Sent to: Board of Directors, World Bank Group

April 18, 2019

Dear Executive Director:

We would like to write you about the Offshore Financial Centers (OFC) Policy that the Board of Directors will review and approve in the near future.

We are global advocacy organizations dedicated to ending poverty and social injustice. We advocate for tax justice and in particular the end of tax evasion and avoidance.

Tax revenues are the main source of finance for development, and the corporate income tax represents about 20% of tax revenue in low-income countries. Each year developing countries lose an estimated $100 billion to tax avoidance by multinational companies,[1] and $70 billion to tax evasion by wealthy individuals[2] – together more than what they receive in official development assistance.[3] It is imperative to curb tax evasion and avoidance to meet the Sustainable Development Goals.

We welcome the Board's initiative to update the OFC Policy. We believe the Policy should have the twin objectives of (i) ensuring that the World Bank Group does not facilitate tax evasion and avoidance in its own operations, and (ii) supporting progress in the international community's efforts to fight tax dodging.

The policy should support the ABC of tax transparency, namely Automatic exchange of information, public Beneficial ownership registries, and public Country-by-country reporting. The OECD reports that tax authorities have already recovered Euro93 billion thanks to the Exchange of Information on Request (EIOR) and especially Automatic Exchange of Information (AEI) standards developed by the Global Forum for Tax Transparency.[4] Ireland, Netherlands and other countries are closing down notorious tax dodging schemes as a result of the Inclusive Framework's Base Erosion and Profit Shifting (BEPS) initiative. The Netherlands and the United Kingdom have initiated public beneficial ownership registries, while EU-wide directives require public country-by-country reporting (CBCR) in the extractive and financial sectors. As a development organization, the World Bank Group should not only lead the private sector in complying with these standards, but also promote their widespread adoption by tax jurisdictions. That is in the interest of developing countries (see Annex) and consistent with existing World Bank Group policy.[5]

We therefore urge you to add three additional eligibility criteria as jurisdiction screens in the OFC Policy, namely (i) commitment to AEI, (ii) commitment to the four BEPS minimum standards (including the one on CBCR), and (iii) compliance with FATF standards. Public registries of beneficial ownership and public country-by-country reporting should become additional screens in the near future. World Bank Group transactions involving intermediary jurisdictions that are not committed to these standards should be prohibited. Eligibility criteria must apply to the entire structure of the company, including Financial Intermediaries.

We welcome the addition of a project-level tax due diligence process to ensure that World Bank Group clients pay their fair share of tax. Such process is however bound to be very discretionary, which calls for setting a clear goal and some public reporting.

We urge you to explicitly state in the Policy that the goal of tax due diligence is to ensure that project host governments collect as much tax revenue as they would without the use of intermediary jurisdictions. Tax due diligence must ensure that the client does not use tax avoidance techniques across the entire structure of the project, including Financial Intermediaries, and discourage the use of zero- or low-tax jurisdictions. We also call for the World Bank Group to provide a narrative summary of tax due diligence in its public description of projects, as is currently done regarding the WBG social and environmental safeguards due diligence. Public project documentation should also identify any intermediary jurisdiction used and the names of all beneficial owners of client (and sub-client) companies.

Beyond providing guidance for responsible tax behavior, the World Bank Group should also develop new safeguard policies for fair taxation, complementing the social and environmental safeguards. These safeguards would require the WBG's clients to adhere to responsible tax practices, drawing from the draft tax standard of Global Reporting Initiative,[6] UK Fair Tax Mark,[7] and the B-Team's Responsible Tax Principles.[8]

We thank you for your attention and commitment to tax justice. We would also be happy to discuss these matters further in person – please contact nadia.daar@oxfam.org if you would like any further information.

