



MAQIT

AML/CTF
REGULATORY
WATCH REPORT



OCTOBER 2020

This is the list of pertinent legal framework which was published over the period of October 2020:

On October 1st, the Council published an Implementing Regulation (EU) 2020/1367 of 1 October 2020 implementing Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine.¹ In particular, the Council has added 2 persons and 4 entities to be listed in Annex I to Regulation (EU) No 269/2014 and Annex to Decision 2014/145/CFSP.

On October 6th, EU added Barbados, Anguilla to tax heaven list and removed Cayman Islands and Oman.² The EU list was set up in 2017 after revelations of widespread tax evasion and avoidance schemes, that include now 12 jurisdictions:

- American Samoa
- Anguilla, Barbados
- Fiji, Guam
- Palau
- Panama
- Samoa
- Seychelles
- Trinidad and Tobago
- the U.S. Virgin Islands
- Vanuatu

The jurisdictions on the blacklist face reputational damages, higher scrutiny in their financial transactions and risk losing EU funds.

¹ Eur – lex, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32020R1367>

² European Council, Council of the European Union, <https://www.consilium.europa.eu/en/press/press-releases/2020/10/06/eu-list-of-non-cooperative-jurisdictions-for-tax-purposes-anguilla-and-barbados-added-cayman-islands-and-oman-removed/>

On October 21st to October 23rd the Financial Action Task Force (FATF) held its final quarterly plenary of 2020 as a virtual event.³ FATF acknowledged that the Covid – 19 pandemic is still a challenge and for this reason there is a need to continue the FATF's mutual evaluation activity in order to maintain and strengthen global anti-money laundering (AML) and counter terrorist financing (CTF) standards. Mutual evaluations shall continue on a flexible basis by conducting certain aspects of the on-site visit virtually or at a later date where temporary travel restrictions are in place. A similar approach will be taken to identifying and responding to high-risk jurisdictions or jurisdictions with strategic weaknesses in their AML and CTF measures.

On October 22nd, the European Commission launched a public consultation on the review of the Alternative Investment Fund Managers Directive (AIFMD).⁴ The Commission asks for stakeholder feedback on a large number of issues, including issues regarding the AIFM passport, the scope of the AIFM licence, investor protection, non-EU alternative investment funds (AIFs), financial stability, investment in private companies, sustainability, delegation and alignment with the Undertakings for Collective Investment in Transferable Securities Directive (2009/65/EC) (UCITS). The deadline for responding to the consultation is 29 January 2021.

On October 28th, the Commission de Surveillance du Secteur Financier (CSSF) has published the Circular 20/754 concerning the FATF statements about first, the high-risk jurisdictions against which enhanced due diligence measures are required and, where applicable appropriate, countermeasures and second, jurisdictions subject to the enhanced supervision process of the FATF.⁵ In regard to the first category, concern the Democratic People's Republic of Korea ("DPRK") and Iran. In regard to the second category, the jurisdictions that show strategic weaknesses in terms of AML / CFT and having developed action plans with the FATF to correct these failures are as follows: Albania, Bahamas, Barbados, Botswana, Cambodia, Ghana, Jamaica, Mauritius, Myanmar, Nicaragua, Pakistan, Panama, Syria, Uganda, Yemen and Zimbabwe.

³ FATF, <http://www.fatf-gafi.org/publications/fatfgeneral/documents/outcomes-fatf-plenary-october-2020.html>

⁴ European Commission, <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12648-Alternative-Investment-Fund-Managers-review-of-EU-rules>

⁵ CSSF, CSSF 20/754, https://www.cssf.lu/wp-content/uploads/cssf20_754.pdf

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