



The Cook Islands Review

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Cook Islands makes the “white list” - at what cost?

On 18 February 2020 the Council of the European Union (“EU”) published its revised list of non-cooperative jurisdictions for tax purposes (the “**blacklist**”) as well as its state of play for those jurisdictions who had committed to make changes to tax regimes by 31 December 2019 (the “**grey list**”).

The Cook Islands had been on the “grey list”, having committed to make changes to certain tax regimes identified by the EU as preferential and harmful, by 31 December 2019. It was duly removed from the revised list having passed legislation in December 2019 to address the concerns previously raised by the EU.

The Cook Islands is therefore now on the “white list” and regarded by the EU as a cooperative jurisdiction for tax purposes.

What does this mean for the Cook Islands?

Avoiding the “blacklist” and joining the “white list” is critical for a small jurisdiction like the Cook Islands due to the reputational and economic harm that could result. The EU’s “blacklist” is expected to influence international financial institutions, organisations and foreign governments in the formulation of their own lists and risk profiles impacting a country’s correspondent banking relationships and its ability to conduct international transactions. The EU has also indicated blacklisted countries will face sanctions at both EU and EU member state level, including restrictions on cross border transactions, transaction reporting requirements and withholding tax measures. The EU has also suggested it will restrict aid funding to those listed countries.

The most significant change made to its legislation involved the Cook Islands removing the exemption from Cook Islands company tax given to companies incorporated or registered under the International Companies Act 1981-82 (“International Companies”). International Companies incorporated/registered from 18 December 2019 will immediately be subject to Cook Islands company tax at 20% on profits whereas those existing/registered before 18 December 2019 will first be subject to tax on their 2022 profits. In addition, in line with its domestic company tax regime, dividends paid to foreign shareholders will be subject to a 15% withholding tax. Time will tell what impact this has on the Cook Islands International Company business, but going from a position of tax neutrality to incurring 20% company tax and a 15% withholding on dividends paid to foreign shareholders, may be too much for some to bear.

To avoid the consequences of being blacklisted the Cook Islands has had to let the EU dictate its tax law and forego legitimate business revenues. The Cook Islands in no way caused the large debt levels within the EU and its member states, nor is it the reason the EU cannot better control its tax payers and tax base - the Cook Islands has implemented CRS into its laws and will share financial information with EU member states on its taxpayers – but, like many other jurisdictions, it is being made to pay. Having imposed its tax policy on jurisdictions around the world the EU has shown little concern for the potential resulting damage to small economies.

The Cook Islands
Financial Services
Development
Authority now
operates as “Cook
Islands Finance.”

In the News

EU “blacklist” updated

The EU has revised its list of non-cooperative jurisdictions for tax purposes adding Cayman Islands, Panama, Palau and Seychelles to the list of countries that have not committed to implement tax changes required by the EU or have failed to meet its deadline for doing so. Those remaining on the “blacklist” are: American Samoa, Samoa, Guam, Fiji, Oman, Trinidad and Tobago, US Virgin Islands and Vanuatu.

Cook Islands Finance Marketing Director appointed

Chiavanni Le'Mon has been appointed as Cook Islands Finance's Marketing Director, taking on the role from Alan Taylor who is now CEO at Cook Islands Finance. Chiavanni's appointment strengthens Cook Islands Finance's marketing resources allowing it to fully focus on its primary objective which is to develop and promote Cook Islands financial services around the world.



Chiavanni Le'Mon, Cook Islands Finance Marketing Director

“The Cook Islands is a cooperative jurisdiction for tax purposes”

Articles Published

The latest edition of CEO Invest includes an interview with Alan Taylor, CEO of Cook Islands Finance, where Alan discusses the jurisdiction's unique credentials, its most noteworthy products and recent developments. The interview can be viewed here:

<https://cookislandsfinance.com/sites/default/files/publications/2020-CEO-Insight-Cook-Islands.pdf>

Upcoming Events

Alan Taylor, CEO Cook Islands Finance, attended the STEP Asia Conference held in Singapore at Marina Bay Sands in November 2019, along with other representatives from the Cook Islands financial services industry. The conference was as usual of the highest quality. Cook Islands Finance has already agreed to be a sponsor for the next STEP Asia conference, to be held in Hong Kong, November 2020. We look forward to seeing you there.



