

Summary of Merchant Shipping (Registration) Ordinance (Cap.415) Review

Item	Area of Review	Summary of discussions	Proposal for further action	Legislative amendment
<u>Proposed by the industry (Items 1 – 12)</u>				
1	Provisional registration	<p>N/A</p> <ul style="list-style-type: none"> - Members supported the idea of extending the period and relaxing the Qualified Person (QP) requirements of provisional registration, having regard to the long processing time for company registration that may suppress the interest in registering ships under Hong Kong (HK) flag. - Member suggested removing the specific period of provision registration in the legislation, allowing Marine Department (MD) to adjust the period of provisional registration based on actual industry's need. However, considering that there is existing provision in place to extend the period of provisional registration, and it is preferred to keep a standard/minimum period provisional registration, the existing mechanism was deemed adequate. - Member suggested to adopt a two-tier arrangement, while keeping the current one-month period for cases where the original title document could not be provided, and including a longer period, say three months, for shipowners to fulfil the QP requirement. The WG agreed to go forward with this principle. - Member opined that three-month is too tight in some cases, hence further suggested a six-month period for shipowners to fulfil the QP requirement. Working Group (WG) agreed the proposed six-month period in general would be sufficient to complete the registration of non-HK companies. 	<p>- Please refer to Annex 3 for the proposed changes in workflow.</p> <p>- Existing 1-month period for provisional registration remains unchanged, but only for the purpose of original title document submission. In addition to the existing 1-month period, a new 6-month period of provisional registration is to be added in the legislation for the purpose of establishment of non-HK company as QP.</p>	<p>N/A</p> <p>Yes</p>

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		<ul style="list-style-type: none"> Members concerned about maintaining ‘genuine link’ if the requirements of Qualified Person (QP) is relaxed. And Members also reminded MD to prepare for potential questioning on the rationale for allowing non-QP (Pre-QP) provisionally registered for 6 months, during which, these vessels are still flying HK flag, and whether the quality of HK flag will be affected. <p>MD considered that the acceptance of pre-QP for provisional registration is only for short period of time where the proof of undergoing the process of becoming a QP has to be provided, and the RP which is a HK company and the ISM manager (HK-DOC) also served as the linkage and control against the ship and owner. It should not be considered as a substantial relaxation. Additionally, there is time limit for provisional registration (6 months), and MD is also proposing shortening time for closure by direction in general for ships with quality issue to 7 days. Regardless, RP should still be in place upon provisional registration of ship. Regarding the quality concern, the requirement will still be the same, PRQC, FSQC, etc. Hence, there is no compromise on quality.</p>	<ul style="list-style-type: none"> Current QP requirement remains the same in general, but to allow Pre-QP, which is company that has applied for non-HK company with Companies Registry, to proceed with provisional registration. 	Yes
		<ul style="list-style-type: none"> In the discussion of whether to extend the 6-month period to those in the process of completing registration of HK companies in addition to that for non-HK companies, Members stressed that those foreign companies in the process of completing registration as non-HK companies were already established existing legal entity, but it would not be the case for companies in the process of registration as HK companies. It is supported not to include HK companies. Instead, it is considered company re-domiciled to HK should be applicable for pre-QP. 	<ul style="list-style-type: none"> Both non-HK companies and companies re-domiciled to HK should be included as Pre-QP. (refer to item 4(ii)) 	Yes
2	Duties of Representative Person (RP)	<ul style="list-style-type: none"> Members initially suggested RP to be given higher authority to represent owner, and to enhance the responsibilities and liabilities of RP under provisional registration, and also suggested to review the competency requirements of RP. Members discussed and concluded no further amendment to existing legislation. 	<ul style="list-style-type: none"> Upon reviewing the functions and duties of RP as stipulated under S.71(1), and the current protective provision for RP in relation to omission of the owner or demise charterer of the ship under S.71(4), no legislative amendment required. 	No
		<ul style="list-style-type: none"> Members suggested allowing more than 1 RP as a voluntary option. Other members considered conflicting situation may arise when 2 RPs were present. Sharing of information would be involved. MD should keep 1 RP, state clearly in the application form who the RP is representing. And the e-mail notifications could be sent to designated emails of both owner and charterer, etc. as appropriate. 	<ul style="list-style-type: none"> MD will specify the party (either owner or demise charterer) for appointing RP by updating the relevant public form. 	No

