

Cyprus Business Headlines

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CYPRUS REMOVED FROM ALL ITALIAN TAX 'BLACKLISTS'

The additional protocol to the Cyprus – Italy agreement on the avoidance of double taxation, which was signed on 28 May 2009, has now been ratified by both countries and has come into effect. The additional protocol provides for the exchange of bank and other information based on the OECD Model Tax Convention.

Following ratification of the protocol Cyprus has formally been removed from Italy's three 'blacklists' of countries considered to have tax systems which favour the avoidance of taxation. As a result, Italian owned companies established in Cyprus are no longer subject to Italian CFC rules, and Italian individuals who move to Cyprus are no longer presumed to be resident in Italy for tax purposes unless they prove the contrary. Finally, Cyprus has been added to the white list for the purposes of the application of the portfolio income exemption exempting foreign source portfolio investment income from Italian withholding or substituted tax of 12½ per cent. Cyprus has also been removed from the blacklist of countries with which Italy does not have a sufficient level of tax information exchange.

Cyprus's removal from the list of countries with which Italy does not have a sufficient level of tax information exchange is also significant with regard to the new requirements, announced in April 2010, for Italian businesses to report certain import and export transactions above €50,000 to the Italian VAT authorities, particularly transactions involving countries with an insufficient level of tax information exchange. Under the new rules, details of transactions in goods and services from companies or individuals having an establishment, residence or domicile in such countries (which include Luxembourg, Liechtenstein, San Marino and Switzerland) will have to be forwarded to the Italian Revenue Agency.

Inclusion on the blacklists has had little practical significance since Cyprus joined the EU in 2004. Nevertheless, removal from the blacklists is an important recognition that companies and individuals with activities in Cyprus will now have totally ordinary fiscal status as far as the Italian tax system is concerned.

Further information: [Elias Neocleous](#)

CREDIT RATING AGENCIES - IMPLEMENTATION OF REGULATION (EC) NO 1060/2009

The Cyprus Securities and Exchange Commission ("CYSEC") has recently issued a circular drawing the attention of persons operating credit rating agencies ("CRAs") in Cyprus to Regulation (EC) No 1060/2009 of the European Parliament and of the Council, which puts in place a common regulatory regime for the publication of credit ratings.

Under this regime, which will become fully applicable in December 2010, all CRAs publishing credit ratings in the EU are required to apply for registration. In order to minimise the risk of conflicts of interest affecting ratings and improve transparency CRAs will not be allowed to offer consultancy services and they will be required to disclose the methodology and internal models and key rating assumptions they use to make their ratings.

The competent authority for the licensing and supervision of CRAs in the Republic of Cyprus is CYSEC, and persons established in the Republic which issue credit ratings which are disclosed publicly or distributed by subscription should apply for registration to the Committee of European Securities Regulators (CESR). Only legal persons can be registered as CRAs.



The circular also advises that from 7 December 2010 all Cyprus investment firms, credit institutions, insurance and reinsurance undertakings, undertakings for collective investment in transferable securities (UCITS) and institutions for occupational retirement provision should use only credit ratings issued by CRAs established in the European Community and registered in accordance with the Regulation for regulatory purposes, such as for the calculation of their capital adequacy requirements, for solvency purposes or for calculating risks in their investment activity.

It should be noted that further changes to the regulation of CRAs have been proposed by the European Commission which, if approved, will create a new European supervisory authority, the European Securities and Markets Authority, with exclusive supervisory powers over CRAs registered in the EU, including the European subsidiaries of international CRAs such as Fitch, Moody's and Standard & Poor's.

Further information: [Maria Kyriacou](#)

MEETINGS OF MEMBERS OF INVESTMENT COMPENSATION FUNDS FOR THE CLIENTS OF CYPRUS INVESTMENT FIRMS

The Cyprus Securities and Exchange Commission ("CYSEC") has recently issued directive DI 144-2007-09 on General Meetings of the members of the Investment Compensation Funds for the clients of Cyprus Investment Firms, pursuant to the provisions of the Investment Services and Activities and Regulated Markets Law (Law 144(I) of 2007) as amended, transposing MiFID into Cyprus legislation.

The new CYSEC Directive regulates the administration and organisation of the Investors Compensation Fund and specifically defines and codifies the arrangements for regular and extraordinary meetings of its members.

Further information: [Elias Neocleous](#)

RECENT EU LEGISLATION REGARDING UNDERTAKINGS FOR COLLECTIVE INVESTMENTS IN TRANSFERABLE SECURITIES

The European Commission has recently published a number of new Regulations and Directives regarding UCITS, namely:

- ≡ Commission Regulation (EU) No 583/2010 of 1 July 2010 implementing Directive 2009/65/EC of the European Parliament and of the Council as regards key investor information and conditions to be met when providing key investor information or the prospectus in a durable medium other than paper or by means of a website.
- ≡ Commission Regulation (EU) No 584/2010 of 1 July

2010 implementing Directive 2009/65/EC of the European Parliament and of the Council as regards the form and content of the standard notification letter and UCITS attestation, the use of electronic communication between competent authorities for the purpose of notification, and procedures for on-the-spot verifications and investigations and the exchange of information between competent authorities.

