



## THE BANKSTREET GROUP

### SEE ADDENDUM IV

14 June 2017

BRUSSELS (Reuters) - European Union finance ministers will decide on Tuesday on the composition of an EU blacklist of tax havens that now includes about 20 jurisdictions but could end up with far fewer names after political horse-trading.

Following multiple disclosures of offshore tax avoidance schemes by companies and wealthy individuals, EU states launched a process in February to list tax havens in a bid to discourage setting up shell structures abroad which are themselves in many cases legal but could hide illicit activities.

After almost a year of screening 92 jurisdictions seen as possible tax havens, EU experts have prepared a draft blacklist of those falling short of EU standards on tax transparency and cooperation.

The list contains "about 20" jurisdictions, a senior EU official said on Friday, adding that the number might be reduced when finance ministers meet on Tuesday in Brussels as some EU governments could oppose the inclusion of some jurisdictions.

The adoption of the list is deemed a certainty by many EU officials, especially after renewed public pressure triggered by the so-called Paradise Papers, the most recent revelations of widespread offshore investment by the wealthiest.

But the listing was far from a sure thing just a few weeks ago, and the official said ministers could still decide to postpone its adoption.

Divisions also remain over sanctions. To win over skeptical governments, the most effective countermeasures, such as a levy on transactions to tax havens, could be left to national discretion, a move that might create loopholes. Other EU sanctions, such as the freezing of European funding, cause less controversy but are regarded as much less effective in persuading the richest tax havens to change course.

The official said a second “grey” list had been drawn up to include jurisdictions who are not compliant with EU standards but have committed to change their tax rules.

This list is seen as a victory for countries who are cool about the process, like Luxembourg or Malta, because several jurisdictions deemed as currently acting as tax havens will avoid the reputational risks associated with blacklisting.

The grey list could remain undisclosed if ministers so decided. The official said around 20 other countries are on the grey list.

EU finance ministers are also expected to adopt a common position on taxation of tech corporations like Amazon or Facebook. They have been accused of paying too little tax in the EU by rerouting the booking of their profits to low-tax nations where they have set up headquarters, like Luxembourg or Ireland.

The draft text of the conclusions on the agenda for Tuesday’s meeting has been watered down under pressure from reluctant countries.

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#### COMMENTARY

If we are to conceive of a grand design to be used for investment projects within the confines of the Caribbean Diaspora not only must The Bankstreet Group develop some very innovative strategies that will take into account the unconstrained efforts by the European Commission to put the Caribbean Diaspora out of business. Innovation and new ideas will also have to include how to assist the governments cited on the Blacklist in transforming their governance. Impossible? Nothing tried...nothing gained.

There exist a number of questions as to the “why” of the onslaught that the OECD/Euro Commission bears against Offshore Caribbean Financial Centres. This unfortunate saga began in the year 2000. The initial list of fifteen countries regarded as uncooperative in the fight against money laundering, was published in June 2000. The list met criticism from professionals experienced in the offshore financial

sector. The designation of the Cayman Islands as a non-cooperative was thought to be harsh, particularly as the 2000 report itself acknowledged that "the Cayman Islands has been a leader in developing anti-money laundering programmes throughout the Caribbean region. It has served as president of the Caribbean Financial Action Task Force, and it has provided substantial assistance to neighbouring states in the region. It has demonstrated cooperation on criminal law enforcement matters, and uncovered several serious cases of fraud and money laundering otherwise unknown to authorities in FATF member states.

The new 2017 Blacklist begs a tint of sardonic derision given the fact that it is not the poor Caribbean Diaspora islands that have accumulated over \$350 Billion in fines since 2008 for an abundance of regulatory failings from money laundering to market manipulation and terrorist financing. The era of ever-increasing regulatory requirements is here to stay, BCG said, despite President Donald Trump's pledge to roll back the 2010 Dodd-Frank Act that reshaped U.S. banking in the aftermath of the collapse of Lehman Brothers Holdings Inc. The number of rule changes that banks must track on a daily basis has tripled since 2011, to an average of 200 revisions a day, according to the report.<sup>1</sup>

The FATF identifies jurisdictions with weak measures to combat money laundering and terrorist financing (AML/CFT) in two FATF public documents that are issued three times a year. The FATF's process to publicly list countries with weak AML/CFT regimes has proved effective. As of November 2017, the FATF has reviewed over 80 countries and publicly identified 64 of them. Of these 64, 52 have since made the necessary reforms to address their AML/CFT weaknesses and have been removed from the process (see also, [an overview of the jurisdictions currently identified in this process](#)).

