

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

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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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[Corporate tax avoidance: Agreement reached on tax intermediaries](#)

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On 13 March 2018, the Council reached agreement on a proposal aimed at boosting transparency in order to tackle aggressive cross-border **tax planning**.

The draft directive is the latest of a number of measures designed to prevent corporate tax avoidance.

It will require intermediaries such as **tax advisors, accountants and lawyers** that design and/or promote tax planning schemes to report schemes that are considered potentially aggressive.

The member states will be required to automatically exchange the information they receive through a **centralised database**. This will enable new risks of tax avoidance to be determined earlier and measures to be taken to block harmful arrangements.

Member states will be obliged to impose **penalties** on intermediaries that do not comply with the transparency measures.

“Enhancing transparency is key to our strategy to combat tax avoidance and tax evasion”, said Vladislav Goranov, minister for finance of Bulgaria, which currently holds the Council presidency. “If the authorities receive information about aggressive tax planning schemes before they are

implemented, they will be able to **close down loopholes** before revenue is lost.”

Member states find it increasingly difficult to protect their tax bases from erosion, as cross-border tax planning structures become ever more sophisticated. The draft directive is aimed at preventing aggressive tax planning by enabling increased scrutiny of the activities of tax intermediaries.

The draft directive establishes ‘hallmarks’ to identify the types of schemes to be reported to the tax authorities. The requirement to report a scheme won’t imply that it is harmful, only that it may be of interest to tax authorities for further scrutiny. Whilst many schemes have entirely legitimate purposes, the aim is to identify those that do not.

The proposal broadly reflects action 12 of the **OECD’s** 2013 action plan to prevent tax base erosion and profit shifting.

Agreement was reached at a meeting of the Economic and Financial Affairs Council. The Council will adopt the directive without further discussion once the text has been finalised in all official languages.

Member States will have until 31 December 2019 to transpose it into national laws and regulations.

The new reporting requirements will apply **from 1 July 2020**. Member states will be obliged to exchange information every three months, within one month from the end of the quarter in which the information was filed. The first automatic exchange of information will thus be completed by 31 October 2020.

The directive requires unanimity within the Council, after consulting the European Parliament. The Parliament voted its opinion on 1 March 2018. (Legal basis: articles 113 and 115 of the Treaty on the Functioning of the European Union.)

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Construction firm fined over safety and welfare failings

A construction firm has been fined after failing to safeguard the public and workers from an unsafe excavation and lifting operation, and not providing adequate welfare facilities for workers on site.

Greater Manchester Magistrates’ Court heard how, on 23 June 2016, Toft Construction Limited were undertaking the refurbishment of a domestic

property in Salford. A Health and Safety Executive (HSE) inspector issued two prohibition notices (PNs) to the company when he found an unsupported, deep excavation in the front garden with insufficient controls to prevent members of the public accessing the hazard. The inspector also found that a steel beam was being lifted unsafely.

The investigation also found that there were no toilet and washing facilities for workers on the site. The company also failed to comply with an improvement notice that was issued after the inspector's visit, after failing to provide suitable and sufficient welfare facilities.

The HSE investigation found that Toft Construction Ltd did not properly plan the lifting operations or carry it out safely. The company failed to take suitable and sufficient measures to prevent falls into the excavation and to fence it off to prevent risks to the public.

Toft Construction Limited, of Three Acres Lane, Cheadle Hume, Cheshire, pleaded guilty to breaching Sections 2(1), 3(1) and Section 33(1) (g) of the Health and Safety at Work etc. Act 1974. The company also pleaded guilty to breaching Regulations 15(11) and Regulation 2 of the Construction (Design and Management) Regulations 2015.

The company was fined £20,000 with £5,176.90 costs.

HSE inspector David Argument said after the hearing: "These risks could so easily have been avoided by simply carrying out correct control measures and safe working practices. Companies should be aware that HSE will not hesitate to take appropriate enforcement action against those that fall below the required standards".

