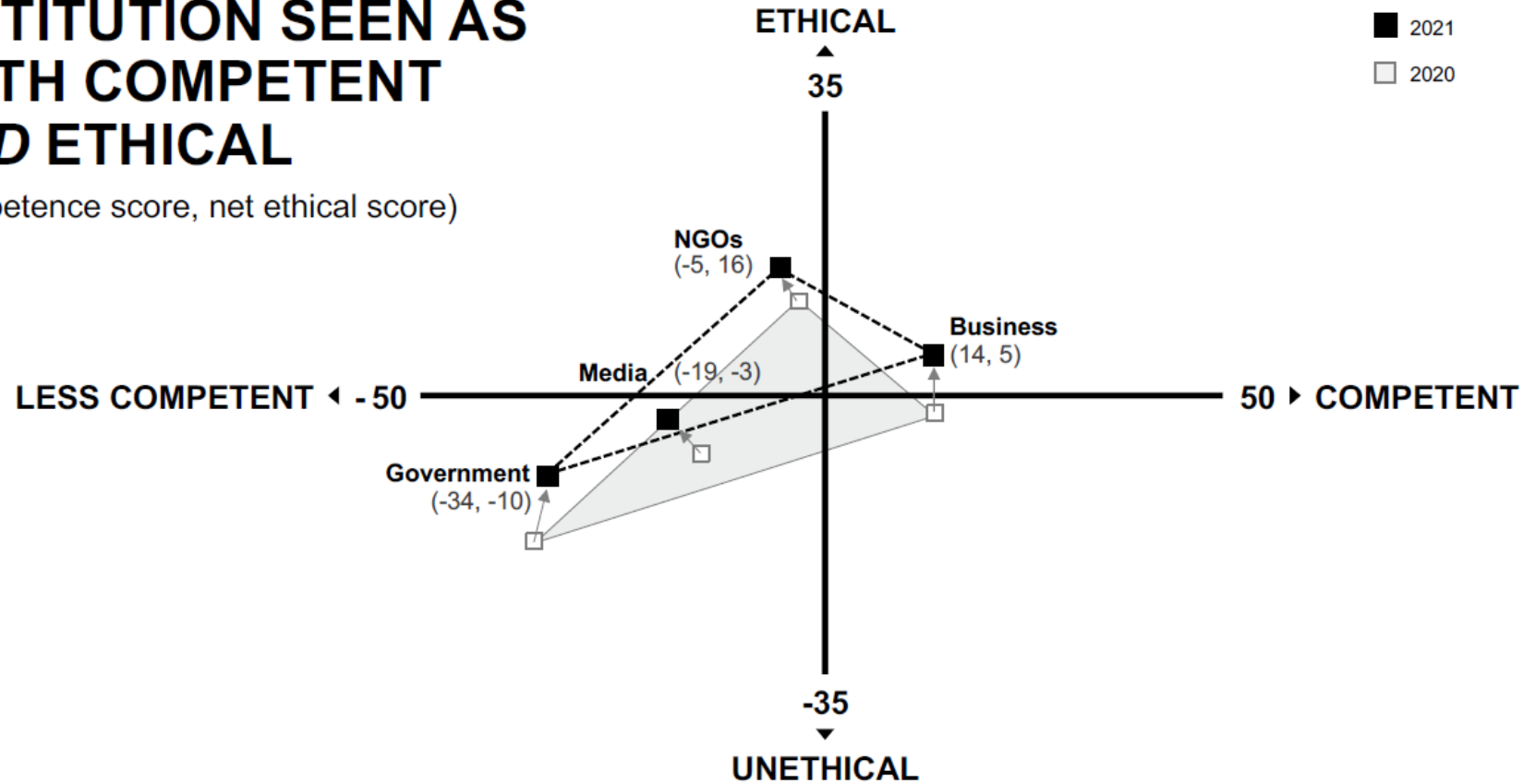
Government	+/- Jan 2020 to May 2020	+/- May 2020 to Jan 2021
S. Korea	+16	-17
UK	+24	-15
China	+5	-13
Mexico	+12	-12
Canada	+20	-11
India	+6	-8
U.S.	+9	-6
Germany	+19	-5
Japan	-5	-1
Saudi Arabia	+5	-1
France	+13	+2



2021 Edelman Trust Barometer. The Trust Index is the average percent trust in NGOs, business, government and media. TRU_INS. Below is a list of institutions. For each one, please indicate how much you trust that institution to do what is right. 9-point scale; top 4 box, trust. General population, 11-mkt avg.

