11

issue eleven

Sovereign

report

contents

introduction 3

pages

4 european news

5 usa + caribbean news

6 asia + pacific news

7 legal news

8 fiscal news

9 profile

10 contacts + info

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Kung Hei Fat Choi?

In the last edition of the report the above words appeared and many have inquired as to their meaning. They are the Chinese New Year greeting which would be well understood by those in the Far East but, as has been made apparent, completely puzzle most of the rest of the world. February 12th marked the beginning of the Year of the Horse and apparently this is a year for independence, movement and energy full of exciting trips and voyages – see www.astrology.com.

Gibraltar

Some of our clients have expressed concern over the continued wrangling between Britain and Spain over the sovereignty of Gibraltar. We believe that our clients need have no fear about having their affairs administered in Gibraltar. The latest proposals are for joint sovereignty over the Rock but to entice the Gibraltarian population to agree to such a proposal they have been offered more control over their internal affairs. If joint sovereignty were to be granted (and there does not seem to be any call for sole sovereignty) then greater autonomy will result so the future of the offshore financial centre seems secure.

Our view is that any deal over Gibraltar is unlikely because the British government have made it clear that nothing will happen without the consent of the Gibraltar people given in a referendum on the issue. Last time a vote on this issue was taken, all but 44 of the population voted against doing a deal with Spain and we think that a different result this time round is most unlikely.

In addition to the sovereignty issue Gibraltar is also facing demands by the EU to do away with its exempt and qualifying company regimes. As a result the Gibraltar government is busy creating an alternative tax system. What seems likely to happen (but is as yet unconfirmed) is that Gibraltar will abolish corporation tax altogether and replace it with a payroll tax which would be paid by locally operating companies but not by those utilising Gibraltar as an OFC. We remain confident that these new measures will have no adverse effect on clients.

Some good news for Gibraltar. The International Monetary Fund recently undertook a review of Gibraltar's offshore standards and procedures and gave a glowing report. Clearly in the opinion of the IMF, Gibraltar is at the forefront of good international practice.

chairman

Isle of Man

At the time of writing we have received a letter from the Isle of Man Financial Services Commission confirming that they will be recommending that our licence application be confirmed at their meeting on 24th April. So by the time this goes to press we expect to be fully licensed in the Isle of Man. Diane Dentith has returned from her extended sojourn in Gibraltar to the Isle of Man office. Diane will concentrate on Group affairs leaving most of the day-to-day running of the Isle of Man operation to Paul Brennock but she will be on hand to help Isle of Man-based clients aswell. Diane will be missed in Gibraltar but she will considerably enhance our operations in the Isle of Man.

OECD

Things are becoming clearer. Commitments were received from a raft of jurisdictions on or around the 28th February deadline, leaving just seven on the OECD's "black list". As a result Andorra, Liberia, Liechtenstein, Marshall Islands, Monaco, Nauru and Vanuatu now face coordinated defensive measures by OECD member states. Such measures are likely to include: (a) making payments to these jurisdictions non-deductible for tax purposes; (b) requiring tax to be withheld on all payments to such jurisdictions; (c) preventing residents from using banks with OECD member states. More information about this appears in the profile article on page 9.

Portuguese Property

All offshore companies which own property in Portugal now face additional charges and must make certain filings by the end of this month. **All clients with Portuguese property who are not already in communication with our Portuguese office over these changes should make contact immediately. Further details appear within the report – page 4.**

howard bilton BA(Hons)
Barrister-at-Law (England, Wales & Gibraltar)
Chairman of The Sovereign Group

EU Ministers agree format for exchange of information

EU finance ministers attending the ECOFIN council in Brussels in March agreed to adopt, without amendment, the proposed standard format governing the exchange of savings account information between EU member states. Agreement removed the last obstacle facing the EU directive on the taxation of savings.

The standard format would require banks to divulge detail on identity and residence of the beneficial owners of savings accounts and details of the payments made to them. The data would be exchanged automatically once a year between EU member states under the proposed directive.

EU internal market and tax commissioner Frits Bolkestein said the EU and Switzerland are to start talks immediately on the taxation of non residents' savings.

At the conclusion of an informal finance council in April, he told ministers that the discussions will begin at the level of officials on how Switzerland will apply "equivalent measures" to those contained in the EU's strategy against tax evasion by non residents.