- ≡ Commission Directive 2010/42/EU of 1 July 2010 implementing Directive 2009/65/EC of the European Parliament and of the Council as regards certain provisions concerning fund mergers, master-feeder structures and notification procedure.
- ≡ Commission Directive 2010/43/EU of 1 July 2010 implementing Directive 2009/65/EC of the European Parliament and of the Council as regards organisational requirements, conflicts of interest, conduct of business, risk management and content of the agreement between a depositary and a management company.

Further information: [Elias Neocleous](#)

REMOVAL OF CYPRUS FROM RUSSIAN TAX BLACKLIST

As we finalise this newsletter we have learned that the Protocol to the Cyprus-Russia agreement, which was signed in 2009, is expected to be ratified in the next few days, resulting in Cyprus being removed from any Russian blacklist and finally resolving an issue that has troubled both countries for some years.

Further information: [Elias Neocleous](#)

FIRST NOTIFICATIONS UNDER THE MERCHANT SHIPPING (FEES AND TAXING PROVISIONS) LAW OF 2010

The Merchant Shipping (Fees and Taxing Provisions) Law of 2010 (the Tonnage Tax Law) left certain issues of detail to be determined by the Cyprus Department of Merchant Shipping. The Department has now issued Notifications setting out the arrangements for payment of tonnage tax by owners of ships on the Cyprus Register, the definition of Community ship for the purposes of the Tonnage Tax Law and the towage and dredging activities which qualify for taxation under the tonnage tax regime.

The Taxation of Owners of Cyprus Ships Notification of 2010

Tonnage tax of Cyprus ships pursuant to section 9 of the Tonnage Tax Law is payable annually in advance to the Department of Merchant Shipping, no later than 31 March in each year. The first annual fee under section 4 (2) of the Tonnage Tax Law is payable to the



Department in advance on registration of the ship in the Cyprus Register. For subsequent years the fee is payable together with the tonnage tax of the ship.

These arrangements apply to owners of ships on the Cyprus Register, for which the tonnage tax system is mandatory. Arrangements for payment of tonnage tax by other qualifying businesses have not yet been announced.

The Tonnage Tax (Definition of Community ships) Notification of 2010

The Notification defines Community ships for the purposes of the Tonnage Tax Law as comprising ships registered on the primary registers of Member States of the European Union and of the European Economic Area/EFTA States (Norway, Iceland and Liechtenstein) together with ships on the following registers:

- ≡ the Danish International Register of Shipping (DIS);
- ≡ the German International Shipping Register (ISR);
- ≡ the Italian International Shipping Register;
- ≡ the Madeira International Ship Register (MAR);
- ≡ the Canary Islands Ship Register;
- ≡ the French International Ship Register (RIF);
- ≡ the Norwegian International Ship Register (NIS);
- ≡ the Gibraltar Ship Register.

The Notification makes clear that the following registers are not included as registers of Community ships:

- ≡ the Kerguelen Register;
- ≡ the Dutch Antilles Register;
- ≡ the Isle of Man Register;
- ≡ the Bermuda Register;
- ≡ the Cayman Islands Register.

The Tonnage Tax (Towage and Dredging Activities) Notification of 2010

Towage and dredging activities qualifying for taxation under the tonnage tax regime are as follows:

- ≡ An ocean going tug qualifies for tonnage tax, provided that it is a Community ship and during the length of a particular fiscal year, it spends at least 50% of its yearly operational time in towage or salvage activity at sea. Waiting time in respect of a particular activity is treated as time during which the tug is used for that activity.
- ≡ Tugs used exclusively to assist ships or other floating structures into and out of a port or for their movement within the confines of a port area or to tow barges on inland waters or in estuaries do not qualify for the tonnage tax scheme.
- ≡ Tugs used for the purposes of raising wrecks and wreckage are qualifying ships. It should be noted that any profits from the sale of salvaged goods will be taxed separately under the Income Tax Laws of 2002 to 2010.
- ≡ Anchor handling tug supply (AHTS) vessels will be

examined on a case by case basis.

- ≡ Self-propelled Community ships constructed or adapted for the carriage of sand or aggregate from the seabed will be eligible for the tonnage tax scheme provided they spend at least half their yearly operational time as a qualifying dredger. The operational time of a dredger includes travelling to the dredge site, winning the dredged material and subsequently transporting it for unloading. The dredge site must be at sea.
- ≡ Shipmanagement activities in respect of ocean going tugs and dredgers qualify for the tonnage tax scheme irrespective of the proportion of the vessel's time engaged in qualifying activities.