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		<ul style="list-style-type: none"> Members suggested to provide a list of practitioners. MD could do this administratively by uploading the info on MD webpage. 	<ul style="list-style-type: none"> MD will invite existing RPs to upload their information to the shipping directory on MD webpage. 	No
3	Pre-clearance of ship registration applications and supporting documents/ Processing time/ OT charges	--		
3(i)	(i) Authorization mechanism	<ul style="list-style-type: none"> Members proposed establishing an authorized mechanism for pre-clearance of documents, given the complexity of verifying of documents and with the view to expedite the process of ship registration Members raised the importance of simultaneous registration and completion on mortgage registration, because most clients want the registration time and closing time to be as close as possible. Members proposed to consult Department of Justice (DoJ) to include new section in Cap.415, “Authorization of special agents”. MD sought Members’ input on criteria of special agents, no particular input received. 	<ul style="list-style-type: none"> Setting up an authorization mechanism will involve additional statutory and administrative procedures which may not improve the overall efficiency of the registration process. Viewing that there has been no pre-clearing requirement under the existing legislation, and that the need from the trade is to expedite the process of registration, MD will explore effective means to streamline the process under existing legislation regime to achieve the same results. Such approaches include deploying more resources, streaming work processes, adopting new technology, system enhancement, and etc. 	No
3(ii)	(ii) Pre-clearance of ship registration applications and supporting documents	<ul style="list-style-type: none"> Members supported the interim measures for pre-clearance of documents including to streamline and expedite the process, to provide pre-clear of document by MD and issue draft certificates in advance, and further development of the OSS platform as appropriate. 	<ul style="list-style-type: none"> To continue streamlining the service by MD for pre-clearing documents. To provide pre-clearance of documents, and issue a set of draft certificates (draft COR and other certs) in advance. To establish platform of one-stop nature where status of submission of pre-vet documents could be centralized and viewed. Apart from introducing pre-clearing service which is mainly for new ship registration and issuing of draft CoR, which can significantly reduce the processing time for issuing CoR, MD is also expediting the processing time of other applications, especially batch applications, to minimise the OT charge. 	No
3(iii)	(iii) Processing time / Overtime (OT) charges	<ul style="list-style-type: none"> Members expressed that the OT charges were very minor in amount, but most other registries do not take OT charges. Members suggested to rename the charge, such as “Expedited charge”. MD suggests keeping the existing fee charge arrangement under Cap.415A (i.e. by working hour, but to focus on how to expedite the services.) 	<ul style="list-style-type: none"> Regional Desk (RD) will be empowered to handle the whole Ship Registration application for the respective region. With technical support and advice from HQ as needed. 	Yes

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4	Ship finance and ship leasing operation	--		
4(i)	(i) Requirements on common seal, signatory and notarization, etc.	- Members anticipated the requirement on common seal on document such as bill of sale could be removed.	- To modernize the legislation, remove requirement of common seal on document such as bill of sale.	Yes
		- Members suggested requesting local law firm to issue legal opinion or letter to verify validity of signature.	- To accept Mainland legal representatives and other countries' similar representatives for signing of official document. - To accept foreign local law firm's legal opinion to check the authority of signature on a case-by-case basis.	No
4(ii)	(ii) Requirement on Qualified Person (QP)	<ul style="list-style-type: none"> - Member suggested MD to consider lowering the requirements of QP to that similar as FME. MD opined that FME is registered under Company Registry. - Members also considered that accepting China's free trade zone as QP would complicate the issue and may create concerns on competition with China flag in the region. - Considering the importance to maintain a 'genuine link', although Members agreed that ISM manager would be a stronger link, but comparing with the requirements of other major flags, it would be too strict to require ISM managers to be domiciled in HK, some Member does not support requiring ISM manager to be domiciled in HK. - Member suggested MD to consider adopting the practices of Mainland China authority to set out "White List" (白名單) to expedite their document vetting and verification process. However, the WG agreed it was not simple to set up a "White List". - While some Members opined that two to three weeks to set up a Non-HK company is not excessively lengthy, some other Members opined that it is one of the determining factors that smaller companies to choose other registry. - Having considered above aspects, the WG agreed to amend the QP requirement of provisional registration and allow foreign companies that are in the process of becoming a non-HK company to provisionally register ships with HKSR. 	- Apart from proposal stated under item 1 (Provisional Registration), no further proposal for the requirement on QP.	Yes