Most EU countries are to exchange information about non residents' savings, but Austria, Belgium and Luxembourg will apply a withholding tax for a seven-year transitional period.

The formal talks with Switzerland will start as soon as EU governments give the European Commission a negotiating mandate, Bolkestein said.

"I am quite optimistic about getting agreement with the Swiss government, and in the wake of that with the other four," he said, in reference to Andorra, Liechtenstein, Monaco and San Marino.

He also said he will visit the US in May to try to work out similar arrangements. Bolkestein said he hopes to reach agreement with all six by this summer.

Sovereign comment

We commented on the EU proposals for exchange of information in the last issue and little has happened to change our view that it is unlikely that Switzerland will agree to break down its banking secrecy laws and automatically exchange information with EU member states. Without Swiss agreement to implement similar measures to those to which the EU member states are committed, there will be little or no progress on the implementation of the desired exchange of information. We will be monitoring the situation and reporting on it in future issues.

europe

Important changes to the taxation of property holding companies in Portugal

Some important changes to the tax treatment of property holding companies were announced in the Portuguese Budget published at the end of last year.

Many readers will be aware of these changes and full information on the effect of them and the way in which the changes may be dealt with can be obtained by contacting Sovereign Trust (Portugal) Limitada, details of which you will find at the back of this report.

While the relevant Sovereign offices have made every endeavour to contact all clients who have property in Portugal held in the name of a company, it is possible that some may be unaware of these changes and the responsibilities and liabilities they bring.

It is important that all companies holding property in Portugal appoint a fiscal representative who registers the company with the local tax office before the end of April. Failure to do so will lead to penalties being incurred, and thus if any client has not received communication from a Sovereign office concerning this matter, or feels that there is a danger that his or her company may not be in compliance with the new legislation, we ask that they contact Sovereign Trust (Portugal) Limitada (Tel: +351 282 340480; Fax: +351 282 342259) as soon as possible in order that the situation may be clarified.

Crown dependencies strengthen anti-money laundering

New measures to strengthen the anti-money laundering regimes in Guernsey, Jersey and the Isle of Man were announced in February. The three regulatory commissions are taking joint action to implement the required changes to laws and guidances.

The new measures come in response to recommendations made by the International Evaluation Team in 1999, and in 2000 by the Financial Action Task Force. They also reflect a commitment to remove opportunities for arbitrage between the Crown Dependencies in areas related to financial crime, money laundering and terrorist funding.

The three principal features of the new measures are:

- to extend Know-Your-Customer requirements so that financial institutions will be required to look beyond their customers – trusts or companies – and identify the principals behind them;
- to tighten up the requirements on banks and other institutions to ensure that due diligence is done properly – even where the customer is referred to them by another institution which claims to have carried out the background checks already;
- to require financial institutions to embark upon a progressive risk prioritised programme to bring the records of existing accounts up to current standards if the nature of the client or transaction meets certain criteria.

A joint statement by the three directors general of the respective Commissions – Peter Neville for Guernsey, John Aspden for the Isle of Man and Richard Pratt for Jersey said: "By establishing a common platform between our three jurisdictions, we demonstrate our determination to ensure that our finance industries continue to meet international standards. The finance industries in the three Islands are being asked to invest in their own future by putting in place a regime which any clear-thinking and honest client will understand and welcome."

US signs tax information exchange agreements with BVI, Bahamas and Antigua

The US signed a new agreement with the UK that will allow for exchange of information on tax matters between the US and the British Virgin Islands in April. It followed similar agreements with the Bahamas and Antigua & Barbuda in January and December respectively.

The agreements are to come into effect on 1 January 2004 with respect to requests for information made in connection with a criminal matter; and on 1 January 2006 with respect to requests for information made in connection with a civil matter.

Information – any fact, statement, document or record in whatever form – is to be provided without regard to whether the person to whom it relates, or by whom the information is held, is a resident or national of either territory, provided that the information is present within the territory or in the possession or control of a person subject to its jurisdiction.

In the case of the Bahamas, information concerning a criminal matter that is provided to the US government before 1 January 2006 is not to be used in connection with any other matter without prior written consent of the Bahamas' authority.

