



New remedies for seafarers

LEGALLY SPEAKING

THE Maritime Labour Convention 2006 (MLC) has been billed as a bill of rights for seafarers. Along with the International Convention for the Safety of Life at Sea 1974, the International Convention on Standards of Training, Certification and Watchkeeping 1978 and the International Convention for the Prevention of Pollution from Ships 73/78 the MLC is meant to be the fourth pillar that promotes and enhances global shipping.

The MLC was ratified by Malaysia on Aug 20, 2013. Comprehensive amendments will be made to Part III of the Merchant Shipping Ordinance 1952 to make the MLC a part of Malaysian law.

► The Objectives of the MLC
The MLC's objectives are twofold. They are to offer worldwide protection to seafarers and to establish a level playing field for those committed to providing decent working

conditions for seafarers. It is hoped that the MLC will prove to be a more effective tool for seafarers to enforce their rights when compared with their right to a maritime lien for unpaid wages.

The key area that the MLC regulates is the minimum working requirements for seafarers on board ships. In addition, the MLC touches on the health protection, medical care and social security protection afforded to seafarers. It also regulates the seafarers' accommodation, recreational facilities and food when at sea.

► The Method of Enforcement
The rights enshrined in the MLC will be enforced in two ways - by Flag State and by Port State Inspections.

Flag State Inspection requires the "flag state", the country whose flag is flown by the ship, to ensure that ships that fly her flag comply with the demands of the MLC. This is in keeping with international law, which requires flag states to exercise their jurisdiction over ships flying their flag. However, this method of enforcement

may be a problem where flag states are unable or unwilling to effectively exercise their responsibilities. To remedy this, the MLC also requires countries to carry out Port State Inspections.

Port State Inspection requires countries or authorised organisations where the port is located to inspect foreign ships calling at their ports. This power stems from the sovereignty of countries over their internal waters.

Broadly, a mere presentation of a Maritime Labour Certificate and a Declaration of Maritime Labour Compliance by the shipowners to the relevant authorities is *prima facie* evidence of compliance with the MLC. A more detailed inspection will only be considered when the Certificate and Declaration is not in compliance with the MLC. Failure to comply with the MLC may lead to the detention of a ship.

► Comparison with a Maritime Lien
When compared with a maritime lien for unpaid wages, the MLC offers seafarers wider protection. This is because the MLC defines a seafarer as "any person who is employed or

engaged or works in any capacity on board a ship to which the MLC applies". This broad unqualified definition was perhaps intended to confer the benefits of the MLC onto the widest possible category of people regardless of whether they play a role in the actual seagoing operation of a ship.

In comparison, although the courts have indeed recognised a wide category of people as seafarers entitled to a maritime lien, due to the case-by-case basis in which the definition is expanded, it is sometimes difficult to determine prospectively whether an individual is entitled to the lien.

CONCLUSION

In conclusion, the MLC is a welcome addition to global shipping. Provided that the MLC is uniformly applied (and as with all law, backed by political will), it will greatly enhance the welfare of seafarers.

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BRIEFS

PERSTIMA ACCEPTS FINAL COMPENSATION CLAIM

PETALING JAYA: Perusahaan Sadur Timah Malaysia (Perstima) Bhd has agreed and accepted the final compensation claim amounting to US\$2.054 million (RM9.08 million) offered by the insurance company in relation to a fire in Vietnam. In a filing with Bursa Malaysia last Friday, the company said there is no significant financial impact to the group from the fire.

BORNEO AQUA HARVEST: JOINT VENTURE PACT OFF

PETALING JAYA: Borneo Aqua Harvest Bhd has terminated a joint venture agreement with City Harvest Aquaculture Sdn Bhd after the expiry of a six months' notice dated Aug 4, 2016 served on the latter. In a filing with Bursa Malaysia last Friday, the company said City Harvest failed to deliver the requested books, records, accounts, documents and vouchers relating to the business and affairs of City Harvest despite repeated requests.

Bursa Malaysia posts lower net profit, revenue for FY16

PETALING JAYA: Bursa Malaysia Bhd's net profit for the fourth quarter ended Dec 31, 2016 fell marginally to RM50.17 million from RM50.60 million a year ago due to a drop in securities market profits.

Revenue for the quarter fell 8.72% to RM123.74 million from RM135.56 million a year ago, due to lower operating revenue, which fell 10.1% to RM12.5 million from RM125.2 million a year ago.

Bursa Malaysia has proposed a final dividend of 17 sen per share for



FY16, which is a distribution of 94.2% of net profit.

In a filing last Friday, Bursa Malaysia said its total segment profit for the quarter was RM86.9 million, marginally lower than RM87 million a year ago with the securities market recording a 8.9% drop in profit to RM65 million from RM71.4 million a year ago.

