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Changes in the new UAE Maritime Law regarding Cargo Insurance

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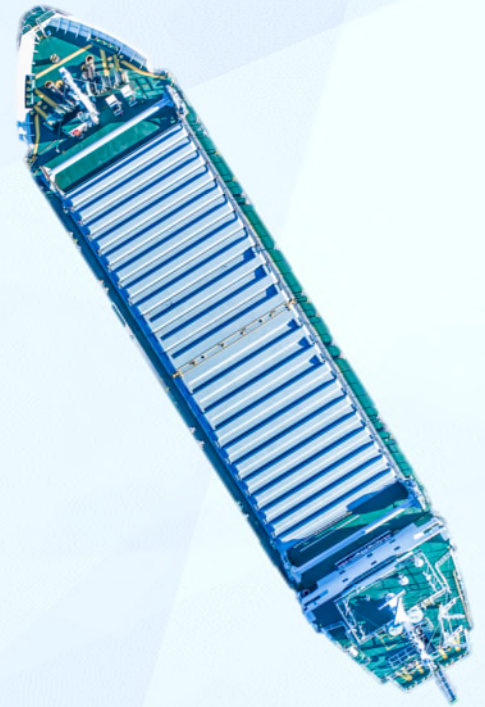
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AGENDA

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- 2 The New Maritime Law – A Marine Insurance Perspective
- 3 The New Maritime Law - Application To Marine Cargo Insurance Policies
- 4 Q&A



UAE MARITIME LAW



In the United Arab Emirates (UAE) the Federal Decree Law No. 43/2023 on Maritime Law (hereinafter, the “New Maritime Law”) has entered into force with effect from 29th March 2024.

The Executive Regulations under the Decree Law which provide a comprehensive mechanism for implementation of the provisions of the New Maritime Law are yet to be issued and are expected very soon.

The New Maritime Law introduces noteworthy welcome changes concerning various aspects of the modern shipping transportation and insurance industry, addressing the complexities of vessel operations and challenges of maritime commerce in the contemporary landscape.

THE NEW MARITIME LAW – A MARINE INSURANCE PERSPECTIVE

- All vessels in UAE ports or waters must have insurance covering their liability for perils of the sea, which includes insurance on the wages of the Master and crew of the vessel. (Article 333). The Executive Regulations shall determine the coverage of the Master and crew's wages.
- UAE flagged ships are obliged to insure against their liability arising out of all the voyages they undertake.
- P&I Clubs may establish branches in the UAE and enter into partnership or representation contract with entities operating in the insurance industry in the UAE (Article 335).



THE NEW MARITIME LAW – A MARINE INSURANCE PERSPECTIVE

The New Maritime Law paves way for LOUs and the entities authorized to issue the LOUs for securing the payment of maritime debts (article 335).

With regard to maritime claims, the shipowners limitation of liability limits have been increased (same as in 1996 LLMC Protocol, which entered into force in the UAE on 23 May 2021 (Article 83).

This is envisaged to have a positive impact on cargo insurance claims and risk assessment.

The New Maritime Law provides for constitution of a Limitation Fund in the UAE which was not the case under the Old Maritime Law.

Arrest of a Ship under the New Maritime Law for Ship insurance premiums and Takaful insurance contributions

THE NEW MARITIME LAW - APPLICATION TO MARINE CARGO INSURANCE POLICIES

Policy Data

- ✓ Under the Old Maritime Law, Article 373 stated the limited data to be contained in the insurance policy.
- ✓ Under the New Maritime Law, Article 281 states that the Executive Regulations shall determine the particulars that must be included in the insurance contract. It is expected that Executive Regulations will contain more comprehensive requirements consistent with global insurance practices.

Multiple Insurances

If the same risk is insured against by several insurers through various contracts, the insured who requests to settle the damage suffered by him must disclose to the insurer the existence of other insurances of which he is aware, otherwise his request will not be acceptable (Article 283(3)).

Deviation and Lawful Justification

The insurer shall remain liable for the damage arising out of the insured perils if there is a lawful justification to change the itinerary, voyage, or Ship by which the cargo is being carried. The New Maritime Law gives clarity (with examples and not by limitation) as to what constitutes a lawful justification.

THE NEW MARITIME LAW - APPLICATION TO MARINE CARGO INSURANCE POLICIES

Deductibles: Unlike in the Old Maritime Law, the New Maritime Law (Article 292) makes an express provision for 'Deductible' consistent with market practices.

Sue and Labour: The New Maritime Law (Article 294) obliges the insured to exercise utmost care to save the insured objects when an insured risk occurs and to take all necessary measures to preserve the insurer's right of recourse against the responsible third party.

The insured shall be liable for the damage sustained by the insurer due to the insured's error or negligence in complying with this obligation.

