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European Commission Publishes New List of 23 High-Risk Countries for Money Laundering

14 February 2019

NEW DEVELOPMENT
On the night of 28 February 2019, 27 out of 28 EU Member States moved to block the publication of the updated blacklist proposed by the European Commission. This means that the new jurisdictions that had been proposed to be added to the list of high-risk countries for the purposes of 4MLD will not now be included. The European Commission will need to revisit its proposals. Talks are expected to take place from 1 March 2019 between the governments of EU Member States and the European Commission.

On 13 February 2019, the European Commission updated its list of high-risk third countries under the European Union's Fourth Anti-Money Laundering Directive ("4MLD") .[1] The revised list includes new additions Nigeria, Panama and the Kingdom of Saudi Arabia, among others.

The revised list is based on a new methodology adopted by the EU.

Businesses that are subject to 4MLD and that deal with people and companies established in the countries included on the revised list should consider reviewing their existing customer due diligence to ensure that they hold appropriately detailed information on their customers/counterparties in the listed countries.

What are the criteria for inclusion on the new list?

The Commission first introduced a list of high-risk countries, based on the assessment of the Financial Action Task Force ("FATF"), in July 2016. The Commission has now gone beyond the established FATF criteria for assessing high-risk third countries in order "to promote the highest standards of anti-money laundering and to counter terrorist financing".[2]

This list has been compiled based on the European Commission's analysis of 54 "priority jurisdictions". This analysis included an examination of the rigour of countries' banking rules, transparency of corporate ownership and enforcement of anti-money laundering and counter-terrorist financing legislation (including scale and substance of any penalties imposed).

According to the Commission, the countries assessed, some of which now appear on the list, meet at least one of the following criteria:

- they have a systemic impact on the integrity to the EU financial system;
- they are viewed by the International Monetary Fund as international offshore financial centres;
- they have economic relevance and strong economic ties with the EU.

Who is on the new list?

Subject to final approval by the European Parliament (see further below), the EU's list of High-Risk Countries now includes (with new additions in bold):

1. Afghanistan
2. **American Samoa**
3. **The Bahamas**
4. **Botswana**
5. Democratic People's Republic of Korea
6. **Ethiopia**
7. **Ghana**
8. **Guam**
9. Iran
10. Iraq

11. **Libya**
12. **Nigeria**
13. Pakistan
14. **Panama**
15. **Puerto Rico**
16. **Samoa**
17. **Kingdom of Saudi Arabia**
18. Sri Lanka
19. Syria
20. Trinidad and Tobago
21. Tunisia
22. **US Virgin Islands**
23. Yemen

The following countries have been removed from the list: Bosnia & Herzegovina, Guyana, Lao PDR, Uganda and Vanuatu.

What does inclusion on this list mean in practice?

Obliged entities under 4MLD are required to apply enhanced customer/counterparty due diligence when dealing with natural or legal persons established in the countries identified in the list above.[3]

Obliged entities in the EU will need to review the due diligence they currently hold on customers/counterparties from these countries and assess whether any additional due diligence may be required.

Businesses established in the newly included countries listed above can expect an increase in due diligence requests from their EU counterparties that are subject to 4MLD.

Commentary

The European Commission has reiterated that fighting money laundering and terrorist financing is a priority for the Commission under Jean-Claude Juncker. The new list has already received criticism from certain Member States, including the UK, France and Germany, which have expressed their reservations about the Commission naming countries that have not been identified by the FATF. Of the 23 High-Risk Countries, 11 are not currently identified as such by the FATF. Some countries, which now find themselves on the EU list, such as Panama and the Kingdom of Saudi Arabia, are likely to continue to lobby the Commission and Member States for their removal from the list.

Final approval process

This list remains subject to formal approval by a qualified majority of the European Parliament and Council and will be submitted for their approval within one month (the approval process may be extended by a further month). If approved, the list will come into force 20 days after its publication in the Official Journal of the EU.

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1. Articles 9 and 64 of 4MLD empower the Commission to identify third-country jurisdictions that have strategic deficiencies in their national AML/CTF regimes that pose significant threats to the financial system of the EU.↩

2. Commission press release: http://europa.eu/rapid/press-release_IP-19-781_en.htm↩

3. Article 18 4MLD↩

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