



Many people are aware that the Cayman flag is a popular flag for superyachts the world over. They may even know some of the famous names who have made the Cayman flag the flag of choice for their superyachts. But do we really understand what this means for us as a jurisdiction?

What does it really mean to be the leading flag jurisdiction for the superyachts in the world?

by Sherice Arman

The Cayman Islands has been operating a Shipping Registry since 1903. For nearly two decades it has been a Category 1 member of the prestigious Red Ensign Group and as such, is able to register vessels of any size, ranging from superyachts to supertankers. Statistics show that approximately 90 per cent of superyachts over 100 metres are Cayman flagged and currently there are over 1,800 vessels registered on the Cayman Register.

This gives the Cayman Register a status of excellence unparalleled the world over. The achievement of this status did not come easily, but with years of hard work, foresight and diligence on the part of many people who were and still are committed to excellence. It is supported by a comprehensive and modern legal framework, coupled with consistent delivery of efficient and pragmatic services to ensure that the highest international standards can be maintained.

As an Overseas Territory of the United Kingdom, the Cayman Islands benefits from a highly developed level of political, economic and judicial stability, whilst also exercising a high degree of autonomy. The Cayman Islands legal system is based on the English legal system and with Cayman's final court of appeal being the Privy Council, this provides an added degree of comfort to international banks and vessel owners.

There is currently no direct taxation in the Cayman Islands, as a result of which, owners and lenders are not subject to income, capital gains or any other taxes in the Cayman Islands. It should be noted however that it is not necessarily the flag of a vessel which gives rise to and dictates the tax liability of an owner.

It is not a requirement for a Cayman Islands flagged vessel to be owned by a Cayman Islands individual or entity. As a matter of fact, there is a wide range of persons and entities that qualify to

own Cayman Islands flagged vessels, including, but necessarily not limited to, the following:

- British citizens
- citizens of member states of the European Union and entities incorporated, established or registered in and having a place of business in the United Kingdom or any of its overseas territories or Crown dependencies, a member state of the European Union or EEA; or
- a country included in the Third Schedule to the Money Laundering Regulations of the Cayman Islands, which have similar anti-money laundering legislation as the Cayman Islands.

The Cayman Registry surveyors are well respected in the shipping industry worldwide and are extremely knowledgeable and experienced. They maintain an active survey and audit programme for vessels and will refuse to register ves-

sels that do not comply with international standards. The Registry's affiliation with several global classification societies such as American Bureau of Shipping, Bureau Veritas, Det Norske Veritas, Germanischer Lloyd, Lloyds Register, Nippon Kaiji Kyokai and Registro Italiano Navale adds to their survey capabilities in various jurisdictions.

The well-earned reputation of the Cayman register makes it popular with institutions around the world involved in financing the acquisition of vessels. The mortgage registration process is efficient and the registry will allow the registration of a mortgage on a vessel under construction unlike some other jurisdictions. In order to accommodate lenders and owners in different time zones and on different continents, the Registry has nine offices – George Town (head office), Southampton, London, Ft Lauderdale, Monaco, Athens, Hong Kong, Singapore and Tokyo, in seven different time zones. It also offers express over-the-counter service as well as service out of regular hours, which prove to be very useful in situations where transactions are time sensitive.

In support of these endeavours, the Maritime Authority of the Cayman Islands working closely with the Government of the Cayman Islands ensures that maritime legislation is tailored to meet the needs of its global diversified fleet.

Currently pleasure vessels for "private use" are restricted to less than 12 passengers (excluding crew) who are the immediate family and friends of an individual owner; the employees, directors, officers or shareholders (including beneficial owners of shares) of a corporate owner (or their immediate family or friends); or the beneficiaries or other beneficial owners where the vessel is owned by a trust or other ownership arrangement (or their immediate family or friends). As the average size of superyachts grows rapidly in length, with the largest superyacht in the world nearing 600 feet, the Maritime Authority of the Cayman Islands in conjunction with the Red Ensign Group has worked diligently to introduce a Code of Practice for Yachts Carrying 13 to 36 Passengers (The Passenger Yacht Code). This new Code of Practice applies to pleasure yachts of any size, in private use or engaged in trade, which do not carry cargo, but which carry more than 12 but not more than 36 passengers.

New legislative changes contained in the Companies Law (2010 Revision) and the Companies Winding-Up Rules reinforce Cayman's reputation as a creditor-friendly jurisdiction and provide further evidence of the government's commitment to a modern and effective legislative regime. Cayman offers a stable and efficient jurisdiction with highly reputable ship registration and technical services, supported by a highly developed financial services industry, all of which together provide a perfect platform for anyone

considering the purchase of a yacht. The Shipping Registry has ensured that their Register has a well deserved reputation for having the highest quality tonnage afloat. They have done so by various means including ensuring that Cayman-registered vessels comply with applicable international maritime conventions that have been extended to Cayman through legislation.

It is important to appreciate that ship registration is regarded as part of the myriad financial services offered in the Cayman Islands, the fifth largest financial centre in the world. As a result, owners and lenders can take advantage of some of the most advanced services and sophisticated legal structures available for the ownership and financing of vessels which include orphan structures and Shariah compliant structures.

Conclusion

So what does it really mean to be the leading jurisdiction? It means that there is a level of excellence which the shipping world has come to associate with and expect from the Cayman Islands Registry and service providers like Appleby, and their competitors merely continue to follow in their wake.

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BIO: AT A GLANCE

Sherice Arman is a partner and member of the Corporate and Commercial Practice Group. Her practice areas include banking and asset finance, corporate finance and financial services regulation. She specialises in ship and aircraft registration and financing and she has developed specialised expertise in financial services regulation.



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