Insurance Brokers – Recognizing the market practices on conclusion of contracts by brokers, the New Maritime Law provides:

- **(Article 280(3))** The insurance broker may conclude insurance contract in favor of the insured.
- **Article (295))**
 1. If the contract of insurance is concluded through an insurance broker, the insured shall pay the insurance premium to the broker who shall, in return, pay the premium to the insurer.
 2. The payment of the insurance premium to the broker shall be considered a conclusive presumption indicating that the insurer has received the premium, unless it is established that there was collusion between the insured and the broker with the intent of causing harm to the insurer.
 3. The insurance broker shall have privilege over the insurance premium to recover his financial dues from the insured.

THE NEW MARITIME LAW - APPLICATION TO MARINE CARGO INSURANCE POLICIES



Penalties

Article 364 of the New Maritime Law states, *‘Anyone who withholds information or evidence relating to the investigation into a Marine Incident shall be punished by a fine not less than (AED 5,000) five thousand dirhams and not exceeding (AED 15,000) fifteen thousand dirhams’.*

This garners significance in the context of growing maritime incidents for carriage of dangerous goods in containers. The insured is obliged under law to provide information or evidence relating the incident.

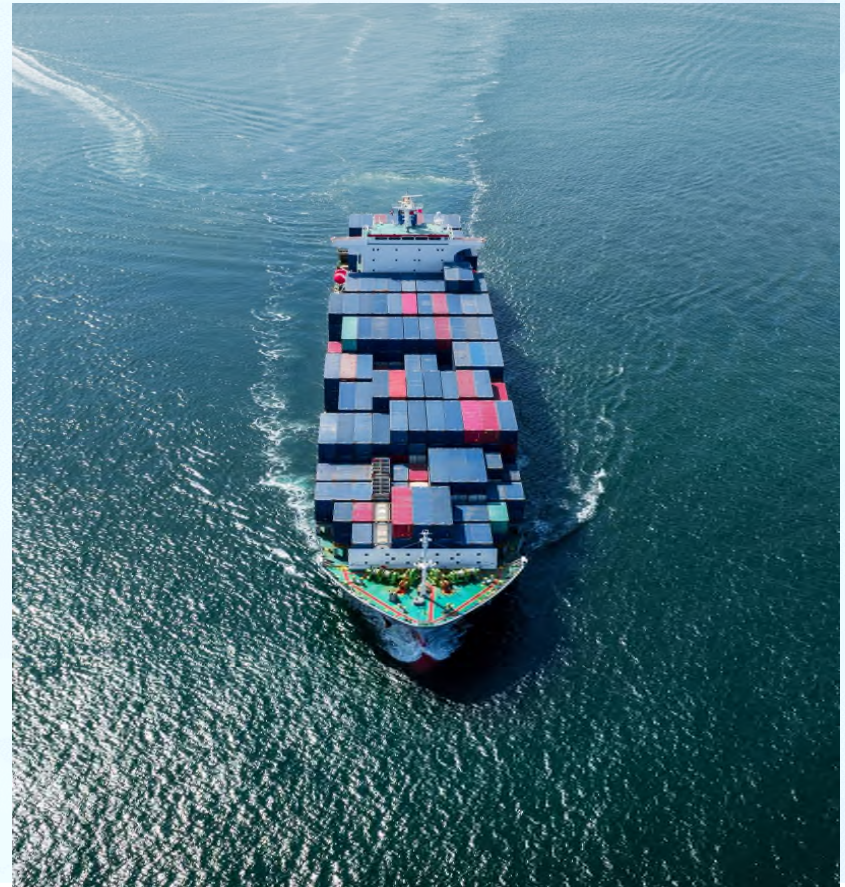
THE NEW MARITIME LAW - APPLICATION TO MARINE CARGO INSURANCE POLICIES

Claims and Dispute Resolution

Time bar - Under the Old Maritime Law (Article 399), in case of denial and in the absence of lawful excuse, no claims arising out of insurance contract shall be heard after the lapse of two years (reckoned from the date of various causes:

The date upon which the premium is due; the date of occurrence of accident giving rise to claim for compensation; the date of arrival of ship in a claim for compensation for damage to cargo, etc).

Under the New Maritime Law (Article 309), the claims under insurance contracts, the claims are now subject to a one year time bar.



THE NEW MARITIME LAW - APPLICATION TO MARINE CARGO INSURANCE POLICIES

Claims and Dispute Resolution

Dispute Resolution: Launch of 'Sanadak'

The first Financial & Insurance Ombudsman in the UAE Sanadak commenced operations on 07 March 2024.

Previously, complaints related to insurance matters were directed to the UAE Insurance Authority, which is now the Insurance Dispute Resolution Unit, part of the Central Bank of the UAE ("CBUAE").

Under the existing procedure, Consumers will need first to submit their complaints to the relevant entity, such as the insurance company or broker, and await their response within 30 complete business days.

If the response is deemed unsatisfactory by the complainant, they can escalate the issue to the Ombudsman Unit, which will assess and ultimately resolve the complaint.

The Appeal Mechanism: An aggrieved party has a right to appeal to the Insurance Dispute Resolution Unit within 30 business days from the date of the Ombudsman Unit's decision. Failure to do so within the stipulated time renders the decision final and enforceable.

Thank you

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