Council of the EU

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Taxation: British Virgin Islands, Costa Rica, Marshall Islands and Russia added to EU list of non-cooperative jurisdictions for tax purposes

The EU continues to promote fair tax competition and address harmful tax practices. The Council today decided to add **British Virgin Islands, Costa Rica, Marshall Islands** and **Russia** to the EU list of non-cooperative jurisdictions for tax purposes. With these additions, the EU list now consists of 16 jurisdictions:

- American Samoa
- Anguilla
- Bahamas
- British Virgin Islands
- Costa Rica
- Fiji
- Guam
- Marshall Islands
- Palau
- Panama
- Russia
- Samoa
- Trinidad and Tobago
- Turks and Caicos Islands
- US Virgin Islands
- Vanuatu

The Council regrets that these jurisdictions are non-cooperative on tax matters and invites them to improve their legal framework in order to resolve the identified issues.

> Today, we decided to add four jurisdictions to the EU list of non-cooperative jurisdictions for tax purposes: British Virgin Islands, Costa Rica, Marshall Islands and Russia. We ask all listed countries to improve their legal framework and to work towards compliance with international standards in taxation. At the same time I warmly congratulate North Macedonia, Barbados, Jamaica and Uruguay as they successfully fulfilled their commitments and could be removed from the state of play document.
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> *Elisabeth Svantesson, Minister for Finance of Sweden*

Reasons for adding British Virgin Islands, Costa Rica, Marshall Islands and Russia

This revised EU list of non-cooperative tax jurisdictions (Annex I) includes countries that either have not engaged in a constructive dialogue with the EU on tax governance or have failed to deliver on their commitments to implement the necessary reforms. Those reforms should aim to comply with a set of objective **tax good governance criteria**, which include **tax transparency, fair taxation** and implementation of international standards designed to **prevent tax base erosion and profit shifting**.

The code of conduct group, the EU Council body which prepares the updates of the list, is cooperating closely with international bodies such as the FHTP to promote tax good governance worldwide.

For the **Marshall Islands**, there are concerns that this jurisdiction which has a zero or only nominal rate of corporate income tax is attracting profits without real economic activity (criterion 2.2 of the EU list). In particular, the Marshall Islands were found to be lacking in the enforcement of economic substance requirements. The Marshall Islands have been listed already once, in 2018.

British Virgin Islands are listed because they were found not to be sufficiently in compliance with the OECD standard on exchange of information on request (criterion 1.2). This is the first time this jurisdiction is listed.

For the first time since the list was established, **Costa Rica** is included because it has not fulfilled its commitment to abolish or amend the harmful aspects of its foreign source income exemption regime (criterion 2.1).

Russia is listed after the code of conduct group screened Russia's new legislation adopted in 2022 against the good tax governance criteria of the code and found that Russia had not fulfilled its commitment to address the harmful aspects of a special regime for international holding companies (criterion 2.1). In addition, dialogue with Russia on matters related to taxation came to a standstill following the Russian aggression against Ukraine.

State of play document (Annex II)

In addition to the list of non-cooperative tax jurisdictions, the Council approved the usual state of play document (Annex II) which reflects the ongoing EU **cooperation with its international partners and the commitments of these countries** to reform their legislation to adhere to agreed tax good governance standards. Its purpose is to **recognise ongoing constructive work in the field of taxation,** and to encourage the positive approach taken by cooperative jurisdictions to implement tax good governance principles.

Barbados, Jamaica, North Macedonia and **Uruguay** fulfilled their commitments and could therefore be removed from the state of play document (Annex II).

Hong Kong and **Malaysia** were granted an extension of the deadline to complete the reform of their foreign source income exemption regimes as regards capital gains.

Qatar was also granted an extension because it faced constitutional reform constraints to complete its reform on time.

Annex II also features two new commitments in the context of the work of the Global Forum: both **Aruba** and **Curaçao** committed to improving their Global Forum determinations as regards the automatic exchange of information on financial accounts. **Belize** and **Israel** also made this commitment, but they already featured in Annex II for other criteria.

Albania committed to amend or abolish its potentially harmful regime.

The rest of Annex II remains unchanged.

Background

The EU list of non-cooperative jurisdictions for tax purposes was established in December 2017. It is part of the EU's external strategy on taxation and aims to contribute to ongoing efforts to promote tax good governance worldwide.

Jurisdictions are assessed on the basis of a set of criteria laid down by the Council. These criteria cover tax transparency, fair taxation and implementation of international standards designed to prevent tax base erosion and profit shifting. Work on the list is a dynamic process. Since 2020**, the Council updates the list twice a year.** The next revision of the list is scheduled for October 2023.

The list is set out in Annex I of the Council conclusions on the EU list of non-cooperative jurisdictions for tax purposes. The conclusions also include a state-of-play document (Annex II) identifying cooperative jurisdictions which have made further improvements to their tax policies or related cooperation.

The Council's decisions are prepared by the Council's code of conduct group which is also responsible for monitoring tax measures in the EU member states.

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