EU Updates List of Non-Cooperative Jurisdictions for Tax Purposes – Crown Dependencies Moved to White List

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Following lengthy consideration since December 2017, the European Union, on 12 March, updated its blacklist of non-cooperative jurisdictions in tax matters. It has added 10 new jurisdictions, meaning that there are now 15 countries on the blacklist.

More significantly for the funds and private equity industry, however, is the transfer of Jersey, Guernsey and the Isle of Man from the grey list to the white list. Cayman Islands remains on the grey list, but is in the process of agreeing changes to relevant legislation for the end of 2019 which might warrant transfer to the white list.

The relevance of being blacklisted for funds is that certain EU investors, including the European Investment Bank, are unwilling to invest in structures which include blacklist jurisdiction entities.

The transfer of Jersey, Guernsey and the Isle of Man to the white list follows their efforts over the past few years to enhance their tax transparency procedures, including implementing mandatory disclosure rules for the Common Reporting Standard on investors' tax residency and sharing information on beneficial ownership.

Most recently, at the end of 2018, they agreed new rules setting requirements for businesses operating on the islands (including in the asset management sphere) to have sufficient local human and economic substance to justify their income-generating activities. These new rules, and the accompanying guidance, will need to be taken into consideration when establishing business entities in these jurisdictions. Cayman Islands are introducing similar rules.

Countries on the blacklist now are American Samoa, Aruba, Barbados, Belize, Bermuda, Dominica, Fiji, Guam, Marshall Islands, Oman, Samoa, Trinidad and Tobago, United Arab Emirates, the US Virgin Islands and Vanuatu.