

GGI Insider article – 09/03/09:

## UNCOOPERATIVE OFFSHORE JURISDICTIONS

The World is stepping forward to a more transparent economy. OECD Countries are increasing the network of bilateral tax agreements and information exchange protocols with territories commonly known as Tax Havens, accepting as cooperative offshore jurisdictions those which comply or are planning to comply with the international rules for information exchange.

The 35 jurisdictions committed to improving transparency and establishing effective exchange of information procedures in tax matters, according to OCDE publications, are the following:

1. Overseas Territories of the United Kingdom: Anguilla, Bermuda, British Virgin Islands, Gibraltar, Montserrat and Turks & Caicos Islands.
2. Aruba, the Netherlands Antilles are the two territories of the Kingdom of the Netherlands.
3. Fully self-governing country in free association with New Zealand: Cook Islands and Niue.
4. Dependency of the British Crown: Guernsey, Isle of Man and Jersey.
5. External Territory of the United States: US Virgin Islands
6. Others: Antigua and Barbuda, Bahamas, Bahrain, Belize, Cyprus, Dominica, Grenada, Liberia, Malta, Marshall Islands, Mauritius, Nauru, Panama, Samoa, San Marino, Seychelles, St. Lucia, St. Kitts & Nevis, St. Vincent and the Grenadines and Vanuatu.

The OECD has determined that three other jurisdictions –Barbados, Maldives and Tonga - identified in the 2000 Progress Report as tax havens should not be included in the List of Uncooperative Tax Havens.

The financial crisis has promoted several measures and plans all over the world. Last 18 December, during the ECOFIN meeting held in Paris, the financial ministers of the European Union, the European Commission and the ECB, announced new measures to be taken to curb the harmful actions of the uncooperative jurisdiction, considered as source of the instability of the financial system. In this sense, the European Commission is to publish an action plan at the beginning of 2009.

Offshore financial centres may fulfil positive functions for the international financial system, such as a higher operational dynamic, the concentration of sophisticated financial markets favourable to capture the liabilities of corporate and public and private institutions, or even, within the legality, to offer an efficient tax management.

The negative effects of these offshore centres are the criminal money laundry, the financing of terrorism and the tax fraud or evasion.

UK will host April's G20 summit. During a press conference Mr. Brown said that "it will mean action against regulatory and tax havens in parts of the world which have escaped the regulatory attention they need".

Previously, USA launched the Levin-Coleman-Obama Stop Tax Haven Abuse Act. Mr. Coleman said that "it is simply unacceptable that some individuals are using offshore tax havens and secrecy jurisdictions to shelter trillions of dollars in assets from taxation". "Offshore tax haven have declared economic war on honest U.S. taxpayers by helping tax cheats hide income and assets that should be taxed in the same way as other Americans", said Mr. Levin, "this bill provides a powerful set of new tools to clamp down on offshore tax and tax shelter abuses".

Could this be the end of the Tax Havens? It is hard to say.

It is a fact that many offshore jurisdictions are trying to comply with the OCDE recommendations to improve international tax cooperation. Becoming a cooperating jurisdiction is the way to stay in the game. But we can not forget the role of the offshore financial centres in the banking system, so it is unlikely to expect the future abolishment of the Tax Havens.

As Mr. Sarkozy said regarding the recovery plan, "if we provide Banks with loans, can we have them working with Tax Havens?". We are all aware of the existing connection between the sub-prime crisis in the USA and the Tax Havens, where the financial instruments that have been used to buy and sell the toxic assets lie. The Hedge Funds, characterized by its opacity, were almost all of them registered in Tax Havens.

Nevertheless, the profitability of many of the best financial products or business relies on the benefits obtained from the offshore financial centres. Almost all of the big Banks have subsidiary companies in Tax Havens, and also the big Firms have offices there to provide fiscal and financial support.

Therefore, it looks like we are moving forward to a more regulated situation, with more transparency and cooperation, trying to keep the profitability of the use of these jurisdictions, maybe in a certain moderated way. If players want to keep on the game, they will have to comply with the new rules.

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