



## **BRIEFING NOTE ON EDFI GUIDELINES FOR OFFSHORE FINANCIAL CENTRES (“Guidelines”)**

### **1. Definition of OFCs**

There is no single accepted definition of the term “OFCs”, but EDFI considers the following to be the key characteristics of territories, which are often regarded as OFCs:

- large number of financial institutions engaged primarily in business with non-residents;
- external assets and liabilities disproportionate to domestic financial intermediation designed to finance domestic economies;
- low taxation of non-residents with no activities “onshore”; and
- established legal and commercial infrastructures which are capable of facilitating cross-border investments.

### **2. Development rationale for transactions by EDFIs involving OFCs**

- OFCs typically provide legal infrastructure, which is able to accommodate the requirements of institutional investors seeking to invest in the private sector in developing countries. Most developing countries do not;
- OFCs typically accommodate a wide range of financial structures (including (combinations of) mezzanine, equity and debt) suitable for developing country private sector investments;
- OFCs generally allow the tax neutral pooling of capital, which is then used for investment in the private sector in developing countries. If such pooling were to be uneconomical or inefficient, institutional investors would be discouraged from investing in developing countries; and
- The use of special purpose vehicles (“SPVs”) in OFCs permits developing countries to access international capital markets.
- Thus the use of OFCs makes it possible for EDFIs to play a catalysing role in attracting institutional capital into developing countries and to ensure that their capital and the institutional capital invested alongside it is invested in accordance with sound environmental, social and governance policies.

### **3. Criteria for determining whether an OFC is appropriate for EDFI investment**

EDFIs should not be associated with harmful practices, such as tax avoidance, money laundering and non-transparency.

By following the activities and reports of supervisory institutions such as the Organisation for Economic Co-operation and Development (“OECD”) and the Financial Action Task Force (“FATF”) closely, EDFI applies the following set of criteria based on the bullet points below to determine what is an acceptable OFC for EDFI investment purposes:

- Committed Jurisdiction: the OFC should have (i) formally committed to implementing and enforcing the OECD tax standards (the “White List”) and the FATF 40+9 recommendations; and (ii) complied with or demonstrated clear progress towards satisfying OECD and FATF values in respect of the matters below;

- Transparency: the OFC should be transparent in relation to the formation and beneficial ownership of SPVs. Each EDFI will check transparency as part of its own investment due diligence;
- Exchange of information: the OFC should have expressed a willingness to enter into bilateral tax information exchange agreements or double tax conventions consistent with OECD standards;
- Financial sector integrity: the OFCs' implementation and enforcement of regulations to prevent fiscal and financial abuses should be checked as part of each EDFI's own investment due diligence; and
- Capital flight: if an OFC is found to be involved in illicit capital flight from developing countries (notwithstanding its presence on any published list), EDFIs will consider whether it is appropriate to continue recognising such OFC as an acceptable OFC for EDFI investment purposes.

#### 4. Conclusion

EDFIs commonly use OFCs when structuring investments in the private sector in developing countries. It is EDFI's view that it is in the best interests of developing countries for EDFI to continue using OFCs in EDFI's investment structures provided that the OFCs used meet the criteria set out above.

**Note:** An IFI working group on OFC, representing more than 25 multilateral and bilateral Development Finance Institutions, was established on October 5 at a meeting in Istanbul among the CEOs of the institutions. The EDFI members will have 3 representatives in this working group.

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EDFI Secretariat