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## Russia to Establish New Register of Ships Owned by Foreign Companies

**On August 3, 2018 the Russian President signed the Federal Law “On Amendments to the Russian Merchant Shipping Code (the “RMSC”) as regards the formation of the Russian Open Register of Ships in view of the adoption of the Federal Law “On International Companies” and the Federal Law “On Special Administrative Regions in the Kaliningrad Oblast and the Primorye Territory” (the “Law”).**

The Law provides for establishing effective January 31, 2019<sup>1</sup> of the Russian Open Register of Ships (the “RORS”) to register ships that are owned not only by Russian companies and individuals but by foreign ones as well. Taking into account that the right to fly the Russian flag was previously granted only to those ships that were owned or bareboat chartered by Russian entities, the amendments constitute a step that is totally unprecedented for the State.

The key developments introduced by the Law are as follows:

1. Foreign individuals and companies, as well as companies registered under the Federal Law “On International Companies”<sup>2</sup>, would be able to register a ship with the RORS and to be granted a right for the ship to fly the Russian flag.

However, the legislator has made a reservation: the ships owned by foreign companies or individuals shall be registered with the RORS, provided that the ship has been bareboat chartered by a company registered under the Federal Law “On International Companies”.

Ships that could be registered with the RORS are:

- a) vessels, including small vessels, used for commercial purposes (provided that such vessels are not operated for performance of the activities listed in Article 4 of the RMSC<sup>3</sup>) by an entity registered as a special administrative region<sup>4</sup> party under the Federal Law “On Special Administrative Regions in the Kaliningrad Oblast and the Primorye Territory”;
- b) small vessels used for non-commercial purposes, sports sailing and leisure boats.

<sup>1</sup> Date of entry in force of the Law.

<sup>2</sup> An international company is a foreign commercial corporate body that has had an international company status due to changing of its governing law by way of redomiciliation (transfer of a company to another jurisdiction) (Article 1(1) of Federal Law dd. 03.08.18 No. 290-FZ “On International Companies”).

<sup>3</sup> Coasting, ice-breaking services, pilotage, search and rescue operations, recovery of sunken assets, hydraulic, underwater engineering and other similar works in the inland sea waters and/or the territorial sea of the Russian Federation, marine resource research, exploration and development of the seabed and its subsoil in the waters under the Russian jurisdiction, marine shipments of oil, natural gas, gas condensate and coal extracted in the Russian Federation and/or on a territory under the Russian jurisdiction, etc.

<sup>4</sup> Special Administrative Region (SAR) is the territory of Russky Island (Primorye Territory) or Oktyabrsky Island (Kaliningrad Oblast) regulated by the legal regime of a special administrative region; a SAR Party is a foreign company entering into an operation agreement with the SAR Authorized Authority and put on the Register of the SAR Parties (Article 2(1)&(10), Article 5 of Federal Law dd. 03.08.18 No. 291-FZ “On Special Administrative Regions in the Kaliningrad Oblast and the Primorye Territory”).



2. Registration of ships with the new register would only be done in seaport Kaliningrad and seaport Vladivostok. However, there would be no need to show the vessel to the Harbour Master and to bring the vessel in the Russian Federation.
3. Terms of State registration of ships with the RORS are no different from the existing terms of registration:
  - a) where the vessel has been previously registered with a foreign register of ships, it would have to be removed from such a register and a confirmation to that end would have to be provided;
  - b) a vessel could be registered with the RORS for a definite period of time, which could be further extended, or for an indefinite period of registration;
  - c) registration would need to be confirmed annually.
4. Foreign nationals and stateless persons on the crew of a vessel flying the Russian flag and registered with the RORS would also be in a position to act as a Chief mate and a radio operator. However, only Russian nationals are eligible to act as a Master and a Chief engineer.
5. The Law shall also clarify certain provisions of the RMSC with regard to giving possession and ownership of a vessel to a foreign charterer under a bareboat charter, temporary putting of a vessel under a foreign State flag; classification and inspection of vessels subject to State registration; putting of entries into ship registers; removal from ship registers; mortgage over vessels or vessels under construction. For instance,
  - a) a vessel could be registered with a bareboat charter register, even where the bareboat charter validity is under a year (at the moment the charter validity shall be at least a year);
  - b) the list of reasons for removal from the Russian International Register of Ships has been supplemented with additional reason, which is: use of the vessel to perform the activities provided for by Article 4 of the RMSC. A similar reason for removal has been introduced as related to the RORS.

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