



## Delaware Papers: *follow-up*

***Black + Grey = Whitewash***

The EU has put 17 jurisdictions on a blacklist: American Samoa, Bahrain, Barbados, Grenada, Guam, South Korea, Macau, Marshall Islands, Mongolia, Namibia, Palau, Panama, St Lucia, Samoa, Trinidad and Tobago, Tunisia and the United Arab Emirates.

However, when contrasting the revelations in the Paradise and Panama Papers about international tax schemes, exposing some of the intricate ways that the world's wealthy use to evade tax through offshore havens, it quickly becomes apparent that the EU has chosen to target countries with little economic or political weight.

By limiting condemnation to finger-pointing at jurisdictions on the fringe of the global economy, the accusations are an overt diversion from a much darker reality.

The blacklist does not include a single western nation, even though the brains and much of the infrastructure that guides global tax avoidance originate in the EU and the United States.

### **The Grey List**

Another 47 jurisdictions make up a “grey list” of countries that are not as yet compliant with the standards demanded by the European Union. The EU Commission promises to monitor fiscal procedures until they prove fully compliant. Conspicuously missing from the Grey List are EU members such as Luxembourg, Holland, Ireland and Malta as well as any states in the US. Eight Caribbean islands were temporarily excluded due to hurricane clean up priorities.

### **Offshore tax schemes**

The issue of tax avoidance is not going away. Corporations and wealthy elites are totally addicted. The amounts involved are staggering. “BEPS”



(base erosion and profit shifting) runs into the tens of trillions of US dollars every year. Estimates exceed US\$500 billion in lost tax revenues worldwide. Many tax havens, as comparatively small countries, will resist genuine change, as a decent standard of living cannot readily be provided by tourism, agriculture and fishing.

Alex Cobham, chief executive of the Tax Justice Network, said:

*“The EU has today missed a great opportunity to tackle the real issues lying behind the large-scale tax avoidance and tax evasion that is bleeding EU countries dry. Rather than have a list of tax havens based on an objective set of criteria, as originally envisaged, the list appears to be a political fix with EU members picking their least favourite countries to name and shame. The result of the flawed blacklisting process is a politically led list, that includes only the economically weak and politically unconnected. The list is hard to take seriously.”*

### **No immediate change**

Following the release of the first blacklist, we do not anticipate immediate change in 2018 in the treatment of “white-listed” offshore companies in Portugal. We are relieved that company owners can be spared a stampede that would only bring chaos and complications to everyone.

However, we continue to believe that everyone should remain mindful of the “*handwriting on the wall*”. Because the EU Commission’s initial attempt failed to produce a purposeful outcome, the issue will not going away. Moving from an offshore company to a Portuguese structure remains an attractive solution.

### **Whitewash instead of Blacklist**

There has never been any doubt as to whether or not Delaware should be “blacklisted”. The US’s refusal to sign up for information sharing under the international Common Reporting Standard, failure to identify beneficial owners of trusts and shell companies, sweetheart tax deals available to non-residents, all would be more than sufficient grounds for reprimand or sanctions for any other country in the world.



The question has always been: Is the US too big and too powerful for the EU to condemn duplicitous practices for which even some of its own members also bear guilt?

Be sure of one thing: the threat does not come from the likes of Palau or Samoa (even if you know where to find them on the map!). For the time being: *“Might makes right”*.

However, because the EU has fallen short on the first try does not mean that a more courageous approach will not prevail in the future. Let’s hope that we can reach a better solution than simply *“beating up on the little guy”*.

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