Sincerely,

Action Aid

Christian Aid

Oxfam

Public Services International

Tax Justice Network

Annex: Frequently Asked Questions

AEI and BEPS do not (yet) have review processes; how can they be used in the OFC Policy?
At this time, the WBG should prohibit transactions with intermediary jurisdictions that have not committed to AEI and BEPS minimum standards (as validated by the Global Forum and Inclusive Framework). The policy could also indicate that once the Global Forum and Inclusive Framework start peer reviews and produce lists of non-compliant countries, transactions using intermediary jurisdictions that are not compliant will be prohibited.
As to AEI, the WBG should also require intermediary jurisdictions to exchange information with the project host country, once the latter starts exchanging information with any country. There is indeed a risk that intermediary jurisdictions sign up to AEI, but then cherry-pick the jurisdictions with which they actually exchange information.

The WBG shouldn't assume the role of policeman of tax havens, should it?
It is not the WBG that sets the aforementioned standards; they are set by the Global Forum and Inclusive Framework. The WBG should lead the private sector by example by applying and reinforcing existing global standards and including them into its Offshore Financial Centers Policy and fair taxation safeguards.

Wouldn't using AEI and BEPS in the Policy screen out many developing countries?
The prohibition would only apply to intermediary jurisdictions, as the risk of tax evasion and avoidance lies with those jurisdictions. Project host countries would not be compelled into adopting neither AEI nor BEPS.

Don't intermediary jurisdictions provide useful services to development projects?
There are legitimate reasons for development projects to use intermediary jurisdictions, and we don't propose to ban their use entirely. However, such jurisdictions open opportunities for abuse. It is not by chance that the intermediary jurisdictions of choice tend to have low or zero tax rates, even though plenty of alternatives exist. Tax due diligence must ensure that the client does not use tax avoidance techniques across the entire structure of the project and that the use of intermediary jurisdictions does not result in lower taxes being paid in the project host country.

Wouldn't screening out some intermediary jurisdictions harm projects' host countries by making some projects ineligible?
Most intermediary jurisdictions have committed to AEI and BEPS. The worry that some projects would be rejected on the ground that they use a prohibited intermediary jurisdiction is therefore overblown. In case a jurisdiction became non-compliant with either AEI or BEPS, a sanction would be warranted otherwise it would create real risks to revenue mobilization in developing countries. Some WBG projects using such intermediary jurisdiction could be reconfigured through another jurisdiction. Although other projects using that jurisdiction might have to be abandoned (freeing WBG resources for alternative projects), the OFC Policy would work like any corporate social responsibility tool. There is no difference between screening out some intermediary jurisdictions and environmental standards. When the WBG demands a project to meet a higher environmental standard than what is required by law, either the client company goes the extra mile to jump the higher bar, or the project is abandoned (freeing resources for other projects). Over time, the social responsibility norm becomes well established and all companies comply with it, for the benefit of all.

[1] UNCTAD (2015) “World Investment Report 2015”, UNCTAD. https://unctad.org/en/PublicationsLibrary/wir2015_en.pdf

[2] Zucman, Gabriel (2015) “The Hidden Wealth of Nations”, The University of Chicago Press.

[3] OECD (9 April, 2018) “Development aid stable in 2017 with more aid sent to the poorest countries”, OECD. http://www.oecd.org/newsroom/development-aid-stable-in-2017-with-more-sent-to-poorest-countries.htm

[4] OECD (July, 2018) “OECD Secretary-General Report to G20 Finance Ministers and Governors of Central Banks”, OECD. http://www.oecd.org/g20/oecd-secretary-general-tax-report-g20-finance-ministers-july-2018.pdf

[5] “To help countries prioritize investing in people, we call on the WBG and IMF to provide tailored support and capacity building to increase domestic resource mobilization, combat illicit financial flows, fight against tax avoidance and evasion, encourage investors, and create innovative financing tools for development.”

World Bank (13 October, 2018) “World Bank/ IMF Annual Meetings 2018: Development Committee Communique”. https://www.worldbank.org/en/news/press-release/2018/10/13/world-bank-imf-annual-meetings-2018-development-committee-communique

[6] Global Reporting Initiative (2019) “Disclosures on Tax and Payments to Government”. https://www.globalreporting.org/standards/work-program-and-standards-review/disclosures-on-tax-and-payments-to-government/

[7] https://fairtaxmark.net/

[8] The B-Team (2018) “A New Bar for Responsible Tax”. http://www.bteam.org/plan-b/responsible-tax/