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REGISTRATION OF SHIPS IN THE CAYMAN ISLANDS

INTRODUCTION

This memorandum summarises the principal legal and procedural considerations relating to the registration of ships on the Cayman Islands Shipping Register. It is not intended to deal exhaustively with all aspects of the subject and proper legal advice should always be obtained before registering or entering into any transaction involving a Cayman Islands registered ship.

THE CAYMAN ISLANDS SHIPPING REGISTRY

The Cayman Islands Shipping Registry is a Category One British Registry and, as such, is able to register vessels of any size, age and type (except commercial fishing vessels), provided the prescribed quality standards are met. Ships registered on the Cayman Islands Shipping Registry are British ships and, as such, are entitled to fly the Red Ensign. In addition to the registration of many commercial ships, the Cayman Islands Registry has grown to being the largest in the world for yachts over one hundred feet in length.

QUALIFICATIONS TO OWN A CAYMAN ISLANDS SHIP

The following persons or entities are qualified to be owners of Cayman Islands ships:

- Cayman Islands, British, British Dependent Territories and British Overseas Citizens
- Persons who under the Hong Kong (British Nationality) Order 1986 are British Nationals (Overseas)
- Persons, other than those referred to above, who are Nationals or Citizens of a Member State of the European Union or European Economic Area, including the Overseas Territories of such Member State
- Companies incorporated in, and shipping entities established in, a Member State of the European Union or European Economic Area, including the United Kingdom, and having a place of business in any such Member State
- Companies incorporated in any relevant British possession, including the Cayman Islands, or in any Overseas Territory of a Member State of the European Union or the European Economic area, and having a place of business in such possession or Overseas Territory
- Foreign companies carrying on business within the Cayman Islands and registered pursuant to Part IX of the Companies Law

For the above purposes the expression “place of business” means the place where meetings of the directors of the company are regularly held, and the expression “shipping entity” includes a “partnership” and a “limited partnership” as defined in the Partnership Law and an “exempted limited partnership” as defined in the Exempted Limited Partnership Law together with any similar entities regardless of where such entity is established.

REGISTRATION PROCEDURE

The registration procedure followed by the Cayman Islands Shipping Registry is based on the well established British system and has been amended in recent years, often in advance of similar



amendments in the UK, to provide for a logical and straight forward system. The standard forms required for the registration of a ship are as follows:

- Form 1 – Application to Register at the Port of George Town
- Form 2 – Notice of Name Proposed for a British Ship
- Form 3 – Appointment of Person or Company Authorised by the Owner to sign the Declaration of Ownership (for company owned ships)
- Form 4 – Declaration of Ownership
- Form 5 – Declaration of Private Use (if applicable)
- Form 6 – Undertaking to Mark Vessel for Conditional Registration (see below)
- Form 7 – Appointment of Representative in the Cayman Islands (if the owner is not resident in the Cayman Islands)
- Form 7a – Undertaking to act as Representative in the Cayman Islands

In addition to the above standard forms the following documentation is also required to be filed at the Registry:

- Documents of Title (Builder's Certificate for a new ship or Bill of Sale for secondary owners)
- Certificate of Incorporation (for company owned vessels)
- Certificate of Good Standing (for company owned vessels)
- Certified copy of Passport (for individually owned vessels)
- Certificate of Survey (by a surveyor approved or provided by the Shipping Registry)

Once the Registrar is satisfied with all the documentation, a Carving and Marking Note is issued to the owner. The owner then arranges for the vessel to be permanently marked and inspected for verification with the Carving and Marking Note by an approved surveyor, who signs the Note and returns it to the Shipping Registry. The Registrar then issues a Certificate of British Registry along with the Tonnage Certificate.

CARVING AND MARKING

Where a Certificate of British Registry is to be issued prior to receipt of a completed Carving and Marking Note an undertaking must be given to the Registrar by the owner to have the vessel marked with its Port of Registry, Official Number and Net or Register Tonnage within twenty-one days. The Official Number and Net or Register Tonnage must be carved on a plate permanently affixed to the ship's main beam or other main structural member, where it is clearly visible. However, on pleasure yachts, the ship's name is not required to be marked on each of the bows.

PROVISIONAL AND CONDITIONAL REGISTRATION

In cases where it may be difficult or impossible to effect permanent registration within commercial time constraints, provisional or conditional registration can be arranged. This allows the ship to be registered for a strictly limited period to allow the completion of the full process, and permanent registration is dependent on satisfactory completion of all safety surveys within a specified period.

Provisional registration is a facility that empowers a British Consul or British High Commissioner in a Commonwealth country to issue a Certificate of Registry valid for up to three months or until the ship arrives at a port where there is a British Registrar of Shipping, if sooner.

Conditional registration is processed at the Cayman Islands Shipping Registry and typically provides for the issue of the Certificate of Registry (and recording of mortgage, if applicable) in advance of completing all the statutory surveys or the Carving and Marking. Regardless of such registration, the ship should not leave port until properly marked and certified. Registration of ships under construction is also a form of conditional registration since these ships must pass survey on completion of construction before qualifying for permanent registration.

Mortgage registration is available under the provisional and conditional registration procedures and any such mortgage will remain in effect, even if the conditions for permanent registration are not subsequently met.



SHIPS UNDER CONSTRUCTION

Ships under construction may be registered and mortgaged on the Cayman Islands Shipping Registry and a ship may be registered when the keel is laid. Documents for registration will be the same as noted above except that, in lieu of the Builder's Certificate, documentary evidence of the ship under construction must be supplied. The Shipping Registry will issue a Certificate of Registration Under Construction which is a form of conditional registration maintained on a separate part of the Register. Full registration on completion will depend on the ship meeting the statutory requirements to be able to sail under the Cayman Islands flag.

