MSIG
SPECIALTY MARINE

FuelEU MARITIME IN MOTION

CIRCULAR

The FuelEU Regulation (Regulation 2023/1805), together with the EU ETS (EU Emission Trading System) and the EU MRV (EU Monitoring, Reporting and Verification), forms the core of the EU's "Fit for 55" climate package, designed to reduce greenhouse gas (GHG) emissions from maritime transport. The focus of the regulation is on the GHG intensity of the fuel used, with the main objective being the encouragement of the shift to greener alternatives such as hydrogen, ammonia or methanol.

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Unlike the EU ETS targeting fuel efficiency, FuelEU Maritime emphasises the type and lifecycle of the fuel, adopting a "Well-to-Wake" approach that accounts for emissions from extraction, production, and combustion which offers a significantly more comprehensive approach to how GHG emissions are assessed.

Since FuelEU Maritime took effect on 1 January 2025, clients have asked us about a range of issues – from its impact on charter party agreements to the practical steps needed for securing timely compliance. Through this circular, MSIG Specialty Marine aims to provide an update and highlights the key positions on FuelEU Maritime.

Scope and targets

All cargo and passenger vessels exceeding 5,000 GT fall under the scope of Regulation 2023/1805. It applies to 100% of the emissions generated in the course of intra-EU/EEA voyages, and 50% to voyages which start or end at a port of an EU/EEA Member State. The regulation includes emissions of carbon dioxide (CO_2), methane (CH_4), and nitrous oxide (N_2O).

The GHG intensity of onboard energy is measured in grams of CO_2 equivalent per megajoule (gCO_2e/MJ), with the following reduction targets:

- **2025:** 2% reduction
- **2030**: 6% reduction
- **2040:** 31% reduction
- **2050:** 80% reduction

FuelEU Maritime favours the use of synthetic fuels derived from renewable energy sources or carbon capture – the so-called Renewable Fuels of Non-Biological Origin (RFNBO). Should a vessel run on conventional fuels only, or of it relies on them in such large proportion that it would find itself not meeting the GHG intensity targets, then such a vessel would become subject to penalties. The amount of the penalty is based on the difference between the required and achieved GHG intensity, and it is calculated as per the formula laid down in Regulation (EU) 2023/1805. Two consecutive years of non-compliance will render a vessel a repeated offender thereby increasing the penalty imposed.

Workaround

In order to ensure that the Regulation achieves its objective being the reduction of GHG emissions in the maritime sector rather than becoming a penalising mechanism for non-compliers, the following flexibility mechanisms were introduced.

- Banking enables vessels exceeding the targets to reap the benefits of their low carbon footprint – they can store the surplus GHG credits for future use. This is especially relevant as the reduction targets will move from the very conservative 2% in 2025 to 80% in 2050.
- Borrowing is the polar opposite of banking – anticipated credits surplus could be used to cover a current deficit. To ensure this serves as a short term solution rather than a strategy, a 10% interest penalty is applied.
- Pooling – perhaps the most interesting of the flexibility mechanisms available. It allows vessels – irrespective of whether a part of the same fleet or operated by different parties – to combine their GHG performance. This operates as a form of a market place where vessels in need of GHG credits and the ones above the Regulation threshold can collaborate in order to achieve the objective.

The flexibility mechanisms are designed to ease the burden of the change introduced and should be seen as more of a temporary tool to aid the transition process rather than a permanent strategy for older fleets to remain operating in an unaltered manner.

Compliance Obligations

Compliance with FuelEU is a responsibility of the Document of Compliance (DoC) holder (i.e., the ISM company), which normally is the shipowner or the manager of the vessel. Non-compliant vessels may face detention or expulsion orders, depending on their flag and port of call.

Key obligations include:

1. Having submitted a FuelEU Monitoring Plan by **31 August 2024**.
2. Recording energy use onboard continuously, both at sea and at berth.
3. Reporting and verifying fuel data annually, with ship-specific FuelEU report to be submitted to the accredited verifier by **31 January** of the following year (currently, this is 31 January 2026).
4. Obtaining a FuelEU Document of Compliance by **30 June 2026.**

Contractual Considerations

The FuelEU Regulation does not provide for a transfer of the related costs from the DoC holder to the actual polluter (e.g., the charterer), that is, the 'polluter pays' principle is not legally enforced although it is recognised in its text. This could prove particularly burdensome in instances where the charterer is in charge of supplying bunkers and other operational considerations. In order to tackle this issue, a clear contractual framework allocating costs and responsibilities is necessary.

The BIMCO FuelEU Maritime Clause for Time Charter Parties 2024 does just that, it:

- States which party is responsible for picking fuels compliant with the regime
- Assigns costs stemming from penalties, monitoring and reporting
- Defines obligations within the flexibility mechanisms as well as the onshore power source supply (OPS)

Conclusion

FuelEU Maritime is an ambitious, forward-looking regime containing flexibility mechanisms to ensure the goals it sets out are realistic and attainable for the maritime industry of 2025 and beyond. It drives the much needed change and fosters investment in clean fuels. It sets out to reshape the industry in stages, giving the players time to implement it, which with a dose of strategic planning, proactive tonnage and infrastructure updates is within reach.

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