We shall report on further Notifications as they are issued.

Further information: [Costas Stamatiou](#)

SHIPPING - UPDATED LIST OF COUNTRIES WHOSE CERTIFICATES OF COMPETENCY ARE RECOGNISED BY CYPRUS

The Cyprus Department of Merchant Shipping has published an updated list of countries whose certificates of seamen's competency are recognised by Cyprus. Algeria has been added to the list, which is now as follows:

Algeria; Argentina; Australia; Bangladesh*; Belgium; Brazil; Bulgaria; Canada; Cape Verde*; Chile; China; Croatia; Cuba; Czech Republic; Denmark; Egypt*; Estonia; Finland; France; Georgia; Germany; Ghana*; Greece; Hong Kong; Hungary; Iceland; India; Indonesia; Iran; Ireland; Israel*; Italy; Jamaica; Japan*; Latvia; Lithuania; Malta; Mexico; Morocco*; Montenegro; Myanmar; Netherlands; New Zealand; Nigeria*; Norway; Pakistan; Peru; Philippines; Poland; Portugal; Romania; Russian Federation; Serbia; Singapore; Slovakia; Slovenia; South Africa; South Korea; Spain; Sri Lanka*; Sweden; Turkey; Ukraine; United Kingdom; United States; Vietnam.

Countries marked with an asterisk are currently being assessed by the European Commission.

Further information: [Costas Stamatiou](#)

NEWS ABOUT OUR FIRM

Chambers Europe again ranks Andreas Neocleous & Co LLC as Cyprus's leading firm

In the recently-published Chambers Europe guide for 2010 Andreas Neocleous & Co LLC has consolidated its position at the top of the Cyprus rankings. Chambers Europe highlights the firm's "outstanding reputation" and reports clients' positive comments across all practice areas.

In recognition of his long-term contribution to the legal profession Andreas Neocleous is awarded the accolade of "senior statesman", the only recipient of such an award in Cyprus. Eight of our partners are recognised as leading individuals, far more than from any other Cyprus firm, including two young partners recognised as "up-and-coming".

With 100 full-time researchers who carry out in-depth research and interview thousands of lawyers and their clients around the world, Chambers has an enviable and well-earned reputation based on the independence and objectivity of its research. We are both proud and grateful that our commitment to quality is appreciated by our clients and recognised in these awards. We should like to thank our clients for their support and to assure them of our unremitting commitment to further improving our service to them.

Annual meeting of Andreas Neocleous & Co International

The second meeting of the General Assembly of Andreas Neocleous & Co International took place in Prague, Czech Republic, on 21 August. Andreas Neocleous & Co International is a Verein (association) organised under the Swiss Civil Code which acts as an "umbrella" organisation for our associated firms.

The meeting was held in a businesslike but friendly atmosphere, and was attended by the full complement of constituent members from Brussels, Budapest, Kiev, Moscow, Sevastopol, Nicosia and Limassol. Firm proposals were approved to increase synergies between members and enhance the services offered to our clients.



Strengthening of our EU law department

We have recently strengthened our EU law department with the recruitment of Christos Floridis, a qualified lawyer and an expert in the field of state aid. Before joining our firm Christos held senior positions in the French Overseas Ministry and Ministry of Interior with responsibility for the monitoring, coordination and financial control of EU structural funds and the implementation of EU regulations and directives in the regions of France. He was also responsible for liaison

with the European Parliament, the Conference of the Presidents of the EU outermost regions and the Interministerial Committee on Maritime Policy of the EU.

Under his supervision, our EU law department provides a full range of services to individuals, companies and other bodies covering all aspects of European law, including, competition law, trade and regulatory law and legal aspects of the internal market, European business grant schemes and European Territorial Cooperation Programmes.

RECENT PUBLICATIONS

The following are a selection of our publications since the previous edition of this newsletter. They may be viewed by following the links below or by visiting the publications section of our website.

- ≡ [Cyprus chapter of PLC "Dispute Resolution Handbook"](#)
- ≡ [Cyprus chapter of "Getting the Deal Through – Labour & Employment 2010"](#)
- ≡ [Cyprus chapter of PLC "Tax on Transactions 2010-2011"](#)
- ≡ [Cyprus chapter of "The Merger Control Review"](#)
- ≡ [Cyprus chapter of "The Restructuring Review, Third Edition"](#)
- ≡ [Cyprus chapter of Baker & McKenzie's "International Agency and Distribution Handbook"](#)



Neocleous House,
195 Archbishop Makarios III Avenue
P.O. Box 50613, CY-3608, Limassol, Cyprus
Tel.: +357 25 110000 Fax: +357 25 110001
E-mail: info@neocleous.com
Website: www.neocleous.com

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