



## France publishes official blacklist of 'non-co-operative jurisdictions'

The French Amended Finance Bill for 2009, passed on 30 December 2009 (the Law), contains new tax restrictions on transactions involving non-co-operative states or territories (NCSTs) (see our briefing sent at the beginning of February). The French government has just published the first list of NCSTs, applicable for 2010 – they are as follows:

Anguilla, Belize, Brunei, Costa Rica, Dominica, Grenada, Guatemala, Cook Islands, Marshall Islands, Liberia, Montserrat, Nauru, Niue, Panama, Philippines, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines.

The French tax authorities also just published a general ruling on the tax treatment of interest paid from France into NCSTs (RES No 2010/11). The ruling provides that the following debt instruments are exempt from the new rules (ie are not subject to the 50 per cent withholding tax and the presumption of non-deductibility for the payer):

- (i) bonds subject to a public placement (in France, or abroad if the public placement requires the registration of a prospectus with the concerned market regulator);
- (ii) listed bonds (in France, or abroad if the concerned market and the company managing this market are not located in a NCST). Bonds admitted to a multilateral trading facility benefit from this provision under the same requirements; and
- (iii) bonds admitted, at the time of their issuance, to a clearing system (again under the requirement that the depository is not located in a NCST).

Regarding loan agreements (other than bonds), the Law provides that the new rules only apply to interest paid pursuant to loan agreements signed on or after 1 March 2010. The ruling provides that the signing date of the concerned loan agreement must be taken into account. Therefore, a credit facility agreement signed before 1 March 2010 will continue to be subject to previous legislation (in practice, no withholding tax in most cases), including for interest paid on funds drawn after 1 March 2010. However, irrespective of the signing date of the contract, the borrower will be subject to the non-deductibility presumption regarding interest paid to lenders located in NCSTs.

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