The US has tax information exchange relationships with over 70 countries, but new agreements signed in the past year – including one with the Cayman Islands – are the first signed since 1992. They follow a commitment made by Treasury Secretary Paul O'Neill, in Congressional testimony, to expanding the network of tax information exchange relationships.

The US Treasury has confirmed that it is in discussions for a tax information exchange agreement with Panama.

Sovereign comment

As we keep repeating to clients confidentiality in all OFCs is being eroded if not eradicated. Procedures for the exchange of information with any OECD member state will have to be introduced by all those OFCs who wish to stay off the OECD black list so although commitments by the OFCs to introduce these procedures is dependent upon all OECD member states introducing similar procedures we do not expect this to be a barrier to progress. In short, OFCs should not be used to try and hide money but for legitimate tax planning structures which can be revealed to relevant tax authorities if necessary. What should be noted is that the US has a wide range of tax treaties which call for exchange of information upon request. It is therefore possible that treaty partners could use the US exchange of information treaties to obtain information by going through the US rather than direct with the OFCs themselves.

US Treasury to combat abusive tax avoidance transactions

The US Treasury announced in March an initiative to combat abusive tax avoidance transactions. It blamed these transactions on the "mind-numbing complexity" which created opportunities for those who would seek to reduce improperly their tax liabilities.

Transparency – insuring that questionable transactions are disclosed and subject to IRS scrutiny – is at the core of the Treasury's initiative. The current enforcement regime provides for the disclosure by taxpayers of potential abusive tax avoidance transactions, and the registration of these transactions and the maintenance of investor lists by promoters.

The Treasury said the new initiative will create a series of clear, mutually-reinforcing rules for disclosure, registration and list maintenance. It is also proposing new and substantial penalties, and significant increases to existing penalties, for those taxpayers and promoters who fail to obey these rules.

The Treasury initiative will build upon ongoing efforts to combat abusive tax practices. Recent actions have focused on both individual and corporate tax avoidance transactions, and on both taxpayers and promoters.

Sovereign comment

Tax planning for US residents and nationals is becoming increasingly difficult as more of the existing tax breaks and loopholes are closed. However, Sovereign has great expertise in international tax planning for US nationals and residents. We have a specialist tax planning department based in Miami under the direction of Professor William Byrnes as well as other experts within the Sovereign Group who can advise on American tax issues.

Caymans to require local sign-off for mutual funds

From 1 July 2002, local auditor sign-off will be required on all mutual funds and mutual fund administrators regulated by the Cayman Islands Monetary Authority (CIMA) other than branches of international companies licensed in the Cayman Islands and foreign-domiciled funds that are administered in the Cayman Islands but not otherwise registered as foreign companies doing business in the Islands.

CIMA said that limiting the approved auditor to those within its jurisdiction and having immediate and direct access to firms issuing the audit opinions on the regulated entities will help ensure that the obligations under the Mutual Funds Law are more effectively enforced.

The new policy does not result in the exclusion of foreign counterparts of international firms with a local presence from performing fund audits, but rather inclusion in all cases, of the Cayman firm in the process. The actual audit work is not required to be performed within the Cayman Islands, but rather can be performed wherever the principal books and records are maintained.

Hong Kong considers Companies Amendment Bill

The Companies (Amendment) Bill 2002, which is intended to strengthen shareholders rights and increase corporate disclosure and transparency was introduced into the Legislative Council in January.

The proposals will give every shareholder the right to enforce the terms of the memorandum and articles of association of a company and reduce the threshold for circulating shareholders' proposals to 2.5% of the voting rights or fifty shareholders.

They will also provide for the removal of directors by ordinary resolution instead of special resolution, make directors liable for acts and omissions of their alternates, except in relation to an offence, and provide a statutory definition of 'shadow director' in the Companies Ordinance to include someone who can influence a majority of the directors.

Further amendments will make provision for:

- permitting the formation of a company by one person;
- permitting a private company to have a minimum of one director; and prohibiting the incorporation of a company limited by guarantee with a share capital.

Sovereign comment

An overhaul of the Hong Kong companies legislation is long overdue. The provisions for allowing incorporation with one shareholder and one director are particularly welcome and bring Hong Kong law into line with modern European laws.

