



OFFICE OF THE ATTORNEY-GENERAL AND MINISTER OF LEGAL AFFAIRS

Q & A ON THE EU LISTING OF THE BAHAMAS

Question 1.

Is the recent EU listing about tax cooperation?

Answer

No. This list is completely separate from the EU tax blacklist, and has been tabled under the 4th EU Anti-Money Laundering Directive, (AMLD4) which is the EU law that outlines measures to prevent the use of the financial system for the purposes of money laundering or terrorist financing. Article 9 of this directive requires the EU to identify 'high-risk third countries with strategic AML/CFT deficiencies.' The Bahamas is compliant on tax cooperation and transparency and is not included on any EU blacklist for tax purposes.

Question 2.

Has the EU list taken effect?

Answer

No. The AML list published by the EU Commission is a proposed list, is not yet final and it is not yet formally adopted by the EU. The EU Commission has the Delegated authority to propose a list. However, the EU Council and the European Parliament have one month to object to the EU Commission's assessment. If either body objects, the list will not be finalized and will not be formally adopted. This was what happened to the list proposed by the EU Commission in 2019 which was rejected by the EU Council on the basis of the inclusion of Saudi Arabia and four U.S. territories, each of which provoked objections from some Member State governments. If the list is finalized and adopted by the EU it will go into effect in October, 2020.

Question 3.

What was the stated criteria for inclusion on the most recent list?

Answer

The principal stated reason for the inclusion of the Bahamas was the inclusion of The Bahamas on the FATF list of jurisdictions with strategic AML deficiencies, known as the 'Grey List'. The FATF has

acknowledged that The Bahamas has remediated the issues identified in its assessment of our anti-money laundering framework and had agreed to an onsite inspection as part of the formal process of exiting the 'Grey List'. This onsite visit was scheduled for April 2020 but had to be postponed as a result of the COVID19 pandemic.

The Bahamas will continue to liaise with the FATF to ensure the on-site inspection takes place as soon as possible with a view to The Bahamas being removed from the 'Grey List' prior to finalization of the EU AML blacklist in October, 2020.

Question 4.

What is the motivation behind publication of the EU's AML listing?

Answer

The EU Commission has indicated that the most recent list revisions is a part of the overhaul of its AML/CFT regime. The process has been shown to be both technical and political in the determination of which jurisdictions are listed. There has been evident conflict between Member States of the EU Council and the EU Parliament over the scope of the blacklist. The EU has just launched a proposal to revamp the AML regime in the EU, with responsibility proposed to be consolidated in an EU regulatory oversight body as opposed the Member States. This will be subject to much debate in the EU Member States.

The EU Commission has specifically reaffirmed that there are no ulterior motives towards any country which underpinned the composition of the list and that, in the absence of any specifically devised methodology, the only methodology being followed was that of the FATF. The sole criterion for listing is whether a jurisdiction is subject to an ICRG Action Plan agreed with the FATF. Once a jurisdiction has been removed from the FATF list, the same course of action will be taken in respect of the EU list.

Question 5.

What is The Bahamas' response to the EU's AML/CFT Blacklist?

Answer

The Bahamas has expressed its disappointment to the EU over the EU's intention to include The Bahamas on the list of high risk third countries. We are engaged with EU officials at the highest diplomatic and political level to demonstrate the strength of The Bahamas' AML/CTF regime. The Bahamas maintains that it is attaining the highest standards in the fight against money laundering, terrorist financing and other identified financial crimes risks. The Bahamas remains fully committed to the highest standards of compliance with every internationally agreed standard of conduct. Again, The Bahamas will continue to liaise with the FATF to ensure the on-site inspection takes place as soon as possible with a view to The Bahamas being removed from the 'Grey List' prior to finalization of the EU AML blacklist in October, 2020.

Having now reached Stage 1B in the national plan for re-opening the economy, The Bahamas is ready to accommodate the on-site visit at any convenient time, going forward.

Reference:

https://ec.europa.eu/finance/docs/level-2-measures/aml-delegated-act-2020-2801_en.pdf