The derivatives market's segment profit rose 11.6% to RM14.3 million from RM12.8 million a year ago due to lower operating expenses.

The exchange holding company recorded a segment profit of RM5.3 million compared with a loss of RM800,000 a year ago due to adjustments to staff costs and higher investment income earned during the quarter.

The others segment, made up of Bursa Malaysia Suq Al-Sila' (BSAS) business, bonds trading and offshore exchange, recorded a 35.7% drop in segment profit to RM2.4 million due to lower trades from BSAS business.

For the financial year ended Dec 31, 2016 (FY16), net profit fell 2.51% to RM103.62 million from RM108.61 million a year ago while revenue for the year fell 2.26% to RM506.78 million from RM518.50 million a year ago.

Moving forward, Bursa Malaysia CEO Datuk Seri Tajuddin Atan (*pix*) said that the exchange plans to expand its developmental role through providing greater access to fund raising to small and medium enterprises in the local market, strengthen its Islamic value proposition and widen its regional footprints in Asean.

"Market volatility is expected to persist in 2017 and as a result, the equity market is expected to remain challenging.

"The exchange remains cautiously optimistic, however, based on the country's strong economic fundamentals and resilient banking system. These factors, together with our efforts in maintaining a fair and orderly market will continue to support the growth agenda for the capital market," he added.

WARRANTS WATCH

Roller-coaster trading for FGV warrants

FELDA Global Ventures (FGV) was in the spotlight again last week after the controversial PT Eagle High Plantations TBK was approved by the Indonesian government, paving the way for FGV to complete the exercise, which is strongly opposed by critics. The plantation giant ended the short trading week 1.6% lower at RM1.84.

Following the news, warrants over FGV were very active, contributing 8.9% to the overall warrants turnover.

In particular, FGV-C16 was the top traded FGV warrant for the week with RM1.2 million changing hands. The warrant fell 8.3% to end the week at RM0.055.

FGV-C24, the newest warrant over FGV, was the next most active, tracking the underlying's share price movement closely, falling 6.5% to RM0.145. FGV-C24 has an exercise price of RM1.85 and will expire on July 31, 2017.

AirAsia-C46 remained investors' favourite AirAsia warrant with RM4.2 million traded. Investors enjoyed the 9.7% surge on the first day of the week, tracking the underlying's 2.8% increase to RM2.55. One of

Top 5 traded warrants

Warrant Name	Value traded (RM mil)	Closing Bid Price (RM)	Issuer	Exercise Level/ Price (RM)	Expiry Date
HSI-C62	7.2	0.455	Macquarie	22,800	27 Feb 17
JCY-CX	5.8	0.600	RHB	0.600	14 Mar 17
HSI-H67	4.5	0.135	Macquarie	22,000	27 Feb 17
AIRASIA-C46	4.2	0.170	Macquarie	2.50	31 May 17
HSI-H60	2.9	0.085	Macquarie	24,200	27 Feb 17

the reasons why AirAsia-C46 continues to be popular is due to the high sensitivity of the warrant, moving about one tick for every two-sen movement in the underlying share price.

Short-term traders use warrants with high sensitivity to take advantage of intraday movements.

Other popular warrants included JCY-CX which saw RM5.8 million traded for the week.

In foreign indices, the Hang Seng Index Futures reopened on Wednesday, closing in the red for three consecutive days to 23,026, a 0.9% decline. Investors were seen accumulating HSI-C62, taking advantage of the lower call warrant price. In contrast, the top put warrant was HSI-H67 with investors

selling back 7.1 million on Friday alone.

Put warrants have an inverse relationship with the underlying, gaining in value as the underlying decreases.

For more information on index warrants, visit <https://www.malaysiawarrants.com.my/indexsw>.

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KFM's financial statements qualified

PETALING JAYA: Kuantan Flour Mill Bhd's (KFM) financial statements ended Sept 30, 2016 have been qualified by its external auditors Messrs McMillan Woods Thomas.

At the group level, KFM incurred a net loss of RM12.09 million for the financial year ended Sept 30, 2016, with net current liabilities standing at RM17.96 million. It registered negative shareholders' funds of RM0.81 million.

The auditor said KFM has yet to finalise any business plan to revive the company since it slipped into Practice Note 17 (PN17) status on Dec 28, 2015.

"This situation indicates the existence of a material uncertainty that may cast significant doubt on the group and the company's ability to continue as a going concern and therefore the group and the company may be unable to realise their assets and discharge their liabilities in the normal course of business," it explained.

KFM is still awaiting Bursa Malaysia's decision on its request for an extension of time to submit its regularisation plan. The last deadline was Dec 31, 2016.

Late last year, KFM was thrown into the limelight by Felcra Bhd's interest in the company but it was retracted within 24 hours.