



Euro Tax Flash from KPMG's EU Tax Centre



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ECOFIN of October 2, 2018 - Fourth revision of the EU list of non-cooperative jurisdictions for tax purposes

[ECOFIN – Code of Conduct Group – EU Blacklist – Tax Transparency – Good Tax Governance – EU Agreements](#)

On October 2, 2018, the Economic and Financial Affairs Council of the EU (ECOFIN) agreed to remove Palau from the EU blacklist of non-cooperative jurisdictions, first published on December 5, 2017 (see [ETF 345](#)), thus reducing to six the number of remaining blacklisted jurisdictions. The EU Finance Ministers also agreed to remove Peru and Liechtenstein from the grey list.

[Background](#)

The EU blacklist of non-cooperative jurisdictions for tax purposes is part of the EU's effort to counter tax avoidance and harmful tax practices and follows the European Commission's Anti-Tax Avoidance Package presented in January 2016. Among the measures proposed at the time was a common approach to working with third country jurisdictions on tax good governance matters. The aim was to replace the current patchwork of national lists with a single EU listing system, which was endorsed by the Member States on May 25, 2016 (see [ETF 283](#)).

The EU blacklist is based on a three-step process (see [ETF 301](#)) consisting of a pre-assessment, a screening phase and the listing. After a pre-assessment of third country jurisdictions based on factual information and risk indicators listed in the Scoreboard, an extensive screening and dialog process with the identified jurisdictions took place, which resulted in the Council's conclusions on the first EU list of non-cooperative jurisdictions for tax purposes issued on December 5, 2017. Out of the ninety-two jurisdictions chosen for screening, seventeen jurisdictions were placed on the blacklist.

Since the first EU blacklist was published in December 2017 it has been revised four times. On January 23, 2018, eight jurisdictions were removed from the blacklist. Later, on March 13, 2018, the Council removed three more countries and added the Bahamas, Saint Kitts and Nevis and the US Virgin Islands. On May 25, 2018, the ECOFIN agreed to remove the Bahamas and Saint Kitts and Nevis.

The ECOFIN Conclusions

On October 2, 2018, the ECOFIN agreed to remove Palau from the blacklist and move it to the grey list in Appendix II of the Conclusions. This decision is based on the Code of Conduct Group's assessment of the commitments made by this jurisdiction to reform its tax system in order to bring it into line with the EU screening criteria listed below.

- Tax transparency and exchange of information: compliance with international standards on the automatic exchange of information (Common Reporting Standard) and on the exchange of information on request, ratification of the OECD Multilateral Convention or bilateral agreements with all Member States, and the facilitation of the exchange of information. Compliance was assessed based on peer reviews in the OECD Global Forum on Transparency.
- Fair tax competition: the presence of harmful tax regimes, assessed based on reviews by the OECD Forum on Harmful Tax Practices.
- Anti-BEPS measures: Implementation of the BEPS minimum standards measured according to OECD BEPS Inclusive Framework reviews.

The Council also removed Peru and Liechtenstein from the grey list in Annex II. This follows Peru's accession to the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters, which entered into force for the latter on September 1, 2018, as well as the positive assessment of the reforms implemented by Liechtenstein regarding the tax regimes identified by the Code of Conduct as harmful tax competition.

As of October 2, 2018, the EU blacklist consists of the following six jurisdictions: American Samoa, Guam, Namibia, Samoa, Trinidad and Tobago and the US Virgin Islands. Commitments taken by the grey-listed jurisdictions will be monitored and should be implemented by the end of 2018 for most countries, with a possible extension to 2019 for developing countries.

EU Tax Centre comment

The revision of the EU blacklist should be seen in light of the EU's continued efforts to counter tax avoidance and harmful tax practices. Since the first EU blacklist was published in December 2017, it has been revised four times and eleven jurisdictions have been moved from the blacklist to the grey list. Although this illustrates that the EU blacklist is a living document and that commitments made by listed jurisdictions are taken into account, this new revision may further attract criticism, in particular as regards the lack of credibility around the screening and monitoring process.

Should you have any queries, please do not hesitate to contact [KPMG's EU Tax Centre](#), or, as appropriate, your local KPMG tax advisor.



Robert van der Jagt

Chairman, KPMG's EU Tax Centre and
Partner,
Meijburg & Co

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KPMG's EU Tax Centre, Laan van Langerhuize 9, 1186 DS Amstelveen, Netherlands

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