

## Legal Guide

# Registering security interests created by Cayman Islands exempted companies

This guide discusses the Cayman Islands Companies Act (the **Companies Act**) requirements relating to the registration of security interests (eg mortgage, charge, pledge, encumbrance) over the assets of a Cayman Islands exempted company.

### Security Registration

There is no public security registration regime in the Cayman Islands and no publicly searchable registers.

Where a security interest is created by a company and regardless of where the asset is located, it is necessary under section 54 of the Companies Act to enter any security interest created by the company in the register of mortgages and charges of the company (maintained by the company at its registered office in the Cayman Islands).

Other than to enter particulars of any agreements entered into by a company creating security interests in its register of mortgages and charges, it is not necessary that any transaction documents creating a security interest be filed, recorded or enrolled with any governmental, regulatory or judicial authority in the Cayman Islands in order to ensure the validity of the security interest.

Although generally a private document, the register of mortgages and charges is open to inspection by any creditor or member of the company at the company's registered office at all reasonable times.

### Failure to register

If a company fails to enter a security interest in the register of mortgages and charges, then every director, manager or other officer of the company can potentially be subject to a fine.

However, there are no express statutory time limits within which a security interest must be registered in the register of mortgages and charges. Generally speaking, security interests should be registered promptly on creation and we encourage clients to have the register of mortgages and charges updated on the day of closing.

### Priority

A failure to register a security interest as described above, will not otherwise affect the validity of a security interest. Nor is registration necessary to "perfect" a security interest.

Registering a security interest in the company's register of mortgages and charges does not create priority. As there is no generally applicable statutory regime for the mandatory filing or registration of security interests created by exempted companies, it is not possible for Cayman Islands law firms to express definitive opinions on the priority of the security interests purported to be created by transaction documents creating the security.

Under Cayman Islands conflict of laws rules, the relevant law governing the priority and perfection of security interests will be determined by the location of the asset.

## Foreign companies

A foreign company which is registered under the Companies Act is not required to maintain similar registers and is not required to register a security interest in the way described in this Guide unless it re-registers as an exempted company under the Companies Act.

## Security over other types of assets

This guide relates only to registration under the Companies Act. Where the security interest is created over specific types of asset (eg Cayman registered ships and aircraft, intellectual property and land situated within the Cayman Islands) there are separate asset-based security registration regimes which must also be complied with which are beyond the scope of this Guide. Please contact your usual Harneys representative for further details.

For information on taking security over shares in a Cayman Islands exempted company please see our [guide taking security over shares in a Cayman Islands company](#).



For more information and key contacts please visit [harneys.com](https://www.harneys.com)

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