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		- (Repeated at item 1 & 17) Members agreed to treat re-domiciled companies as QP.	- Proposed to include re-domiciled companies as pre-QP /QP.	Yes
5	Mortgage application	<ul style="list-style-type: none"> - Members agreed that digitizing mortgage documents would expedite the registration process. - Members stated that batch transactions for mortgages were desired by banks, but Members understood the difficulties. - Members raised the possibility of malfunctioning of e-service, and suggested in such cases, MD shall give fair considerations among different competing submission to address the priority issue. - Members showed concern on the authentication of e-copies. - Original of mortgage instrument is required to be submitted to the Companies Registry. - Normally bank requires Certificate of Encumbrance, but MD only has Transcript of Register. 	<ul style="list-style-type: none"> - To accept digitalising the mortgage instrument as an alternative to traditional hard copy ones (e.g. with e-signature, a central online register, etc.), subject to control measures. (e.g. instead of submitting physical instrument for endorsement, the applicant can submit application form for our processing and issuance of relevant records, and HKSR could also consider upload the info onto a designated webpage for inspection/ authentication.) - Meanwhile, MD will further liaise with other main players, such as CR and banks, to formulate more detailed operation procedures/guidelines. 	Yes
6	Dual registration	N/A	- Please refer to Annex 3 for the proposed changes in workflow.	N/A
		- Members did not welcome the idea of dual owner registration, but agreed that dual registration in terms of bareboat charter in would attract more companies to register with HKSR.	- Proposed to permit for Demise Charter-In. While Demise Charter-out permitted on case-by-case basis. In both cases, the primary registration has to be suspended.	Yes
		<ul style="list-style-type: none"> - Members agreed that mortgage registration shall only be permitted when the ship has no underlying registration elsewhere. (i.e. When a ship entered with DC-in registration at HK with her underlying registration suspended, no mortgage registration at HK to be permitted) - Member opined that the primary registry, either required to be suspended or allow parallel registration, needs to be informed under this proposed dual registration arrangement 	<u>Demise Charter-in</u> <ol style="list-style-type: none"> 1. Permitted if charterer is a qualified person. 2. Foreign ownership allowed. 3. Primary registry suspended or cancelled. 4. Demise charter activities must inform Registrar. 5. No mortgage registration is allowed. 	Yes