BUSINESS NOW ONLY INSTITUTION SEEN AS BOTH COMPETENT *AND* ETHICAL

(Competence score, net ethical score)



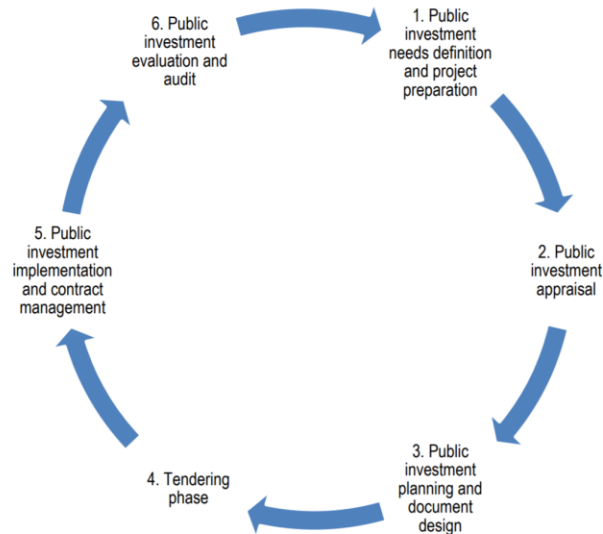
2021 Edelman Trust Barometer. The ethical scores are averages of nets based on INS_PER_DIM/1-4. Question asked of half of the sample. The competence score is a net based on TRU_3D_INS/1. Depending on the question it was either asked of the full of half the sample. General population, 24-mkt avg. Data not collected in China, Russia and Thailand. For full details regarding how this data was calculated and plotted, please see the Technical Appendix.

BACK TO CORRUPTION. EVERY CULTURE
HAS A VERSION OF...

THE BRIDGE

CORRUPTION CAN HAPPEN AT ANY STAGE OF THE PUBLIC INVESTMENT CYCLE

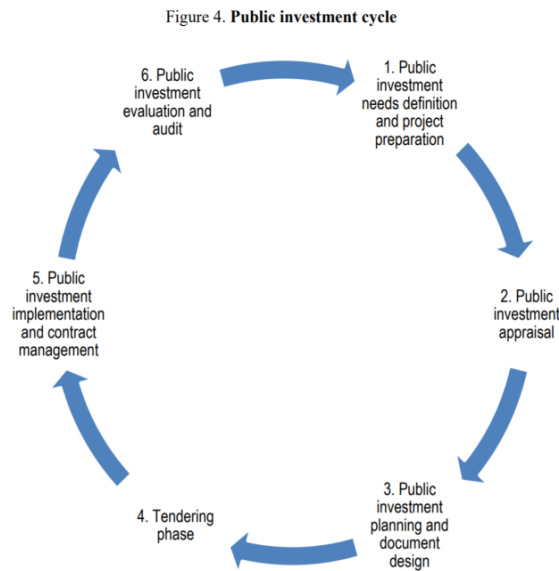
Figure 4. Public investment cycle



Source: OECD

- Needs assessment: necessary to build the road, stadium, bridge or bribery machine? (“white elephant projects”).
- When selecting the company (bribes to government officials).
- During implementation (bribing supervising engineers) and maintenance (double loss issue).

INTEGRITY MEASURES MUST BE APPLIED THROUGHOUT THE PUBLIC INFRASTRUCTURE CYCLE (1/2)



Source: OECD

- Standards of conduct for all actors in the infrastructure development (government people + private sector actors (including subcontractors and consultants). → easily accessible and published (shows that the entity is willing to be held accountable).
- Conflict of interest rules.
- Safeguarding confidential info.
- Public consultations during needs assessment.
- Lobbying rules.

KNOW WHO YOU DEAL WITH

(The distinct advantages of due diligence)

Company
described
in the
investment
proposal



Due
Diligence



INTEGRITY MEASURES MUST BE APPLIED THROUGHOUT THE PUBLIC INFRASTRUCTURE CYCLE (2/2)



- Whistleblower hotlines and other reporting mechanisms:
 - Widely advertised
 - Easy to use
 - Offering retaliation protection
- Transparency and open data principles. Use of technology such as e-procurement. Transparent budget processes.
- Civil Society/Citizen monitoring (cost, progress).
- Internal controls and external audits at all stages of the procurement & other processes.

SOME FINAL OBSERVATIONS

- Need prevention and consequences
- What you do inside vs. what you expect from the outside
- Its all about the mindset.
- Benchmarking / Influence from national laws.
- Pandemic
- Few players → advantages and disadvantages.



Q&A

Anti-Corruption Law Program
in collaboration with:



PETER A. ALLARD
SCHOOL OF LAW
THE UNIVERSITY OF VICTORIA

CENTRE FOR
BUSINESS LAW



THE INTERNATIONAL CENTRE FOR
CRIMINAL LAW REFORM AND
CRIMINAL JUSTICE POLICY

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