

# NEWSFRONT

## GREEK SHIPPING INTELLIGENCE

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### LEGAL OPINION

#### Banks / Automatic exchange of information / Common reporting standard

As from 1.1.2016, banks in certain jurisdictions will release information on accounts beneficially held by individuals who are tax residents in other jurisdictions, to the countries of the individuals' tax residence. This is the so called Common Reporting Standard of OECD. More countries will join such reporting as from 1.1.2017.

The exchange of information shall be automatic, however it will only concern "passive" companies, ie those that have income primarily arising from dividends, interests. It will not include companies that are trading or engage in other economic activity (eg consulting, services).

Implementation of this procedure is not yet clear and is expected to vary from country to country and from bank to bank within the same jurisdiction.

Categorisation of the companies to "active" or "passive" is expected to take place on the basis of self-assessment, however the duty of sincerity exists.

Further, "activeness" is a notion that is constantly tested: If, for a fiscal year, more than 50% of the income of a trading company derives from non-trading activity, the company shall be considered as "passive" for that year and will be reported.

On the other hand, it seems companies that have no activity but own 51% of an active company, will be considered as active themselves.

More clarification will come when the Common Reporting Standard starts applying, as ambiguity exists and even bankers are not in a position to clarify all the grey areas.

In general, one can consider the world of off-shore structures is tending to become more transparent due to the regulations of international organisations. It remains to be seen to what extent transparency can still apply to certain off-shore schemes, as we now know them.

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