We believe that Hong Kong will become an important jurisdiction for tax planning. It has all the facilities and attractions of the better OFCs but is not subject to attack or review by the OECD and is one of the only "offshore" banking centres which will not be subject to the directive on withholding tax on savings which will effect not only the EU Member States but "all territories under their control" and Switzerland and the USA. This leaves Hong Kong as virtually the only credible international banking centre not subject to automatic exchange of information on savings accounts held by EU residents.

asia+ pacific

Seychelles to update offshore legislation

The government announced a series of measures to modernise the offshore centre. The programme includes five major items of legislation, incentives to attract financial services providers and the establishment of a unified regulatory body.

The initiative will also include the establishment of procedures and vehicles for the registration of mutual funds and a drive to widen the network of tax treaties. The new measures are expected to be brought into effect by the summer.

The legislative programme will include: a Holding (Investment) Companies Act; an Investment Limited Partnership Act; an updated Companies Act; an International Gaming Act; and a Protected Cell Companies Act.

Sovereign Comment. The Seychelles enacted legislation to create its OFC relatively recently and has been playing catch up to Mauritius ever since. Soon after entering the offshore market it was the subject of a major money laundering scandal when officials were caught trying to entice Russian businessmen into the jurisdiction on the basis that they would not be subject to any form of money laundering legislation. The Seychelles has had a hard time getting its PR right since. The new legislation replicates that already to be found in other offshore jurisdictions. It brings the Seychelles up-to-date but is hardly innovative.

Dubai launches new International Finance Centre

The Dubai authorities have announced plans to set up a Dubai International Finance Centre (DIFC) that will focus on asset management, Islamic finance, regional financial exchange, reinsurance and back-office operations.

Chairman designate Anis al Jallaf said it was hoped that the project would make the jurisdiction a global location of choice for international financial institutions, and would become a regional hub for the Gulf, Central Asia, and North and East Africa.

He said that the DIFC would have an independent regulatory agency that will adopt a two-tiered governance structure consisting of a 'Regulatory Council' to execute all regulatory functions and a 'Regulatory Commission' to develop primary legislation, and clear and specific secondary rules. This will ensure a transparent separation of execution and oversight functions.

The DIFC regulatory regime will be in strict compliance with international standards and recommendations set by organisations such as BIS, OECD (FATF) and IASB, and will adopt a statutory regime that will facilitate the exchange of tax information with countries in which its tenants are headquartered. The scheme follows completion of recent projects such as the Dubai Internet City, Dubai Media City and the introduction of e-government in the region.

Sovereign comment

Our office in Dubai is particularly active in the registration of companies within the various free zones and finance centres. In addition, we are working closely with the authorities to try and create a more straightforward "offshore company" in the United Arab Emirates. Dubai, like Hong Kong, is not a member of the OECD nor is one of the places that is subject to attack by the OECD despite its zero tax regime.

US Treasury pursues credit cards on offshore accounts

The US Internal Revenue Service announced in March a number of actions that have been taken to combat tax-evasion schemes involving credit cards issued by offshore banks – including issuing John Doe summonses to major credit card companies.

It is finishing court-ordered negotiations with American Express and MasterCard International to learn identifying information such as passport and driver's license numbers of customers with accounts in the Bahamas, Cayman Islands, Antigua and Barbuda.

The IRS says up to two million US citizens may use credit and debit cards to spend their money in offshore bank accounts without leaving a paper trail in the US. The estimate is based on records obtained from Mastercard of 230,000 bank accounts in the three jurisdictions targeted.

In October 2000 the IRS convinced a court in Miami that American Express and MasterCard must provide documents for transactions in 1998-1999 because the companies process all offshore card transactions in the US. "The use of offshore bank accounts and offshore entities to facilitate tax evasion is a massive problem for the United States," said an affidavit. Since the ruling, the IRS has been negotiating with both companies on the release of the records. At issue is how American Express and MasterCard can honour privacy they guarantee their customers while complying with a judge's order.

When the negotiations are complete, the IRS intends to take the same legal steps against Visa International in 30 countries worldwide, including Switzerland. As a minimum, the credit card companies will have to disclose the bank relationship including the name of the issuing bank, the account number and the account holder.

