

OCTOBER 2023

## BVI REMOVED FROM THE EU 'BLACKLIST'

**On 17 October 2023, the BVI was removed from the EU's 'blacklist' of non-cooperative jurisdictions for tax purposes following a meeting of the EU's Economic and Financial Affairs Council.**

The EU's Economic and Financial Affairs Council (**Council**) has removed the BVI from its blacklist of non-cooperative jurisdictions for tax purposes. The Council's press release can be found [here](#).

The Council's decision reflects legislative changes enacted by the BVI Government in 2022 relating to exchange of information by tax authorities and recognises the BVI's efforts to comply with industry best practice and the standards expected of a leading financial services centre.

### Background

The EU's list of non-cooperative jurisdictions for tax purposes was first adopted by the Council on 5 December 2017 (**List**). The List is part of the EU's work to "fight tax evasion and avoidance" and is "composed of countries which have failed to fulfil their commitments to comply with tax good governance criteria within a specific timeframe, and countries which have refused to do so". Jurisdictions must meet a number of requirements in order to be considered cooperative for tax purposes by the EU, along with certain thresholds on tax transparency, fair taxation and anti-base erosion profit sharing measures. The List is updated twice a year based on the outcome of monitoring measures which assess countries and territories against international tax standards.

If a jurisdiction is added to Annex I of the List (or 'blacklisted'), companies incorporated in that jurisdiction may experience higher barriers when seeking finance (even from non-EU sources), and those companies, or transactions involving them, may be subject to additional administrative burdens (i.e. anti-tax evasion or anti-money laundering checks) when doing business in EU Member States or with parties domiciled there.

The BVI was first added to the List in March 2018. Having been assessed as a "largely compliant" jurisdiction, the BVI was added to Annex II of the list, also known as the 'grey list'. The grey list includes countries which have committed to address certain deficiencies identified by the EU.

In November 2022, the BVI was assessed by the Organisation for Economic Co-operation and Development's (**OECD**) Global Forum on transparency and exchange of information for tax purposes as being "partially compliant" with the OECD scheme. Pursuant to the Council's rules, the OECD rating automatically triggered a re-assessment of the BVI's EU listing and, on 21 February 2023, the BVI was placed on the EU blacklist (Annex I).

However, the BVI's "partially compliant" OECD rating related to the period 2016-2020. It did not therefore take into account recent legal developments, in particular a raft of new legislation which was drafted and enacted by the BVI Government in 2022, and which came into force on 1 January 2023.

### The Council's Decision

The BVI Government made further submissions to the Council seeking to have the BVI's listing revisited and, at a meeting on 17 October 2023, the Council removed the BVI from the EU's blacklist and returned it the grey list.

### Commentary

The Council's decision is welcome news for BVI companies, their directors and shareholders.

It also points to the effective regulatory framework in place in BVI and the [BVI Government's continued commitment](#) to international cooperation.

## Contact Us

This article provides a high-level overview of the BVI's status under the EU's tax governance regime. Should you need further guidance, please contact our BVI team or your usual HFW contact.

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