

Positioning the UAE as a Global Superyacht Destination

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Concerted efforts are underway to establish the UAE as a global destination for superyachts. Ambitious infrastructure projects catering to superyachts are nearing completion. Suitable berth spaces and dedicated support facilities will soon increase significantly. The “build-it-and-they-will-come” approach has served the country well in a variety of sectors over the last several decades. When considering superyachts – facilities are being built, but who exactly are “they”, and why should they come to the UAE?

This article considers the efforts being made to attract superyachts to the UAE. It evaluates the potential advantages of bringing these vessels to UAE waters. It also assesses the current regulatory and legislative environment and potential challenges.

What is a Superyacht?

Although there is no consistent definition, generally a superyacht is considered to be a motor powered luxury yacht, which is professionally crewed, and exceeds 24 meters in length. The owners of superyachts are inevitably wealthy individuals. On the high end of the spectrum, prices for elite newbuilds may cost up to several hundred million US Dollars. Equally, there is an increasingly popular range of more conservatively priced yachts.

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Would More Superyachts Benefit the UAE?

There are a variety of potential benefits a well established superyacht hub may bring to the UAE. Economically, owners will be required to spend money. As a general rule, the annual expense of maintaining an operational superyacht is approximately 10% of the vessel's value. Expenses in this regard include, amongst other things; crew costs, berthing, maintenance, repairs, drydocking, servicing, inspections and licensing. In addition to direct vessel expenses, owners are likely to financially contribute to various ancillary sectors, for example; they may wish to purchase property in the area their yacht is located, crew may need to be flown in, onshore food and beverage costs, just to name a few.

A superyacht hub may also make a soft contribution to the atmosphere of the UAE and its sea-going leisure activities. The French Riviera is an example of where this contribution is perhaps most prevalent, especially in the coastal towns of Monaco, Nice, Cannes and Saint-Tropez. It is estimated that the French Riviera hosts approximately 50% of the world's superyacht fleet, with 90% of superyachts visiting it at least once. Also of interest is that the area welcomes over 14 million tourists each year, which in turn supports 75,000 jobs. Clearly the presence of a healthy superyacht industry cannot take full credit for this success, but it does follow that it contributes to the general ambiance and leisurely environment of the region.

Why would Owners bring their Superyachts to the UAE?

Relocating a superyacht can prove a costly and administratively burdensome exercise. So, why the UAE in particular? What would encourage owners to bring their yachts? There are a variety of potential reasons.

One good reason is the weather. Geography favours the UAE in so far as its good weather months (ie; October to April) coincide with the Mediterranean's bad weather months, where the Mediterranean's high season runs May to September. Owners may move to follow good weather, with commercially motivated owners possibly seeking to increase their vessel's annual charters.

Further; there are already a healthy number of superyacht owners who reside in the Middle East. These owners may be (and some already are) minded to keep their yachts within close proximity to where they live and work. This is, however, not always the case, and efforts may be directed at encouraging these owners to bring their yachts to the UAE.

The improvement in infrastructure and dedicated support facilities will generally make the UAE more a more attractive destination. There is already a good selection of competent drydocking and repair facilities, which may also seek to expand their services and facilities in due course.

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Flagging

Considering their size, superyachts are required to be "flagged", i.e.; entered on a country's national

shipping registry. There are a variety of popular convenience registries for superyachts, for example; the Marshall Islands, the Cayman Islands, the British Virgin Islands, Isle of Man and Malta. Owners will consider a variety of factors when deciding which flag best suits their needs.

The UAE flag remains an available option. Flagging with the UAE permits owners to freely navigate UAE territorial waters without having to obtain a further cruising permit, which foreign flagged yachts are required to do. Further; UAE flagged yachts may engage in commercial activities, such as yacht charters, with fewer obstacles than those faced by foreign flagged vessels. Ownership restrictions do however apply. Article 14 of the UAE Maritime Code (Federal Law 26 of 1981) limits ownership to UAE nationals, or UAE companies (which by extension generally require at least 51% ownership of the company by a UAE national).

Financing UAE Flagged Vessels

An ongoing concern pertaining to registration with the UAE flag is the registration of a mortgage over the yacht, which is generally required where the yacht is subject to financing. During the yacht registration process, no mortgage may be registered during the mandatory two month preliminary yacht registration period. With no mortgage available for this period, financiers are left without this fundamental security, which sometimes results in their refusal to finance yachts intended to be flagged with the UAE.



Commercial Activities

Many owners will charter their superyachts. The length of charter may be short. For example, some owners may only charter their yachts for a week or two a year, simply to contribute to costs. For the remainder of the year the yacht remains at the owner's disposal. Others may seek to operate a busy chartering operation, aiming to generate profit. The current legislative environment places significant restrictions on foreign flagged vessels engaging in commercial charter activities in UAE waters.

Further, UAE flagged vessels sought for charter for a couple days a year may be required to operate through a stand-alone UAE company, with administrative and cost barriers which may exceed the benefit of this short term charter hire. At the time of this publication we are advised that, in terms of superyachts engaged in commercial activities in the UAE, 29 are foreign flagged and 105 are UAE flagged.

Crewing

Efficient crewing of a superyacht is paramount to its successful operation. An attractive superyacht hub should seek to offer a legislative and administrative environment which does not hinder the operational requirements concerning the crew. By way of example, the visa conditions of foreign national crew should cater to the unique nature of their employment. We understand that legislative reform in this regard is currently under process, which may include significantly extending the current period of validity of crew visas.

Should the superyacht be subject to an arrest by a UAE Court, there is a reasonable chance that the passports of the crew may be confiscated. As noted elsewhere in this edition of Law Update, Al Tamimi & Company was instructed in a high profile arrest of a superyacht this year, which saw the confiscation of the passports of the foreign national crew. On application, the Judge granted release of the crew's passports, and noted that confiscation in this instance was in fact not ordered by the court but was a standard practice of the executing authority.

Regulatory and Legislative Environment

Laws and regulations affecting superyachts should offer certainty and be supportive of a strategy to grow and improve the sector. Notable developments over the last several years in this regard include the introduction in 2015 of the UAE Yachts Regulations for Yachts Above 24 Meters (“the Yacht Code”). The Yacht Code covers a variety of subjects which were previously not adequately addressed by legislation which was intended to govern either small boats, or ocean going merchant ships. The Yacht Code addressees, amongst other things: navigation and control, manning, required technical specifications, pollution prevention and surveys.

Another positive development is the recent extension of the validity of cruising permits. Foreign flagged yachts, which are not engaged in commercial activity, seeking to sail between marinas and ports in the UAE are currently required to obtain a cruising permit. The permit’s period has recently been increased to six months (Circular No (13) of 2018 Federal Transport Authority – Land & Maritime).

In terms of commercial activities, yacht owners looking to engage in any form of commercial chartering operations will generally need to do so through a UAE company permitted to do so. As alluded to above, the cost and administration of establishing and maintaining such a company may exceed the benefit of short term charters. Guidance for reform in this regard may be sought from certain Mediterranean countries which specifically seek to provide an straightforward licensing system for owners looking to engage in short term charters, often utilising a foreign jurisdiction special purpose vehicle which owns the yacht.

Conclusion

The UAE appears well placed to be a global superyacht destination. Exciting new infrastructure projects and an improved regulatory environment stand to attract tonnage. There appears to be a commitment from industry stakeholders to address issues which may deter owners, in particular; restrictions on flagging, commercial activities, crewing and cruising permits.