



White, grey and blacklists

The EU has finally updated its list of non-cooperative tax jurisdictions. The Crown Dependencies of Guernsey, Jersey and the Isle of Man have been white-listed. The BVI and Cayman remain on the EU's grey-list. And there was one big surprise: Bermuda was blacklisted. No one expected Bermuda to be blacklisted ahead of the Caribbean jurisdictions.

The EU says that its decisions on who to put on what list 'was based on an intense process of analysis and dialogue steered by the Commission. The list has proven a true success with many countries having changed their laws and tax systems to comply with international standards'.

The Commission assessed 92 countries based on three criteria: tax transparency, good governance and real economic activity, as well as one indicator, the existence of a zero corporate tax rate. The EU says that 60 countries took action on the Commission's concerns and over 100 harmful regimes were eliminated.

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Spiralling substance costs

There is a growing substance tsunami enveloping the industry, both offshore and in EU jurisdictions. It is driven by political and regulatory considerations, not what's good for investors. And it's changing fund structures.

Offshore to drive more substance has been driven by the EU. Some people working in the offshore industry believe that what lies, in part, behind the blacklist threat from Brussels is a determination not to allow offshore jurisdictions like Guernsey, Jersey and Cayman to become too competitive. Costs have been spiralling in Ireland and Luxembourg. Offshore funds shouldn't be allowed to have a much lower cost base than those in the EU, it is believed.

To avoid being blacklisted by the EU, as the ADI has covered before, offshore fund domiciles (and others) have agreed to the EU's Code of Conduct Group demand that companies in their jurisdictions must be able to demonstrate have their core income generating activities (CIGA) based there. Cayman, Guernsey, Jersey and the Isle of Man have passed legislation that requires companies in their jurisdiction must be able to demonstrate a link between the activity carried out and the local economic substance which supports that activity.

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