American Samoa, Bahrain, **Barbados**, **Grenada**, Guam, South Korea, Macau, Marshall Islands, Mongolia, Namibia, Palau, **Panama**, **Saint Lucia**, Samoa, **Trinidad and Tobago**, Tunisia and the United Arab Emirates are not doing enough to crack down on offshore avoidance schemes.

Intermediaries will have to report any cross-border arrangement that contains one or more of the 'hallmarks' listed in the proposal. These hallmarks are features or characteristics in a transaction that could potentially enable tax avoidance or abuse. Examples of these hallmarks include arrangements which:

- involve a cross-border payment to a recipient resident in a no-tax country;
- involve a jurisdiction with inadequate or weakly enforced anti-money laundering legislation;
- are set up to avoid reporting income as required under EU transparency rules;
- circumvent EU information exchange requirements for tax rulings;
- have a direct correlation between the fee charged by the intermediary and what the taxpayer will save in tax avoidance;
- ensure that the same asset benefits from depreciation rules in more than one country;
- enable the same income to benefit from tax relief in more than one jurisdiction;
- do not respect EU or international transfer pricing guidelines.

<sup>1</sup> *Bloomberg, The World's Biggest banks Fined \$321 Billion...By Gavin Finch, March 2, 2017, 12:01 AM EST*

There has been talk of adding Turkey. The US, despite being the location of secrecy states like Delaware and Wyoming, where companies can be set up without declaring who owns them, is definitely not on the list. Neither is Switzerland. Most controversially, no EU country is named. Corporations, including banks, have for a long time been artificially shifting their profits to countries with very low, or zero, corporate tax rates. This accounting trick, used to avoid paying tax, is widespread and is evidenced by corporations registering very low profits or even losses in countries that have fairer corporate tax rates. These tricks deny countries large amounts of potential tax revenue. This in turn increases inequality and poverty, as governments are forced to decide between increasing indirect taxes such as value-added tax, which are paid disproportionately by ordinary people, or cutting public services, which again hits the poorest people hardest, particularly women.

Banks play an integral role in the operation of tax havens. Between them, tax havens and banks provide the foundations for a rigged global economic system that enables the redistribution of wealth and income upwards via tax dodging, contrary to the false premise that wealth trickles down. There are several reasons banks have a strong involvement in tax havens that can explain the results outlined above.

First, as multinational companies, banks can artificially shift their profits from one country to a tax haven in order to reduce their tax bill. There are many techniques commonly used by multinationals, as highlighted by recent scandals (such as those involving Apple<sup>53</sup> and Zara<sup>54</sup>, for example). Companies rely on the mismatches and gaps that exist between the tax rules of different jurisdictions and minimize their tax contributions by making taxable profits ‘disappear’, shifting profits to operations in Low tax jurisdictions.

The blacklisting of Barbados and Trinidad & Tobago by the European Union (EU) will have serious implications for these islands’ economy. So...how do we at Bankstreet structure transactions so that we can pursue investment opportunities in these jurisdictions. This is when the notion of “innovation” takes upon itself a life of its own. All things being equal....and I never thought that these words would pass my lips but “ we might do much better if we were domiciled in the USA.

It is only the USA that has seen the light at the end of the tunnel. Lower taxes than the EU countries would not be trying to castrate the economies of developing countries in order to service their out-of-reach debt service. Their socialism is more expensive than their income can support. France wants to maintain 55% taxes and sanction poor countries in the Caribbean Diaspora for not imposing taxes. And...just may be, BREXIT was not a far fetched idea.

International Business Minister, Barbados, Donville Inniss in Barbados could not have elaborated the situation any better than he did in his emphatic statement on Wednesday, 8 December 2017 at a press conference convened at Baobab Tower, Warrens, St. Michael, to address the actions/decisions of the EU in Brussels on December 5, that saw the country listed among non-cooperative jurisdictions for tax purposes.

While noting that the EU's decision could impact negatively and have the effect of international institutions refusing to conduct business in this jurisdiction or experiencing increased cost when trading with our country, he assured the media, Government would be fighting to get the country delisted as soon as possible.

“When multinational groupings, as particularly as powerful as the EU is, issue these kinds of lists and reports, they are picked up by other groupings and organizational bodies, including financial institutions, who may then decide that the cost of doing business or financing projects in jurisdictions like ours then has to be increased. Or, they may very well go the full gamut of saying that we restrict doing business in domiciles such as Barbados.....”

**WE ARE OPEN TO ALL INNOVATIVE IDEAS...VISIONS.....GOALS!**

Please submit your ideas....to:

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