



MINISTRY OF
FINANCIAL SERVICES
& HOME AFFAIRS
CAYMAN ISLANDS GOVERNMENT

Government Administration Building
133 Elgin Avenue, Box 126
Grand Cayman KY1-9000
CAYMAN ISLANDS
T. (345) 945-5819

Statement to the Legislative Assembly
Update on the European Union List of Non-Cooperative Jurisdictions
Minister of Financial Services, the Hon. Tara Rivers, JP, MLA

Friday, 16 March 2018 | Cayman Islands Legislative Assembly

Mister Speaker:

Following a yearlong dialogue between the Cayman Islands Government and the European Union, on 5 December 2017 the EU announced that the Cayman Islands was not included on its list of non-cooperative jurisdictions for tax purposes. This was a public acknowledgement of our cooperation with the EU and a testament to the strength our tax regime.

In particular, the EU had no concerns with the Cayman Islands regime as it relates to tax transparency, meaning it is satisfied that the Cayman Islands effectively exchanges tax information with other countries. This is yet another clear testament by another International Body that the Cayman Islands is not a “secrecy jurisdiction” or “tax haven”, contrary to the propaganda pushed by some detractors.

In addition, the EU has also acknowledged our commitment to the implementation of the OECD’s base erosion and profit shifting (BEPS) programme. BEPS was developed in order to address the concern regarding multinational companies’ aggressive tax avoidance strategies.

However, while the EU recognised our overall regime, it did express a concern regarding one particular aspect of it; and in our ongoing spirit of global cooperation, Cayman made a commitment to address this concern.

Today, in order to keep both the Members of this Honourable House and the public informed, I am updating you on our progress in relation to that aspect.

But first, as brief background, I’ll summarise information that already is in the public domain.

1. The EU's list identifies countries that it considers to be non-cooperative in working with EU Member States to combat tax fraud, evasion and avoidance, which erodes the tax bases of EU Member States.
2. When the list was announced on 5 December 2017, 17 countries were listed as non-cooperative (although there appears to have been movement of countries off and on that list since it was first announced). The EU then deemed another 47 countries as being cooperative, but it also said that these countries could make further enhancements to prevent misuse of their jurisdictions. Cayman was included in this category.
3. The EU screening process entailed consideration of three criteria: tax transparency, the implementation of the OECD's base erosion and profit shifting (BEPS) programme, and fair taxation.
4. Tax transparency refers to the effectiveness of how countries exchange tax information with each other. BEPS was developed in order to address multinational companies' tax avoidance strategies. Fair taxation refers to the lack of preferential tax measures; and it also refers to economic substance.
5. For Cayman, the EU has no concerns with our tax transparency, meaning it is satisfied that we effectively exchange tax information with other countries. It also has no concerns with BEPS, because we had already made a commitment in 2017 to this initiative.
6. On the point of fair taxation, it is important to stress that Cayman's tax regime does not include preferential tax measures – it does not charge different rates to persons based on factors including whether the person resides in Cayman or not. However, despite this fact, the EU wants more assurance that Cayman's tax regime allows for economic substance. I underscore that at this point, and for the purposes of the EU process, the term 'economic substance' is still being defined.

In cooperation, Government has therefore continued our discussions with the EU on economic substance.

As it relates to the process moving forward:

1. The EU is now in its monitoring phase of the commitments made by countries, including Cayman.
2. To eliminate the EU's concern about allowing the incorporation of companies that are not allowed to operate in our local economy – which sometimes is referred to as ring-fencing – Government has committed to revising Cayman's exempted companies'

regime to allow these entities to operate in the local economy only if local participation requirements are met.

3. To elaborate on what I mentioned earlier, Cayman and the EU are also discussing enhanced accounting and regulatory reporting obligations; and the definition of economic substance for relevant businesses.
4. And importantly, Government will continue to consult with the financial services industry on any legislative amendments that may be necessary. This is in line with Government's long-standing practice, as we recognise that ongoing dialogue with our key stakeholders is paramount to the current and future success of the Cayman Islands financial services industry. This is also in keeping with the practice adopted from the beginning of this latest EU screening process. To this end, the Premier and I, along with the Ministry's technical team, have already met with representatives of each of the financial services industry associations to update them on the process, the commitments and the ongoing discussions with the EU. Our collective goal is to ensure that we continue to protect, to promote and to grow our vibrant and vital financial services industry.

Mister Speaker, I thank the Members of this Honourable House and the public for taking the time to understand this global issue and its local implications. I also thank them for their support in contributing to an economy that, through our prudent response to global issues, will remain strong and viable for all business owners, including our local business owners.

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