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		<ul style="list-style-type: none"> - Though a “White List” for Demise Charter (DC)-out seemed challenging to be set up and maintained, there is the demand for DC-out especially in the leasing sector led. Members explored this option further, i.e. HK Owner registration to be suspended for DC-out. - Members suggested to put restrictions or set up a white list of registries/ flags allowed for DC-out cases. However, the WG agreed that the setting up of white list is not straightforward nor simple. - Member suggested to include provision that allows extending suspension with the registry, and suggested MD to take reference from Singapore. - In the context of DC-out, Members opined if application is approved on case-by-case basis, then MD should be informed and application required to be re-submitted every time when there is changes to DC-out registry or charter party. 	<p><u>For Demise Charter-out (HK Owner Registration)</u></p> <ol style="list-style-type: none"> 1. Permitted on case by case basis, and only to flag states with compatible laws. 2. Impose conditions on permission, such as insurance requirement. 3. Suspension of owner registration at HKSR, suspension period same as stated in charter party. 4. ATC continue to be payable. 5. Owner’s mortgage registration allowed. 6. Need to notify the Registrar on any changes of demise charter within 7 days. (Referred to the existing legislation S.56(1) that the Registrar shall be notified by writing within 7 days of the termination of DC under a DC registration.) 7. New provisions need to be introduced to empower the registrar to de-reg a ship upon breaching of the conditions of suspension. 	Yes
7	Sub-demise charter registration	N/A	- Please refer to Annex 3 for the proposed changes in workflow.	N/A
		<ul style="list-style-type: none"> - Initially, members perceived that there is not much operation needs from industry for sub-demise charter registration, and there is no other major flag administration allowing sub-demise charter registration except Liberia. As the discussion unfolds, there are indeed scenarios where sub-demise charter registration is required, and it is becoming more common. (Scenarios refer to Annex 2) - Some members opined that multi-level of subletting was not common, Some other members opined that if sub-demise charter registration is allowed, there could be many levels of sublet in between, and MD should focus on monitoring the ultimate charterer at the end of the sublet chain. - Members opined that it would be difficult to require the demise charterer to be a QP. 	<ul style="list-style-type: none"> - Proposed to permit sub-demise charter registration with following criteria and with control. <p><u>Sub-demise charter registration</u></p> <ol style="list-style-type: none"> 1. Owner and sub-demise charterer need to be QP. (Demise charterer does not need to be QP.) 2. All copies of demise and sub-demise charter party required to be submitted. 3. Registration valid until end of sub-charter party. 4. No mortgage registration is allowed (unless there is no other underlying registration). 	Yes
8	Digital transformation (including Digitization and Artificial Intelligence)	<ul style="list-style-type: none"> - Members agreed that there is risk of allowing video call for making declaration, but suggested MD to consider allowing applicant at foreign countries to go to designated places such as specific law firm to perform online declaration as an option. 	<ul style="list-style-type: none"> - To remove restrictive wordings in the legislation to facilitate and allow virtual process in future for making declaration, by means subject to satisfaction of Registrar. 	Yes

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9	Requirements on original copies	<ul style="list-style-type: none"> - Members remarked that in Mainland, scanned copies should not be called as “副本” but “掃描件” or “複印本” . - Members suggested to issue a circular letter to inform the industry regarding the updated guidelines, flowcharts, forms, etc. And before completion of the streamlining exercise, a simple email to inform the industry of the recent updates. 	<ul style="list-style-type: none"> - An email has been sent to committee and WG members regarding the latest documents’ requirements, including the types of document that could be accepted in scanned copies. 	No
10	Follow up with the Office of the Communications Authority (OFCA)	<ul style="list-style-type: none"> - Members expressed that there is a long waiting time for issuance of ship station license from OFCA, which affect the overall ship registration processing time. - Members opined that recently (after MD communicated with OFCA), the processing time has been shortened. - Member expressed a wish for OFCA to establish a service pledge to issue the ship station license within 3 working days. 	<ul style="list-style-type: none"> - Based on the progress made so far, MD will continue to communicate with OFCA to explore possibility of further shortening the issuance time required for radio station license and availability of e-certificate. 	No
11	Follow up with Companies Registry	<ul style="list-style-type: none"> - Most members agreed shortening the setup time for Non-HK companies would attract more ship owner to register their ships in HK. - Members suggested permitting setting up of Non-HK company specifically for ship registration purpose, with a shorter setup time. Members proposed accepting scanned copies during setup of Non-HK company. However, it was out of the purview of MD and WG. The proposed relaxation on QP’s requirement for provisional registration will be able to facilitate the request. 	<ul style="list-style-type: none"> - MD has communicated with Companies Registry on the concerns of the industry, and Companies Registry has attended one of the WG meeting to answer queries from WG members. MD will continue engaging CR to explore further enhancement and facilitating measures. 	No
12	Issuance of Provisional Certificate during transfer of ownership	<ul style="list-style-type: none"> - Members raised that during transfer of ownership, whether scanned copies could be allowed for provisional registration. 	<ul style="list-style-type: none"> - To accept scanned copies of title documents for the transfer of ownership and to issue with a provisional COR (valid for 1 month). 	Yes
		<ul style="list-style-type: none"> - During the discussions, it was also noticed that many de-registrations occurred due to the reason of ship being transferred (sold) to non-QP. By encouraging these entities becoming QP and accepting transferring of ownership to pre-QP, such ships may remain under HKSR. 	<ul style="list-style-type: none"> - To allow the transfer of ownership to a pre-QP and to issue a provisional CoR (valid for 6 months if original title document is in place). All transfers from/to pre-QP will be subject to the satisfaction of the Registrar. 	Yes

