ASIAN INFRASTRUCTURE
INVESTMENT BANK

DIRECTIVE ON TAX TRANSPARENCY FOR NONSOVEREIGN-BACKED FINANCING

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Summary of Content: This Directive establishes the tax transparency framework applicable to nonsovereign-backed financing of the Asian Infrastructure Investment Bank. It sets rules and processes to promote tax transparency, tax good governance, and tax compliance and supports efforts by host jurisdictions to strengthen revenue mobilization essential for sustainable infrastructure development.

Related Documents: Directive on Anti-Money Laundering and Combating the Financing of Terrorism

Directive on Tax Transparency for Nonsovereign-Backed Financing

1. Overriding Objectives

1.1. The Directive on Tax Transparency for Nonsovereign-Backed Financing (**Directive**) sets forth the tax transparency framework (**Framework**) at the Asian Infrastructure Investment Bank (AIIB or **the Bank**) applicable to nonsovereign-backed financing (NSBF). The Framework seeks to promote tax transparency, tax good governance, and tax compliance and supports efforts by Members to strengthen revenue collection, which are essential for funding, building, operating, and maintaining sustainable infrastructure. AIIB's Articles of Agreement set out the Bank's purpose as promoting sustainable economic development, creating wealth, and improving infrastructure connectivity, reflecting the Bank's role in financing projects that support harmonious economic growth and its commitment to applying sound banking principles in its NSBFs.

1.2 The exercise and interpretation of this Directive shall seek to give effect to this overriding objective.

1.3. The Directive is part of the Bank's broader efforts to counter financial crimes. This Directive complements the Bank's Directive on Anti-Money Laundering and Combating the Financing of Terrorism (**AML/CFT Directive**).

1.4. Unless stated otherwise, the capitalized terms in this Directive have the meaning set forth in the Operational Policy on Financing (OPF). Further, for the purposes of this Directive, the recognized international tax standard-setting bodies are the Organization for Economic Co-operation and Development (OECD), the Global Forum on Transparency and Exchange of Information for Tax Purposes (**Global Forum**), and the OECD Inclusive Framework on Base Erosion and Profit Shifting (BEPS-IF). AIIB also takes into account the standards and listings of the Financial Action Task Force (FATF) regarding anti-money laundering and combating the financing of terrorism (collectively, these bodies are referred to as **Recognized Bodies**).

2. General Principles

2.1 **Host Jurisdiction Taxation:** This Framework encourages the counterparties involved in the Bank's NSBFs to pay tax in the jurisdictions where they operate. This aligns with international efforts, including BEPS Actions 5 and 6, to contribute to addressing harmful tax practices and the misuse of tax treaties.

2.2 **Profit Shifting:** This Framework promotes fair tax practices by encouraging counterparties in NSBFs to contribute to reducing profit shifting, where profits are artificially moved from high-tax to low-tax jurisdictions. Such practice can erode the tax base of jurisdictions where actual economic activities occur, leading to a loss of revenue for these jurisdictions. This Framework supports efforts to discourage structuring that leads to tax evasion or to aggressive tax planning in order to minimize their tax liabilities. It promotes the principle that companies should be taxed based on where their economic activities take place, not just where their legal headquarters are located.

2.3 **Jurisdictionally Tax Challenged Entities (JTCE):** JTCEs are entities established or formed in "third" jurisdictions, i.e., those other than the host jurisdiction of the project or the jurisdiction of the Material Sponsor, i.e., shareholder or Material UBO with material ownership of the project. The entities identified as JTCEs are established in these "third" jurisdictions, which are deemed as not yet committed, noncompliant, partially compliant, or nonsignatory jurisdictions under international tax standards and listings established by the Recognized Bodies (**Jurisdictionally Tax Challenged Entities**, and each a **Jurisdictionally Tax Challenged Entity**).

Material Sponsor or **Material UBO** refers to the shareholder or group of shareholders that exercises direct, indirect, or significant influence or interest over a project's initiation, development, financing structure, or strategic direction and is typically the primary promoter or initiator of the project. Under the OPF, the Beneficiary means the entity or entities to or for which the financing is provided, including the recipient of a Loan and the entity whose obligations are guaranteed by the Bank. While the OPF defines Sponsor as the entity or entities that control the Beneficiary, such as its material shareholders or other entities responsible for its technical and financial performance, this Directive uses *Material Sponsor* or *Material UBO* to refer to the entity or entities holding a leading or controlling interest or role in the project being financed.

This Framework promotes careful consideration when financing projects involving JTCE. The Bank may participate in such financing only if there is no identification of material risk of tax crime that cannot be mitigated. The Bank requires appropriate documentation and clarification of the applicable tax regime, tax compliance, mitigants, and justification for using the entity in the third jurisdiction.

2.4 **Noncompliant Activities:** This Framework seeks to avoid the Bank financing projects that involve counterparties that engage in noncompliant activities in connection with the project. Noncompliant activities are those that may be subject, by local authorities, to criminal penalties.

3. Applicability and Scope

3.1 This Directive applies to Bank Personnel.

4. Governance and Oversight

4.1 The governance and oversight of this Directive are set out in the AML/CFT Directive.

5. The Framework

5.1. The Framework includes the following measures to help the Bank assess whether a Sponsor outside a project's jurisdiction is involved in illicit purposes:

- **Tax assessments:** The Bank conducts risk-based tax assessments as part of its Know Your Counterparty process.

- **Transparency**: The counterparties are required to disclose any material tax risks and the Sponsor's Beneficial Owner(s) as defined in the AML/CFT Directive.

- **Information requirements:** The counterparties are required to provide information to the Bank on their tax position, tax compliance status, tax liabilities, and any unresolved disputes with tax authorities.

- **Relocation for JTCEs without possible risk mitigation:** If the project involves a JTCE that poses material tax-abuse risk without possible mitigation measures, the Bank may require its legal ownership or control through the entity to be terminated or to transfer the legal establishment of the entity to another jurisdiction acceptable to the Bank.

6. Implementation

6.1 The Chief Risk Officer (CRO) shall introduce, if necessary, any related Instruction or Guideline to ensure the effective implementation of this Directive. The Head of Compliance and Operational Risk shall provide necessary support for the application and implementation of this Directive.

7. Application and Waiver

7.1 The CRO shall make all final decisions regarding the application of this Directive, including whether to grant a waiver thereof, in accordance with section 4.8 of the Directive on the Internal Legal Framework.