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NEW UAE MARITIME LAW GIVES CLUB LOUs THE GREEN LIGHT FOR LIFTING ARRESTS ...

As the clock ticks over to 2024, we are firmly focused on the significant changes coming to the UAE maritime law space in the next few months.

The much anticipated Federal Decree-Law No. 43 of 2023 on the Maritime Law (the "**New Maritime Law**") was issued on 28 September 2023 and is due to enter force on 29 March 2024, thereby repealing and bringing about a broad number of deviations from the current Federal Law No. 26 of 1981 (the "**Old Law**").

Of particular interest to P&I Clubs and their Members should be the changes concerning vessel arrest and most importantly, the acceptance of P&I Club LOUs as an adequate form of security for releasing vessels from arrest whilst in UAE waters.

Whereas the definition of "guarantee or other security" within article 118 of the Old Law has been deemed sufficiently vague to result in the local Courts historically rejecting requests for Club LOUs to trigger the release of vessels under arrest, article 57(3) of the New Maritime Law is much clearer and expressly states that (our emphasis added):

"Letters of guarantee issued by protection and compensation clubs or by financial institutions that are accepted by the competent court are considered a reason for lifting the provisional seizure in accordance with the provisions of Clause (2) of this article. The Implementing Regulation specifies the provisions for accepting letters of guarantee."

This is indeed a positive development and, in theory, brings the local framework into line with international standards. Whereas Clubs and Owners were often forced to deal with the impracticalities and costs of obtaining Bank Guarantees, or putting up cash security where timeframes demanded an even swifter response, this welcome change should streamline the process for releasing target vessels and reduce the financial risk of delays often associated with the arrests.

It is also important to note that unpaid insurance premiums are now considered as a "*maritime debt*" claim for the purpose of supporting an arrest under article 53(q) of the New Maritime Law. However, in circumstances where a vessel is arrested for such debts, or in the case of unpaid "*commissions, brokerage or agency expenses*" (in accordance with article 53(r)), then a Club LOU shall not be deemed as adequate security for the arrest to be lifted (article 57(2)).

The "*Implementing Regulation*" referred to in sub-paragraph 3 of Article 57 is expected to be released soon and should provide greater clarity on the form of the LOUs and other guarantees that will be acceptable to the local Courts.

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