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<u>Streamlining of HKSR's operations (Items 13 – 17)</u>				
13	Impose conditions in Provisional Certificate of Registry and Certificate of Registry	<ul style="list-style-type: none"> - Members initially concerned that whether conditions would affect existing ships. It was agreed that existing ships would not be affected. - Members questioned on whether there would be any consequences on breaching those conditions imposed. Whether it would be warning, direct closure of registration, or serving of notice, etc. - Members suggested MD to ensure right of Mortgagee would not be affected in case violation of conditions imposed would lead to closure of registry. (MD: de-reg notice would be sent to mortgagee similar to existing Cap. 415 S.59-64) 	<ul style="list-style-type: none"> - To impose conditions in Provisional Certificate of Registry and Certificate of Registry. - To introduce provision allowing close of registration in case conditions imposed have been contravened. 	Yes
14	Unify fee charging scale (Registration Fee and Annual Tonnage Charge (ATC)) for provisional registration and full registration	<ul style="list-style-type: none"> - Members supported to unify the ATC anniversary date. 	<ul style="list-style-type: none"> - To adopt the initial registration date of an application as the anniversary date for fee charges, regardless of provisional registration or full registration. Thus, no pro rata or additional ATC charges will be involved for provisional registration and when transitioning from provisional registration to full registration. - To unify the registration fee regardless of provisional registration or full registration. 	Yes
15	Refusal of registration	<ul style="list-style-type: none"> - Members concerned on the types of sanction to be considered, whether it would be only United Nation sanctions or any other unilateral sanctions. - Members suggested the Government to decide details regarding sanction. 	<ul style="list-style-type: none"> - To provide provision in the legislation to refuse registration of ships under sanction concerns (sanctions under the law of HK) and those not align with public interest of HK and/or violating laws of HK. 	Yes
16	Shorten process for closure of registration	N/A	<ul style="list-style-type: none"> - Please refer to Annex 3 for the proposed changes in workflow. 	N/A
		<ul style="list-style-type: none"> - Members generally supported on the shortening of notice period for cases on substandard ships. 	<ul style="list-style-type: none"> - To shorten the notice period from 90 days to 7 days with flexibility to proceed with closure concerning closure by direction. 	Yes
17	Update antiquated legislation	<ul style="list-style-type: none"> - Members supported to consider re-domiciled companies as QP and have similar treatment as non-HK companies. 	<ul style="list-style-type: none"> - To update antiquated legislation and align with current practices. 	Yes
18	Including additional information in Certificate of Registry (CoR)	<ul style="list-style-type: none"> - Industry feedbacked that for a ship under bareboat/ demise charter (either Qualified Person or non-Qualified Person) while under owner's registration, there are occasions where the bareboat / demise charterer of the ship, who is having complete control of the commercial and technical operations of the vessel, faces difficulties to proof their position to foreign port authorities without their information shown on the CoR. 	<ul style="list-style-type: none"> - To enable entering additional information specified by the Director in instructions, in the register and reflect in the CoR. 	Yes

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19	Registration fee and ATC payment double charged for ships changing registration type	<ul style="list-style-type: none">- Members raised that in cases of change of registration type, also known as ‘de-reg/re-reg’ (i.e. registration change from DC to another DC, or from owner to DC, or vice versa), the ATC is repaid regardless of the remaining period of the previous ATC.	<ul style="list-style-type: none">- To treat changes involving DC (or sub-DC) the similar way as that of transfer of ownership, i.e., no fee will be charged.- The registration date on the CoR will be either the original date or the date when the change takes place, or both dates will be shown on the CoR. The final layout of the CoR will be decided subject to further views from the industry and DoJ as appropriate.	Yes