Sovereign comment

Sovereign offer our own Mastercard and debit card to clients for whom we manage companies. These cards offer a convenient way of paying business expenses but if they are used to withdraw cash or to pay for other taxable benefits then that cash or benefit would most likely need to be declared in the home jurisdiction of the cardholder. The US is naturally concerned that such cards have been used to evade tax and we would strongly discourage anybody from using a credit card for this purpose.

EU Court upholds Gibraltar company tax challenge

The European Court of First Instance ruled in favour of the Gibraltar government and annulled the decision of the European Commission in provisionally classifying the tax exempt legislation as unlawful "new aid". The Court relied particularly on the fact that the legislation preceded the UK (and Gibraltar's) accession to the EC.

The purpose of the formal investigations, initiated last July under the EC Treaty, was to establish whether the Companies (Taxation & Concessions) Ordinance, providing for exempt and qualifying status companies, was in breach of the EC State Aid Rules. The government of Gibraltar responded by commencing legal action to seek an annulment of the decision.

The government is currently considering the implications of this ruling and its consequences on the planned restructure of the tax system that it has been working on since July last year.

As the government stated publicly many months ago, the tax restructure was intended to preserve the continuing and competitive prosperity of the Finance Centre. On a practical level the effect of the Court's decision is that Gibraltar is not legally required to abolish the existing tax legislation concerning tax exempt companies as would have been the case if the Commission's investigation had ultimately gone against Gibraltar.

The expectation is that the Gibraltar government may now be able to secure transitional arrangements if, as it is likely, the Commission still considers the "existing aid" no longer to be compatible with the EC Treaty. In the medium term although it may be necessary to proceed with the planned restructure of the tax system, the industry's view is that it is likely that the current tax regime for tax exempt companies should remain in place for a reasonable period of time.

Sovereign comment

The government should be making a public statement shortly on its next step and in particular on the timing of any implementation of company taxation reforms. We are confident that the Finance Centre will continue to prosper in the future and would like to thank you for your continuing support over the last eight months.

Rulings increase pressure for Caribbean regional court

Three UK Privy Council rulings that the mandatory death penalty violates the constitutions of six eastern Caribbean states and Belize, has given fresh impetus to moves toward a regional final court of appeal.

In three separate decisions delivered together in March, the Privy Council ruled unanimously that the mandatory death sentence took away a judge's discretion to impose a proportionate and appropriate sentence. Two of the decisions concern the six members of the Organisation of Eastern Caribbean States (OECS) – St Vincent & the Grenadines, St Lucia, Grenada, St Kitts & Nevis, Dominica, and Antigua. The third concerns Belize.

At a Caribbean Community (Caricom) meeting in Barbados in February 2001, Guyana, Barbados, Antigua, Belize, Grenada, Jamaica, Trinidad & Tobago, St Lucia, Suriname and St Kitts & Nevis signed a treaty to set up a new judicial body to replace the UK's Privy Council as the highest court of appeal in the region. National referendums must be held in the individual countries to change constitutions before the creation of the court can go ahead. The Bahamas, Haiti, St Vincent & the Grenadines, and Montserrat did not sign the agreement.

UK to speed up process for freezing injunctions

The UK government has issued a proposal to speed up the process of obtaining freezing orders for the funds of a defendant in a civil case by extending the power to grant freezing injunctions to circuit judges.

At present an injunction barring a defendant from moving property or assets out of the UK may be sought in a County Court, but only when a High Court or Court of Appeal judge is presiding. The Lord Chancellor's Office wants to extend the power to grant freezing injunctions in County Courts to circuit judges aswell. Decisions about search orders will remain restricted to judges sitting in the High Court on the grounds that they require a higher level of judicial experience because they cannot be revoked.

Gibraltar to accelerate income tax reform

The planned reform of the income tax system, due by 2006, is now expected before the end of summer 2002. The government is presently drafting legislation but no official comment has been made about specific measures.

The object is to create a system which satisfies EU requirements while at the same time retaining Gibraltar's attractiveness as an offshore financial centre. One of the main proposals under consideration is a zero rate for corporate tax to be applied to local as well as international companies.

The government may introduce a penalty fee on public utilities such as electricity, water and telecommunications suppliers. This would be based on a proportion of the revenues received by the utilities. It would not be considered a tax and it would be able to bypass the EU's threats on state aid.

