

OeEB's Position on Tax Good Governance, Anti-Money Laundering and Combating the Financing of Terrorism

OeEB is the official Development Bank of Austria. Its mandate is to contribute to the improvement of living conditions in developing and transition countries by providing financing and technical assistance for projects in the private sector. OeEB aims at supporting projects with strong developmental returns, which OeEB assesses ex ante and monitors throughout the life span of a project. Relevant developmental effects are, for instance, the preservation of existing and the creation of new jobs by OeEB's clients (or, in case of OeEB's participation in an investment fund, the fund's clients), but also the tax revenues generated by clients operating profitably in their country of operation.

As a signatory to the *EDFI (European Development Finance Institutions) Principles for Responsible Tax in Developing Countries*, OeEB does not wish to be associated with harmful practices such as tax avoidance, tax fraud and tax evasion and non-transparency. OeEB thus requires its investee companies to pay taxes due in their countries of operation, just as OeEB is committed to comply with any national or international tax regulation itself. At the same time and in accordance with rigorous international and domestic regulations as well as its internal rules governing this field, OeEB does not wish to be associated with money laundering and the financing of terrorism. As a licensed Austrian bank, OeEB is fully applying **the anti-money laundering provisions of the Austrian Financial Markets Anti-Money Laundering Act (Financial Markets AML Act)**.

In its approach **to offshore financial centres (OFC)**, OeEB takes into account OFC policies of private-sector-oriented international financial institutions, such as the International Finance Corporation, as well as ratings issued by relevant international fora, such as the Global Forum on Transparency and Exchange of Information for Tax Purposes. Within this framework, OeEB occasionally invests in developing countries via investment vehicles which are located in OFC mainly for the following reasons:

- By the very nature of its mandate, OeEB is active in markets which are often challenging in respect of the local legal and regulatory environment. Some jurisdictions regarded as OFC, in contrast, provide a higher level of predictability and stability in this regard, thereby accommodating institutional investors' requirements in terms of a stable and predictable environment for investing in private-sector endeavors in developing countries. Locating an investment fund in an OFC can be necessary to enable such fund to tap international capital markets or, in other words, can be a prerequisite for making risk capital investments possible in many developing countries or regions where the local environment is more challenging.
- Typically, investee companies of investment funds are liable to pay taxes in the country they operate. At the same time, investors in an investment fund are typically liable to pay taxes in their home country. This in general holds true irrespective of whether an investment fund is located in an OFC or in another jurisdiction. Taking into account not only the local tax environment, but also existing double taxation treaties, by investing in an investment fund in an OFC, it is at times possible to limit the effect of an additional layer of taxation at the place of incorporation of the investment fund. This in turn leads to a higher amount of funds remaining available for investment in targeted developing countries, i.e., ultimately, for use in furtherance of OeEB's developmental mandate.

In cooperation with its stakeholders and its partners within the EDFI group, OeEB is closely monitoring the ongoing international debate and standards in respect of OFC as well as market and institutional developments which might open up additional opportunities for locating investment funds either directly in countries of operation or in other, non-OFC jurisdictions. OeEB is convinced that the approach outlined strikes an adequate balance between its determination to avoid being associated with illicit or harmful practices on the one hand and its aim of playing a catalytic role in attracting financing for challenging markets on the other hand.

Operational Approach and Guidance:

A) Tax Good Governance

OeEB takes into account the country classification by the OECD Global Forum Rating:

<http://www.oecd.org/tax/transparency/exchange-of-information-on-request/ratings/>

Being a European DFI, OeEB considers the EU list of non-cooperative jurisdictions for tax purposes to be of highest relevance for its operations:

<https://www.consilium.europa.eu/en/policies/eu-list-of-non-cooperative-jurisdictions/>

OeEB will only enter into new engagements in a jurisdiction considered to be non-cooperative according to the above EU list if the project is physically implemented in the same jurisdiction, provided there is no indication that the project contributes to tax avoidance, tax fraud or tax evasion.

Should a new jurisdiction be added to the above EU list, projects in such jurisdiction may be finalized if already approved by OeEB's committees ("Business and Development" committee; Advisory Board) prior to the listing. OeEB will inform the Ministry of Finance if such an event occurs.

In case OeEB administers EU funds, it will apply the rules governing such funds.

B) Anti-Money Laundering and Combating the Financing of Terrorism (AML-CFT)

One of the pillars of **the European Union's legislation to combat money laundering and terrorist financing** are the respective EU legislative acts for the prevention of money-laundering and terrorist financing, such as Directive (EU) 2015/849 and successor directives. According to this Directive, banks and other gatekeepers are required to apply enhanced vigilance in business relationships and transactions involving high-risk third countries.

The following jurisdictions are identified by the EU as having strategic deficiencies in their AML/CFT regimes (see list of countries in Commission Delegated Regulation (EU) 2016/1675 of 14 July 2016 (as amended) supplementing Directive (EU) 2015/849 of the European Parliament and of the Council by identifying high-risk third countries with strategic deficiencies):

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02016R1675-20181022> (Access current version)

The Financial Action Task Force (FATF) distinguishes between High-Risk Jurisdictions subject to a Call for Action and Jurisdictions under Increased Monitoring – see:

<http://www.fatf-gafi.org/countries/#high-risk>

OeEB will not enter into engagements in jurisdictions which are classified as High-Risk Jurisdiction subject to a Call for Action by the FATF. In case a jurisdiction is classified to be a Jurisdiction under Increased Monitoring according to the FATF list or other High-Risk Third Country according to the above EU Delegated Regulation (EU) 2016/1675 of 14 July 2016 (as amended), OeEB will apply enhanced vigilance and enhanced due diligence measures according to Section 9a Financial Markets AML Act and treat such jurisdictions and projects located there in strict compliance with its anti-money laundering regulations and procedures. This approach has to be carefully assessed in every case, and preference shall be given to jurisdictions without identified AML/CFT deficiencies.