

Taxation: 3 jurisdictions removed, 3 added to EU list of non-cooperative jurisdictions

Press contacts

François Head

Press officer

+32 2 281 60 83

+32 475 95 38 07

The EU's list of non-cooperative jurisdictions in taxation matters has been adjusted in the light of:

- commitments made by listed jurisdictions;
- an assessment of jurisdictions for which no listing decision had yet been taken.

Moves have also been made to improve transparency in the listing process.

On 13 March 2018, the Council removed **Bahrain**, the **Marshall Islands** and **Saint Lucia** from the list and added the **Bahamas**, **Saint Kitts and Nevis** and the **US Virgin Islands**.

The EU's list is intended to **promote good governance** in taxation worldwide, maximising efforts to **prevent tax avoidance**, tax fraud and tax evasion. It was prepared during 2017 in parallel with work within the OECD.

"I am glad to see more jurisdictions that we listed in December committing themselves to reforming their tax policies in a manner that will remedy our concerns", said Vladislav Goranov, minister for finance of Bulgaria, which currently holds the Council presidency. "We call on all jurisdictions on the list to do likewise, and on all those that have already made commitments to implement them in a timely manner. Our aim is to achieve optimal tax transparency worldwide", he said.

Three jurisdictions removed

The EU list is contained in annex I of conclusions issued by the Council on 5 December 2017. Annex II cites a number of other jurisdictions that have undertaken commitments to reform their tax policies and which are subject to close monitoring.

Since the list was first published on 5 December 2017, Bahrain, the Marshall Islands and Saint Lucia have **made commitments** at a high political level to remedy EU concerns. In the light of an expert assessment of those commitments, the Council decided to move the three jurisdictions from annex I

to annex II.

Implementation of their commitments will be **carefully monitored**.

Three jurisdictions added

When it first published the list, the Council agreed to put on hold a screening of the tax systems of Caribbean jurisdictions that were struck by **hurricanes** in September 2017. The process was restarted in January 2018, when letters were sent requesting commitments to remedy EU concerns. The Bahamas, Saint Kitts and Nevis and the US Virgin Islands are added to the list (annex I) as a result of that process. This is because they have failed to make commitments at a high political level in response to all of the EU's concerns.

At the same time, the Council decided to add **Anguilla, Antigua and Barbuda**, the **British Virgin Islands** and **Dominica** to annex II. This was justified by commitments made to address deficiencies identified by the EU. Those commitments were assessed by EU experts, and their implementation will be carefully monitored.

The process continues with regard to an eighth Caribbean jurisdiction, the **Turks and Caicos Islands**, from which a commitment at a high political level is being sought by 31 March 2018 to address EU concerns.

Transparency

Since the list was first published in December 2017, moves have been made to boost transparency.

Public information on the commitments made by third country jurisdictions was initially limited to the contents of annexes I and II. However, in February 2018 the working group responsible for the listing process (the 'code of conduct group') asked for all of its letters seeking commitments to be published on the Council's website. On 6 March, a compilation of those letters was issued as a public document.

Moreover, commitments letters received from third country jurisdictions are being made public as soon as consent for publication is secured. And a specific Council webpage on the EU list is being prepared.

Nine jurisdictions remain

The decisions of 13 March 2018 were taken at a meeting of the Economic and Financial Affairs Council, without discussion.

As a result, 9 jurisdictions remain on the EU list: American Samoa, Bahamas, Guam, Namibia, Palau, Samoa, Saint Kitts and Nevis, Trinidad and Tobago and the US Virgin Islands.

These include 6 of the original 17, plus three of the Caribbean jurisdictions. (Eight of the original 17 were delisted on 23 January 2018.)

Whereas the list is to be **revised at least once a year**, the 'code of conduct group' can recommend an update at any time.

Jurisdictions that remain on the list are strongly encouraged to make the changes requested of them. Their tax legislation, policies and administrative practices result or may result in a **loss of revenues** for the EU's member states. Pending commitments to make such changes, the EU and the member states could apply **defensive measures**. Annex I includes recommendations on steps to take to be delisted.

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