The government is also examining the creation of a payroll tax. It is used in other jurisdictions and is a levy based on the number of employees. Since offshore companies, generally, do not have employees in Gibraltar then they would not pay the tax.

Companies based in Gibraltar would pay an employment tax but the government would seek to cap any payments under existing EU rules. A company registration fee would also be introduced.

Against a background of a formal investigation by the European Commission on tax concessions and the sovereignty talks between Spain and the UK, Gibraltar is under considerable international pressure to conform to OECD and EU parameters.

By bringing forward its income tax review and by tailoring its measures to meet the needs of the offshore companies and its own budgetary requirements, the government hopes to avoid any flight of investment to other jurisdictions.

Sovereign comment

There has been some debate about what tax system should replace the exempt and qualifying company regimes in Gibraltar. Initially a low tax rather than zero tax regime was proposed but commentators, including ourselves, wrote to the Gibraltar government suggesting that this would lead to a flight of business away from the jurisdiction as other jurisdictions all offered zero tax options. Other proposals included a Hong Kong-style territorial tax system which would result in most "offshore" companies paying zero tax in Gibraltar. The proposals described above appear to have gained acceptance in the industry and government and seem likely to be introduced sooner rather than later. Local companies may have to bear a higher degree of taxation but those who currently enjoy exempt status are likely to have no change to their current zero tax regime. We will, of course, inform clients as soon as details of the new tax regime are released.

fiscal

Isle of Man reduces income tax to 10%

The government announced a two per cent reduction in the Isle of Man's income tax rates in the Budget in March, realising key elements of its taxation strategy well ahead of schedule.

The standard rate of tax for resident trading companies and individuals is to be reduced from 12% to 10%. The top rate for trading companies is to be reduced from 18% to 15% – the top rate for individuals will remain at 18%.

The changes will mean a total £7.2m reduction in personal tax bills and a £7.3m saving for companies.

When the government's taxation strategy was approved in October 2000, its key targets included the reduction of standard income tax rates for businesses and individuals to 10%, within three to five years. The 2001 Budget cut the standard rate from 14 to 12%.

Other Budget measures include the extension of a zero rate tax to insurance and shipping companies and a £2m transfer to the E-commerce/ICT Fund. Exempt Companies Fees and Non Resident Company Duty will remain unchanged at £430 and £830 respectively.

Sovereign Comment. The Isle of Man wants to be known as a low tax rather than a zero tax centre and so has been progressively reducing its tax rates in furtherance of this aim. The Isle of Man has a particularly attractive regime for insurance-related business and a blue chip reputation for all forms of offshore business.

Mauritius to review operation of Indian tax treaty

The Mauritius government announced in April that it will take stringent action against money laundering and has decided to review the operational aspects of the double taxation avoidance treaty with India.

The Mauritius Financial Services Commission is also to sign a Memorandum of Understanding with the Securities and Exchange Board of India to exchange confidential information in July.

"There will be no money laundering through Mauritius. There is a new regulation which will be modern and performing," said the Mauritian Prime Minister designate Paul Raymond Berenger after meeting Indian Finance Minister Yashwant Sinha.

He said the two countries would exchange confidential information to check money laundering, misuse of funds and any other "fishy business".

The two countries will also review the operational aspects of the tax treaty but will not change its substance.

Sovereign comment

Mauritius is extremely keen to protect its image and to preserve the highest standards. Mauritius has a range of tax treaties that are extremely advantageous. In particular, the treaties with India, China and South Africa greatly reduce withholding taxes and are therefore the recommended conduit for investment into those countries. In addition, Mauritius has signed a treaty for the mutual protection of investments with China thereby adding to the attractions of utilising Mauritius as a gateway into China.

OECD brands seven jurisdictions as uncooperative tax havens

The OECD has announced that 31 jurisdictions have made commitments in response to its "harmful tax practices" initiative and can now be considered cooperative jurisdictions. It had accepted a further five commitments to transparency and effective exchange of information in advance of its extended end of February deadline for commitments and a further 15 after.

But seven jurisdictions – Andorra, Liechtenstein, Liberia, Monaco, the Marshall Islands, Nauru and Vanuatu – had failed to make commitments and, consequently, had been named as uncooperative tax havens by the OECD's Committee on Fiscal Affairs.