Alan Taylor, CEO of Cook Islands Finance, was at STEP Asia Singapore in November 2019



Cook Islands Finance will be a sponsor of the 2020 STEP Asia event to be held in Hong Kong

FEATURE: Cook Islands Limited Liability Companies

The Cook Islands Limited Liability Company (“CILLC”) is an important component in the suite of wealth planning tools the Cook Islands offers to professional service providers and their clients. The CILLC, whilst addressing concerns US attorneys face when using domestic US LLCs, appeals to an international client base due to the flexibility, certainty and enhanced protection it provides when structuring and managing wealth. The Cook Islands Limited Liability Companies Act 2008 (the “Act”) contains several specific features designed to provide and enhance the protection afforded to a client’s wealth when holding, managing and investing assets through a CILLC.

Features of a CILLC include:

Constitution: A CILLC must file articles of organisation with the Registrar containing its name, business address, period of duration which may be perpetual and the specific events, if any, which will lead to the dissolution of the CILLC. In addition, the members may put in place an operating agreement as to the affairs of the CILLC and the conduct of its business.

Members A CILLC can have one or more members who can be individuals or entities. Each member’s liability will be limited to the amount of the capital contribution agreed with the CILLC.

Management: The CILLC’s operating agreement can vest management in one or more managers who do not need to be members thereby allowing separation of control and ownership.

Liability: Members and managers will not be personally liable for the debts and obligations of the CILLC.

Dissolution: A CILLC can be dissolved upon the happening of an event specified in its operating agreement or articles of organisation or upon the written agreement of all managers and members.

Re-domiciliation: A foreign limited liability company may, subject to the provisions of the Act, transfer its domicile to the Cook Islands provided the laws of the foreign domicile do not prohibit such transfer. Similarly, a CILLC may become domiciled in a foreign jurisdiction.

A CILLC has an asset protection focus:

- The sole and exclusive remedy for a creditor against a membership interest in a CILLC is the right to apply for a charging order.
- A charging order only entitles a creditor to distributions, as and when made by the CILLC, in relation to the membership interest. It is not to be construed as a lien on or assignment of a membership interest or entitle the creditor to exercise any membership rights in relation to that interest.
- The person in whose favour a charging order has been issued shall have no right to interfere in the management of the CILLC, seize or liquidate its assets or effect its dissolution.
- Contribution calls made by the CILLC on members can be paid by the company from capital or income otherwise payable to members as distributions. This is also the case where a charging order has been issued upon a member’s interest. In such circumstances as the distribution will never reach the member, the creditor has no claim to it.

Continued on next page.

Cook Islands
Licensed Trustee
Companies can help
you set up and
manage CILLCs

Cook Islands
Limited Liability
Companies are a
flexible planning
tool used to
enhance wealth
protection
structures.



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CILLCs cont....

- Foreign judgments seeking to deprive a member of a CILLC of any membership interest or rights will not be recognized in the Cook Islands courts.

A CILLC gives its members the opportunity to implement a management and ownership structure best suited to hold and invest both their liquid and illiquid assets. The flexibility offered by a CILLC through the adoption of a carefully drafted operation agreement, and the certainty afforded by provisions in the Act determining the rights of creditors, provides a robust vehicle that can stand alone or form part of a client's wealth management plan.



The Cook Islands providing financial services from the heart of the South Pacific.

Visit Our Website

We regularly add topical items under our Industry News webpage and post articles to highlight Cook Islands financial services and products to advisors, intermediaries, clients and those with an interest in what the Cook Islands can provide. Please visit our [website \(www.cookislandsfinance.com\)](http://www.cookislandsfinance.com) for more information.

About Us

The Cook Islands Financial Services Development Authority ("FSDA"), operating as Cook Islands Finance, is a government agency tasked with the promotion and development of the financial services industry in the Cook Islands. The FSDA was established in 2009 and functions independently from the Financial Supervisory Commission that regulates the industry. The FSDA focuses on promoting the Cook Islands and its financial services and products as well as coordinating on industry relevant issues. The FSDA is an important point of contact for any financial institution looking to establish a presence in the Cook Islands. Individuals seeking a Cook Islands financial service provider can find details on our [website. \(www.cookislandsfinance.com\)](http://www.cookislandsfinance.com)

Important Information: The Cook Islands Financial Services Development Authority, operating as Cook Islands Finance, does not provide advice, recommendations or opinions regarding legal and/or tax matters under any circumstances. To the extent that this communication, or anything referenced herein may concern tax matters, it is not intended to be used, and cannot be used, for the purpose of avoiding tax liabilities or penalties that may be imposed by law, foreign and domestic. The Cook Islands Financial Services Development Authority strongly recommends that before any person makes a decision to create a structure, professional legal and tax advice should be taken in his/her country of residence.