A mortgage of a ship under construction will be treated and will have the same priority as a registered ship mortgage and will continue to be treated as such until it is discharged, even if the ship under construction ceases to be registered. A ship under construction is treated as maritime property for the purposes of a mortgage.

DEMISE CHARTER REGISTRATION

Demise charter registration enables a demise charterer to register a ship of not less than 24 metres in length under a flag that is different from where the ship was originally registered by the owner. Matters relating to title, mortgage and other propriety interests continue to be subject to the law of the owner's country of registration but the nationality of the ship is that of the flag state where the charterer registers it. Demise chartering is a method by which a person can acquire a ship without purchasing it but nevertheless have it registered in the Cayman Islands, which may be beneficial in terms of the commercial operation of the ship.

MORTGAGES AND SECURITY INTERESTS

When a ship is registered under the Cayman Islands flag, a mortgage can be created to secure a loan or other financial obligation by delivering to the Registrar of Shipping for registration an executed mortgage using a statutory printed form. The Registrar will record details of the mortgage on the Register and endorse on the mortgage itself the date and time of registration. Mortgages rank for priority in order of registration and may be in one of two forms, namely principal and interest or account current.

Where a mortgage instrument contains a prohibition against a transfer of ownership, transfer of flag or the creation of further mortgages without the prior written consent of the mortgagee, the Registrar will note such restriction on the Register and will not deal with a subsequent transfer or accept a further mortgage for registration without the written consent of the mortgagee.



There is also provision to record “priority notices” which enables a mortgagee to maintain priority as of the date of execution (rather than registration) of a mortgage and to release funds even though the mortgage is registered as a later date. Priority notices prevent a subsequent mortgagee from gaining priority by registering his interest before the mortgagee who has issued a priority notice is able to register his mortgage. This procedure may be particularly useful in cases where mortgage transactions take place outside the Cayman Islands by adding another layer of mortgage protection.

TRANSFER OF OWNERSHIP

Where the ship is to remain on the Cayman Islands Register the new owner is required to file the following documentation at the Registry:

- Form 1 – Application to Register at the Port of George Town
- Form 3 – Appointment of Authorised Agent
- Form 4 - Declaration of Ownership
- Form 5 – Declaration of Private Use (if applicable)
- Form 7 – Appointment of Representative in the Cayman Islands (if the owner is not resident in the Cayman Islands)
- Form 7a – Undertaking to act as Representative in the Cayman Islands
- Bill of Sale
- Certificate of Incorporation (if the new owner is a company)
- Certificate of Good Standing (if the new owner company is more than one year old)

If the transferor is a company it should submit to the Registry through its local agent a request to transfer, a certificate of good standing and the written resolutions of its board stating their intention to sell the ship. The original Certificate of Registration should also be returned to the Registry. However, there is no requirement to have another registration survey conducted or to supply the original builder’s certificate.

FEES

The prescribed fees currently payable to the Shipping Registry on first registration of a ship and annually thereafter are set out in the attached Schedule. Please note that, as fees may be varied from time to time, the information contained in the Schedule should be used for guidance only and verified prior to proceeding with any shipping transaction.

This article is intended to provide a limited overview of the subject matter and is not a substitute for proper legal advice in relation to a particular transaction or proposal.

SCHEDULE

REGISTRATION FEES

1.	First Registration, Registration Anew, Re-registration or Transfer of Registration from one port to where the ship is:	
		US\$
	a. up to 150 gross tons	300.00
	b. over 150 and up to 400 gross tons	500.00
	c. over 400 and up to 1500 gross tons	700.00
	d. over 1500 gross tons	1000.00
2.	Registration of a Ship Under Construction:	250.00
3.	Registration of a Transfer of Ownership, where the ship is:	
	a. up to 150 gross tons	200.00
	b. over 150 and up to 400 gross tons	250.00
	c. over 400 and up to 1500 gross tons	275.00
	d. over 1500 gross tons	400.00
4.	Registration, Transfer or Discharge of a Mortgage, where the ship is:	
	a. up to 150 gross tons	200.00
	b. over 150 and up to 400 gross tons	350.00
5.	Registration of a Priority Notice regarding a Mortgage:	75.00
6.	Annual Tonnage Fees:	
	a. minimum fee	100.00
	b. per gross ton for the first 1000 gross tons	00.40
	c. each additional gross ton above 1000 gross tons	00.14
7.	Rush Fees (after receipt of satisfactory documentation)	
	a. registration within 24 hours	200.00
	b. any other documentation within 24 hours	30.00

This facility is offered on a resource available basis only. Where it is not possible to complete a service within the specified time, the rush fee will be refunded.

MARINE SURVEY AND LICENSING FEES

1.	Tonnage Measurement survey and issue of Tonnage Certificate and Certificate of Survey, where the ship is:	
	a. under 24 metres in length	US\$ 300.00
	b. 24 metres and over in length	750.00
2.	Application review and issue of a Safe Manning Certificate (SMC), where the ship is:	
	a. up to 500 gross tons	275.00
	b. over 500 gross tons	460.00
3.	SMC for a Sister Ship or near Sister Ship or to vary an existing SMC, where the ship is:	
	a. up to 500 gross tons	165.00
	b. over 500 gross tons	275.00
4.	Endorsement attesting to the recognition of STCW 95 Certification:	185.00
5.	Statutory Certificates (i.e. SOLAS, Marpol, Load Line, Tonnage, etc.)	230.00