OECD deputy secretary-general Seiichi Kondo said: "We hope they will review their decision and we are prepared to continue our dialogue with them. Uncooperative tax havens represent a threat not only to the tax systems of developed and developing countries but also to the integrity of the international financial system."

OECD member countries will use the list as a basis for the framework of coordinated defensive measures now being developed.

Chairman of the Fiscal Affairs Committee Gabriel Makhlouf said: "We have gone a long way towards achieving a level playing field as a result of having a very large number of on and offshore financial centres commit to the same principles. Our aim is that the framework of coordinated defensive measures applying to uncooperative financial centres prevents them from gaining an economic advantage."

The 20 new jurisdictions to sign up to improve the transparency of their tax and regulatory systems and establish effective exchange of information for tax matters with OECD countries by 31 December 2005 are: Anguilla, Antigua, Bahamas, Belize, British Virgin Islands, Cook Islands, Dominica, Gibraltar, Grenada, Guernsey, Jersey, Montserrat, Niue, Panama, St Lucia, St Kitts & Nevis, St Vincent & the Grenadines, Samoa, Turks & Caicos Islands and the US Virgin Islands.

As a result they will not be listed as uncooperative tax havens and will be invited to participate, together with the other committed jurisdictions and OECD Member countries, in the meetings of the OECD's Global Forum to discuss the design of standards for the implementation of these and any similar commitments.

As part of their commitments, each jurisdiction has also undertaken to ensure that no new regime or practice is introduced or is modified in such a way that it fails to comply with the principles of transparency and effective exchange of information.

The commitments were part of a process established by the OECD to promote the elimination of harmful tax practices in 35 jurisdictions identified in its 2000 Report, towards Global Tax Cooperation as meeting the technical criteria for being a tax haven. The initiative was formally modified last November to remove the "no or nominal tax" and "no substantial activities" elements from the criteria. Commitments are now only being sought with respect to transparency and effective exchange of information.

"Our aim is that the framework of coordinated defensive measures applying to uncooperative financial centres prevents them from gaining an economic advantage."

Six jurisdictions – Bermuda, Cayman Islands, Cyprus, Malta, Mauritius and San Marino – made commitments in advance of the 2000 Report and were excluded from the list. Following publication, further commitments were made by Aruba, Bahrain, Isle of Man, Netherlands Antilles and Seychelles to secure their removal.

Barbados, the Maldives and Tonga, meanwhile, were subsequently taken off the list because discussions showed that they did not actually qualify under the OECD's criteria. But the "listed" Pacific territories of the Marshall Islands, Nauru and Vanuatu announced their intention not to cooperate. The Vanuatu government said the fact that significant OECD members – Switzerland, Luxembourg, Belgium and Portugal – have not committed to the standards being demanded of non-OECD states was an important reason behind the decision.

The Vanuatu Prime Minister said his government had very serious "reservations concerning various central aspects of this initiative".

The OECD initiative reviewed harmful tax practices in its own member countries and listed 41 tax regimes across 21 countries. Makhlouf said the Forum on Harmful Tax Practices intended to finalise application notes by June.

The OECD also released in April a model agreement for effective exchange of information in tax matters, developed by the OECD's Global Forum Working Group on Effective Exchange of Information. It contains two models for bilateral agreements drawn up in the light of the commitments undertaken by the OECD and the committed jurisdictions. The Working Group was chaired by Malta and the Netherlands and marks the first results of the OECD's collaboration with cooperative jurisdictions. It included representatives from Aruba, Bermuda, Bahrain, Cayman Islands, Cyprus, Isle of Man, Mauritius, Netherlands Antilles, Seychelles and San Marino.

Maltese Minister John Dalli said: "It is crucial that the agreement will become the international standard… It encourages as many economies as possible to cooperate in this important endeavour and notes that it is not in the interest of participating economies that "the implementation of the standard contained in this agreement should lead to the migration of business to economies that do not co-operate in the exchange of information."

St. Thomas University – Miami, USA

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Publisher: Kamilian Limited
Email: report@kamilian.com
Website: www.kamilian.com
Printer: Pioneer Printers Limited

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