

# BERMUDA OFFERS SAFE HAVEN FOR SHIPPING COMPANIES FROM WINDS OF CHANGE

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**A**s the regulatory demands on offshore companies continue to grow, it can be hard to determine the right jurisdiction for the ownership and registration of vessels. Recent changes relaxing eligibility requirements for the Bermuda Ship Registry and the introduction of more competitive vessel registration pricing have positioned Bermuda extremely well. At the same time, the jurisdiction's good standing with the European Union with respect to tax cooperation gives Bermuda an increasingly important advantage over EU blacklisted jurisdictions such as the Marshall Islands.

## CHANGES TO BERMUDA SHIP REGISTRY

Earlier this summer, the universe of vessels that can be registered on the Bermuda Ship Registry was expanded

significantly by an amendment to the Merchant Shipping (Registration of Ships) Regulations. These changes, along with changes that permit competitive fee pricing for shipping groups that register multiple vessels and/or use a Bermuda-incorporated vessel owning entity and have a principal place of business in Bermuda, make Bermuda a

more attractive jurisdiction for international shipping groups. Bahamas, Hong Kong, Liberia, Marshall Islands, Panama, Singapore and South Korea, can now be registered in Bermuda.

This is a significant development, and means that international shipowners can now register vessels owned by companies incorporated in the

Maritime Authority as part of its strategy to position the Bermuda shipping offering as best in class.

"We are determined to make the Bermuda Ship Registry the registry of choice for quality shipowners," says Francis Richardson, CEO of the Bermuda Shipping and Maritime Authority. "The relaxation of the eligibility requirements, combined with our ability to offer competitive fees for multiple vessel registrations and for groups that are focussed in Bermuda, will be instrumental in the Bermuda Shipping and Maritime Authority achieving this goal."

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As a result of the recent amendments, vessels owned by companies incorporated in many of the most significant jurisdictions used by interna-

above jurisdictions in addition to vessels owned by companies incorporated in the UK, any British territory, and most European countries (including Greece). The new regulations have been spearheaded by the Bermuda Shipping and

## ECONOMIC SUBSTANCE CONSIDERATIONS

In response to pressure from the EU, broadly equivalent legislation requiring entities to

demonstrate ‘economic substance’ in their place of domicile was passed at the end of last year by most of the major developed offshore jurisdictions, including Bermuda, the Cayman Islands, BVI, and the Channel Islands. The EU identified shipping as one of the activities within the scope of the economic substance requirements.

While economic substance legislation imposes additional obligations on shipping entities in the major developed offshore jurisdictions, meeting those requirements may not be as onerous as one might fear. Many may find that the scale of offshore benefit still tips in their favour. What constitutes adequate economic substance for the purposes of the legislation has yet to be clearly determined, but in Bermuda, the registration of vessels on the Bermuda Ship Register will count significantly as an ‘economic substance credit.’ Furthermore, exemption from the Bermuda economic substance regime for Bermuda shipping groups that pay into so-called “tonnage tax regimes” is also being considered, and an amendment to Bermuda’s economic substance regulations to that effect is anticipated by the end of this year.

Those jurisdictions which have not yet introduced economic substance legislation are on an EU blacklist of non-cooperative jurisdictions for tax purposes, which includes some jurisdictions that are commonly used by international ship-owners, including the Marshall Islands. The European Commission has put in place and proposed various measures that will discourage doing business in a blacklisted jurisdiction. For example, under a new EU transparency requirement (“DAC 6”) for intermediaries such as law firms and accountancy firms, a

listed jurisdictions such as the Marshall Islands, which will increase the cost of doing business there. In addition to the EU provisions, member states have agreed on sanctions to apply at national levels against the listed jurisdictions. These include measures such as increased monitoring and audits, withholding taxes, special documentation requirements, and anti-abuse provisions.

**A GOOD TIME TO MOVE TO BERMUDA?**  
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tax scheme routed through an EU blacklisted country will be automatically reportable to tax authorities. The information can then be passed on to all other EU member states through an automatic exchange of information. In practice, this means that professional firms will have to submit onerous filings to the tax authorities when advising entities incorporated in black-

amends its own economic substance legislation to allow it to be removed from the EU blacklist, the remoteness and limited amenities of the jurisdiction put it at a severe disadvantage. For example, holding board meetings in the Marshall Islands – which is a remote collection of islands and atolls in the Western Pacific Ocean – would be impractical. In contrast, Bermuda is conve-

niently located in the North Atlantic — just a couple of hours by air from the US east coast and a seven-hour flight from the UK. Bermuda also boasts a sophisticated business infrastructure, and has a long and proud history as a shipping nation. Now that Marshall Islands-owned vessels can be registered in Bermuda, these advantages may prove an attractive reason to consider a move to Bermuda. In addition, Marshall Islands vessel owning companies and LLCs can very easily be continued into Bermuda, where continuation is quick, efficient, and relatively inexpensive.

Taken together, all of these factors have created a favourable wind for Bermuda as it seeks to enhance its status as a leading jurisdiction for incorporation of vessel owning entities, vessel registration, and conducting shipping business. The time has perhaps never been more opportune for savvy shipowners to set sail for Bermuda.



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