COLLAS CRILL

The Cayman Islands has been added to the EU Blacklist. What now?

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What has happened?

The Cayman Islands was added to the EU blacklist of non-cooperative jurisdictions for tax purposes (**EU Blacklist**) on 18 February 2020.

Why has this happened?

The Cayman Islands has introduced wide-reaching economic substance legislation to satisfy the EU's and OECD's economic substance requirements. In April 2019, the EU confirmed that such legislation had satisfied the economic substance requirements, subject to implementing additional measures for collective investment funds (**CIVs**). In June 2019 the OECD's Forum of Harmful Tax Practices evaluated the economic substance legislation of the Cayman Islands and assessed it as 'not harmful' which is the highest possible ranking. Premier McLaughlin has noted that, since 2018, Cayman has adopted more than 115 legislative changes in line with the EU's recommendations.

The blacklisting is likely to be the consequence of a timing issue in relation to the Cayman Islands bringing into force new legislation to address the EU's concerns for CIVs. The Private Funds Law and the Mutual Funds (Amendment) Law were passed on 31 January 2020 and enacted on 7 February 2020. These laws enhance Cayman's funds regime in line with EU recommendations. However, the EU's Code of Conduct Group met on 4 February 2020 – i.e. before the 7 February 2020 enactment date - to advise the EU Finance Ministers on the listing. At the time of the Code of Conduct Group meeting, the new legislation had not been enacted.

What happens next?

It is expected that Cayman's inclusion on the list will be temporary. The Cayman Islands Government has advised that it has contacted EU officials to begin the process of being removed from the EU Blacklist as soon as possible (expected to be in October 2020).

What will the impact be?

The practical impact of the EU blacklist on most Cayman entities and funds will be limited at this point and, as it is anticipated that the listing will only be temporary, there is unlikely to be any reason to undergo any

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significant restructuring of structures including Cayman entities or Cayman investment funds.

EU Member States have been encouraged to apply additional administrative measures regarding structures or transactions with jurisdictions on the EU blacklist. Member States will also be required to implement at least one of four suggested defensive measures by 1 January 2021.

What should we do?

If you have concerns about your Cayman structure and the impact of the listing of Cayman on the EU Blacklist, please contact your usual Collas Crill contact so that we can help you to assess the potential impact for you.

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