

**Hong Kong Fleet Operation Advisory Committee**

**Proposed action for conducting a study  
of the Ship Registration Procedures of the Hong Kong Shipping Registry**

**Purpose**

The purpose of this paper is to consult members on the proposed action of setting up a working group (WG) to conduct a study of the ship registration procedures of the Hong Kong Shipping Registry (HKSR) with an aim to provide greater facilitation for shipowners for the transactions of ship registration business.

**Background**

2. HKSR services cover registration of ships<sup>1</sup> and registration of ship mortgage<sup>2</sup> (collectively named as Ship Registration Procedures). The Merchant Shipping (Registration) Ordinance (Cap. 415) stipulates the fundamental legislative requirements for these procedures whilst the procedural details as administrative instructions will be issued by the Director of Marine pursuant to Section 5(1) of Cap.415. The Registrar of ships and any other public officer are obliged to comply with the legislative requirements and the administrative instructions.

3. In April 2023, the Marine Department (HKMD) conducted a meeting with members of the Hong Kong Shipowners Association (HKSOA) to discuss possible ways to streamline HKSR ship registration procedures for providing greater facilitation for shipowners. HKSOA members shared their good experiences from other shipping registries and provided certain suggestions to MD as follows:

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<sup>1</sup> Types of registration include owner, demise charter, full and provisional registration. Closure of Registration on owner's request or by direction.

<sup>2</sup> Types of mortgage include register, transfer and discharge.

- (a) to accept copy of supporting documents including Power of Attorney (POA) in ship/mortgage registration;
- (b) to ease up existing stringent requirements in issuing Provisional Certificate of Registry (PCOR) in order to provide greater flexibility for shipowner to handle 2nd hand ship transactions in a speedy manner; and
- (c) to provide pre-clearance service for all draft applications and supporting documents for clients.

### **MD's initial observations to the suggestions**

4. Regarding the suggestion for the acceptance of copy of POA, MD could accept copy of POA except for those that is in relation to title document or change of a ship's registration status which may have legal concerns. MD could also accept copy of applications and supporting document as far as there are no legal concerns.

5. For the suggestion about the stringent requirements in issuing Provisional Certificate of Registry (PCOR), this is, however, bounded by the legal requirements as stipulated in Cap.415 presently without room for manoeuvring. Apart from the PCOR, HKSR observes that there are some other restrictions/limitations such as the legal requirement for the establishment of a company in HK as the qualified person. Such requirement may incur extra time and cost for shipowners.

6. With respect to pre-clearance service, MD notices that some flag administrations have accredited law firms worldwide that are responsible and liable for vetting/pre-clearing all applications and supporting documents for ship/mortgage registration. Under HKSR existing regulatory regime, however, there is no authorisation mechanism in place for agents/solicitors to pre-vet ship registration documents. HKSR has to handle referrals and worldwide enquiries and vet all the applications and supporting documents before the completion of ship/mortgage registration.

### **Areas requiring immediate attention for the improvement of HKSR services**

7. The above paragraphs have outlined some general constraints as encountered by HKSR

when discharging ship registration duties. In order to improve HKSR services, HKSR considers that there is a need to take an immediate study in the areas of: (a) conducting a comprehensive review of Cap.415; and (b) streamlining the ship registration procedures in the areas that have no legal impact as an interim measure.

#### *Comprehensive review of Cap.415*

8. The review should cover any suggested amendments to Cap.415 to facilitate commercial activities and transactions to meet the needs of the shipping community. In the review process, the comparison of HKSR ship registration procedures against other prominent ship registries should also be covered, in particular of the following areas which are not exhaustive:

- Dual Registration.
- Sub-demise Charter<sup>3</sup>.
- Provisional Registration.
- Other subjects as etc. under Cap.415:
  - Possessing a common seal by a body corporate (Cap. 415 s.19) for ship registration application.
  - DM to serve 90-day notice for intention to the closure of a ship's registration (Cap. 415 s.64(4)) – the notice period is too long for de-registering a sub-standard ship with an immediate risk in safety, environmental protection and crew welfare.
  - DM to direct the Registrar not to register that ship or ships of that class or type (Cap. 415 s.22(4)) – DM may delegate the power to the Registrar but such delegation power is not available in Cap.415.
  - Registrar to endorse on the mortgage instrument the date and time of registration (Cap. 415 s.44(3)) – paper form of instrument required, and therefore prohibiting the implementation of full e-commerce.
  - “office hours” including Saturday 9:00a.m. to noon (Cap. 415A s.2) – there is no office hours for Saturday.

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<sup>3</sup> “sub-demise charter” (再轉管租約) means a sub-charter party by which a ship is sub-chartered or sublet by the demise charterer and under which the sub-demise charterer has the possession of the ship and has control of all matters relating to the navigation and operation of the ship including employment of the master and the crew.

*Streamlining ship registration procedures*

9. Concerning document pre-clearance service, HKSR could review and provide comments on draft document as usual. If the draft document meets the requirements and there are no further changes to be made, HKSR can give a pre-clearance of the document. However, this pre-clearance would be conditional until the applicant subsequently provides a written confirmation or declaration that the final document is identical to the pre-cleared version.

10. In the longer run, HKSR may study the feasibility of setting up an authorization mechanism to ensure that all submitted documents are properly vetted in advance. HKSR might create a list of “good performing” or “compliance” agents and law firms, and having a policy that, any documents confirmed as vetted by these agents and law firms on list, would be considered as “checked documents” and processed for ship registration direct. The formulation mechanism of listed agents/law firms might further be deliberated.

11. HKSR may review also existing ship registration procedures to determine if any paper format documents could be submitted through the One-stop e-Service (OSS) online platform which was launched in July 2022.

**Proposed action**

12. In order to address paragraphs 7 – 11 above, HKSR proposes to form a working group (WG) under HKFOAC. Members are hereby invited to offer views of the WG composition as well as the timeline anticipated to complete the study.

**September 2023**

**Shipping Division**

**Marine Department**