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Shipping transactions in Bermuda: Navigating the common legal and corporate structures

Bermuda is a well-established international financial centre and jurisdiction of choice for shipping transactions. Shipping companies domiciled in Bermuda benefit from the jurisdiction's developed legal framework, efficient business structures and tax neutral status. In this guide, we explain some of the customary corporate structures used in Bermuda shipping transactions.

The Legal Framework

Bermuda's legal framework is based on English common law principles which therefore make it familiar to shipping legal practitioners, owners, operators, investors and lenders in the shipping sector. As a result, shipping companies often find it easy to raise capital and obtain finance, helping to grow the domicile into one of the largest by market capitalisation.

The Main Legal Structures

The most common vehicle used in Bermuda shipping transactions is the exempted company limited by shares established under the Companies Act

1981. These companies are particularly suited to shipping transactions because:

- **Limited liability** – the liability of the members (shareholders) is limited to the amount, if any, unpaid on the shares held by them.
- **Separate legal entity** – companies can sue and be sued in their own name and can hold property.
- **Nominal minimum share capital requirements** – companies only need to have a share capital above zero.
- **Transferability of shares** – shares are generally capable of being freely transferred, subject to any restrictions in the bye-laws and there is no statute based pre-emption right. Bermuda does require the consent of the Bermuda Monetary Authority ("BMA") where a share transfer is to a non-resident.
- **Tax efficiency** – there are no stamping duties payable on the transfers of shares or taxes payable on capital gains or dividends (note that Bermuda has recently adopted the Corporate Income Tax Act 2023 in response to the BEPS 2.0 initiative, which introduces a corporate income tax regime for certain Bermuda businesses that are part of large multinational groups, see further details [here](#)).



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We do also see shipping entities established as Bermuda limited liability companies under the Limited Liability Company Act 2016, most commonly used when the investor or sponsor is US based. The Bermuda LLC Act is based upon the Delaware LLC legislation, which brings a familiarity for US investors and sponsors.

A Bermuda LLC combines many of the beneficial features of an exempted company (including limited liability and tax efficiency) together with the flexibility of a partnership.

Off balance sheet structures

In some scenarios it can be efficient to establish an off-balance sheet structure to hold the vessel or asset.

Common Financing Arrangements

Share Charges

As would be common in many financing arrangements, a share charge in respect of the shares of a Bermuda vessel holding company provides security takers with a single point of enforcement. This is often practical particularly given that a vessel held by a Bermuda vessel holding company can be flagged anywhere in the world (provided such flag permits Bermudian companies to do so).

Ship Mortgages

To the extent a vessel is registered with the Bermuda Shipping and Maritime Authority ("BSMA"), a ship mortgage can be taken over the vessel. The mortgage registration process itself is efficient, and parties intending to take the benefit of a ship mortgage can apply to the registry up to 30 days in advance to obtain priority ahead of any other registrations which might occur in the intervening period. Bermuda ship mortgages are internationally recognised.

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Regulatory Compliance

Bermuda adheres to all international maritime conventions and regulations, ensuring that vessels registered in Bermuda meet global safety and operational standards and providing comfort to both owners and financiers.

Summary

Bermuda's robust legal and corporate structures make it a well-regarded jurisdiction for shipping transactions. The transparency and predictability of its legal system and use of flexible vehicles such as the exempted company and its compliance with international regulation and standards make it an attractive jurisdiction for both owners and financiers.

Carey Olsen is a leading offshore law firm. We advise financial institutions, corporations and private clients in relation to all types of debt, lease and credit solutions drawing on our broad asset finance experience to assist with structuring and executing transactions. In addition to advising on financing and sale and purchase transactions (including new builds), we assist with vessel and mortgage registration in our jurisdictions and can also support clients on regulatory issues, charterparties and maritime disputes. We also have particular expertise in relation to economic substance obligations applicable to shipping entities in Bermuda. Please speak to a member of our team should you require any advice regarding a particular structure.



Key contacts

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