Notes to Editors:

1. The Health and Safety Executive (HSE) is Britain's national regulator for workplace health and safety. We prevent work-related death, injury and ill health through regulatory actions that range from influencing behaviours across whole industry sectors through to targeted interventions on individual businesses. These activities are supported by globally recognised scientific expertise. www.hse.gov.uk
2. More about the legislation referred to in this case can be found at: www.legislation.gov.uk/
3. HSE news releases are available at <http://press.hse.gov.uk>

Journalists should approach HSE press office with any queries on regional press releases.

Grant of new franchise to Star Ferry

The Chief Executive in Council has decided to grant a new franchise to The "Star" Ferry Company, Limited (Star Ferry) for continued operation of the two franchised ferry routes, "Central – Tsim Sha Tsui" and "Wan Chai – Tsim Sha Tsui", for a period of 15 years from April 1, 2018 to March 31, 2033.

"Star Ferry has undertaken to provide ferry services plying across Victoria Harbour at economical fares for citizens and tourists. It will also continue to provide ferry fare concessions for elderly, children and disabled persons according to the existing mechanism," a spokesman for the Transport and Housing Bureau said.

The key factor that the Government takes into account in considering the award of a ferry franchise to an operator is its capability of providing a proper and efficient ferry service. Since the grant of the current franchise, Star Ferry has been providing proper and efficient ferry services to the public. During the discussion of the new franchise, the Government has requested Star Ferry to proactively follow up on the concerns raised by the public, as well as on various cross-bureaux and cross-departmental policy objectives. Star Ferry has launched new measures in response to the Government's requests, including improving service quality, further enhancing the environmental performance of the fleet, consolidating pier management and enhancing the harbourfront.

For service quality improvement, Star Ferry will provide a free wi-fi service in the passenger waiting areas at the piers starting from April this year and has agreed to open up information including the fare tables and ferry schedule to the Government and public through an application programming interface, which will facilitate third-party development of other mobile applications. Besides, Star Ferry has undertaken to strengthen staff training starting from early 2018, including further improving service attitudes and proficiency in English and Putonghua, as well as continuing to explore how its services can be further diversified to attract more inbound tourists.

For enhancing the environmental performance of its fleet, Star Ferry plans to retrofit the diesel engines of two ferries using a green diesel-electric propulsion system this year and to retrofit one ferry per year thereafter. Star Ferry has also expressed willingness in exploring the opportunity of introducing electric ferries in the future.

For harbourfront enhancement, the management of various Star Ferry piers will be consolidated under the new franchise. Star Ferry will take up overall management responsibilities for Central Pier No. 7 and the Central Terminal Building, Wan Chai Ferry Pier and Tsim Sha Tsui Ferry Pier. Star Ferry has also undertaken to enhance the harbourfront by bringing in vibrancy. Star Ferry is working out concrete proposals for further deliberation with the Government and will solicit views from stakeholders (including the Harbourfront Commission) in a timely manner, as well as seeking necessary approval from the relevant authorities. Any additional non-fare box revenue

generated from the enhancement proposals will be used to cross-subsidise the franchised ferry operations as per the established practice.

Cluster of Bordetella Pertussis cases in Prince of Wales Hospital

The following is issued on behalf of the Hospital Authority:

The spokesperson for Prince of Wales Hospital made the following announcement today (March 13):

Three babies (two male and one female, aged 28 days to 30 days) in a postnatal ward presented with respiratory symptoms since February 25. Appropriate viral tests were arranged for the babies and the test results were positive for Bordetella Pertussis. Two of them have been discharged while the remaining one is under isolation treatment with stable condition.

In accordance with prevailing infection control guidelines, the hospital has performed contact tracing and no new cases were found.

The hospital infection control team has discussed the matter with the Centre for Health Protection and the following enhanced infection control measures have been adopted:

1. Thorough cleaning and disinfection of the cubicle concerned;
2. Enhanced environmental hygiene in the ward; and
3. Carrying out stringent infection control measures, including reminding families of babies and visitors to wear surgical masks and wash hands.

The cases have been reported to the Hospital Authority Head Office and the Centre for Health Protection for necessary follow-up. The hospital will continue to closely monitor the condition of patients in the ward.