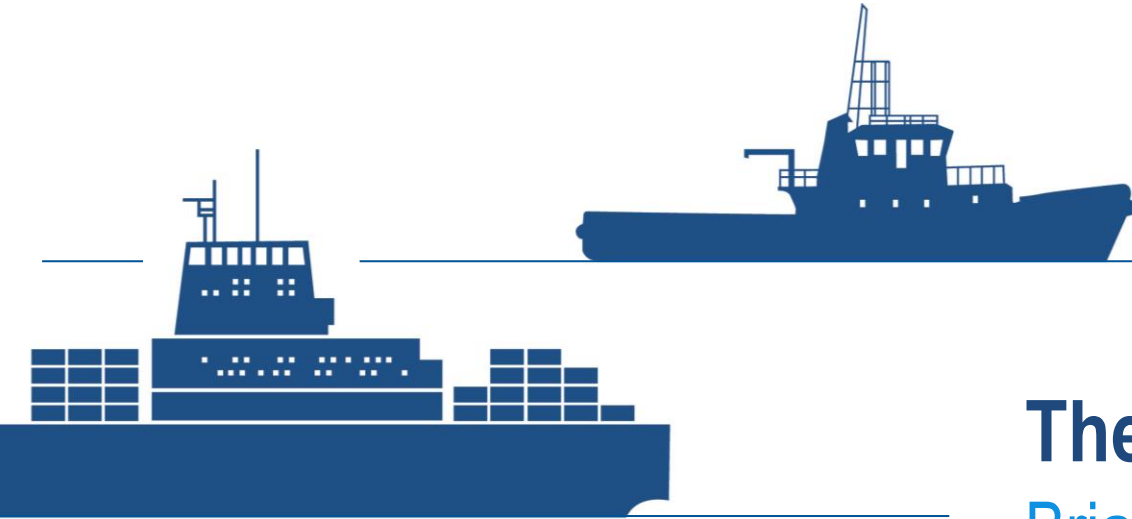


The Standard Club New York Forum

24 May 2016



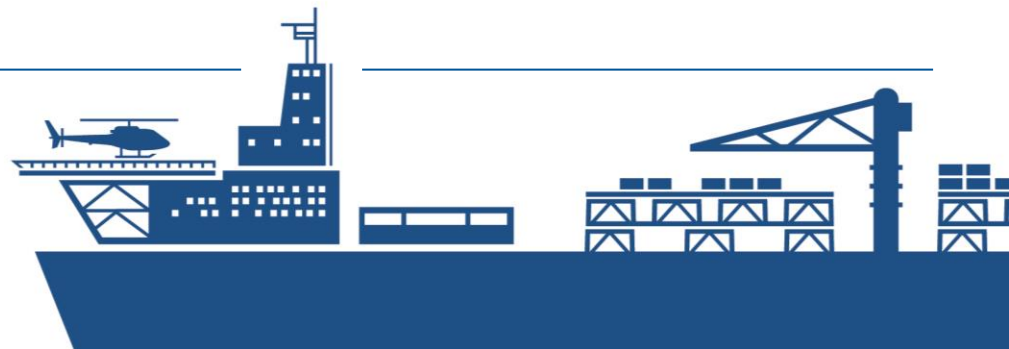
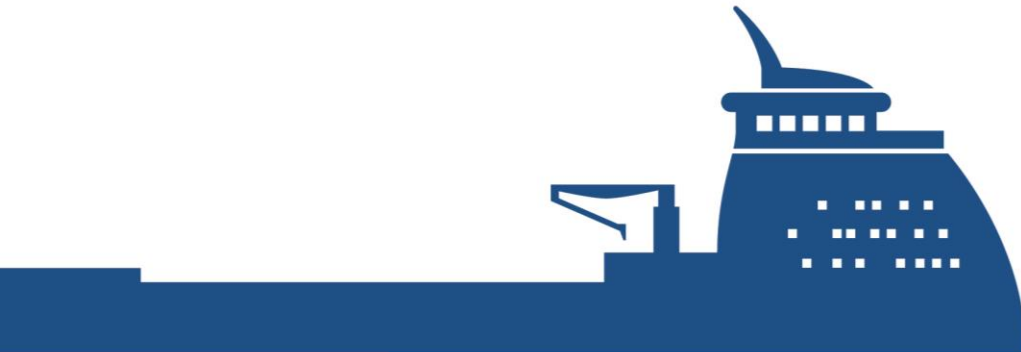
The Standard



The Standard Club Update

Brian Glover, Director of Claims

24 May 2016



Introduction to The Standard Club

- A leading **International Group P&I club**, established in **1884** and now insuring over **10% of global shipping** across all **major markets**
- **Industry-leading service**, a **track record of financial security**, and a **selective, conservative** approach to **growth**
- **2015/16: overall underwriting profit** for the financial year, **steady growth**, launch of **The Standard Syndicate** and the **Singapore War Risks Mutual**
- A **broad range of P&I and other marine and energy covers**, offering **sustained excellent value to high-quality operators**

Overview of the club: key financials

Selective growth; breakeven underwriting; strong balance sheet

Total tonnage

138m gt

20 February 2016

+2.5%

20 Feb. 2015 – 20 Feb. 2016

Owned tonnage

116m gt

20 February 2016

+ 3.6%

20 Feb. 2015 – 20 Feb. 2016

Premium income

\$322m

Projected 2016/17

\$358m

2015/16

Combined ratio

95%

2015/16

100%

2014/15

Investment return

-1.3%

2015/16 financial year

1.8%

2014/15 financial year

Surplus

2015/16 financial year

\$10m

\$12m

2015 financial year

Free reserves

\$390

20 Feb 2016

\$380m

20 Feb 2015

S&P rating

A (strong)

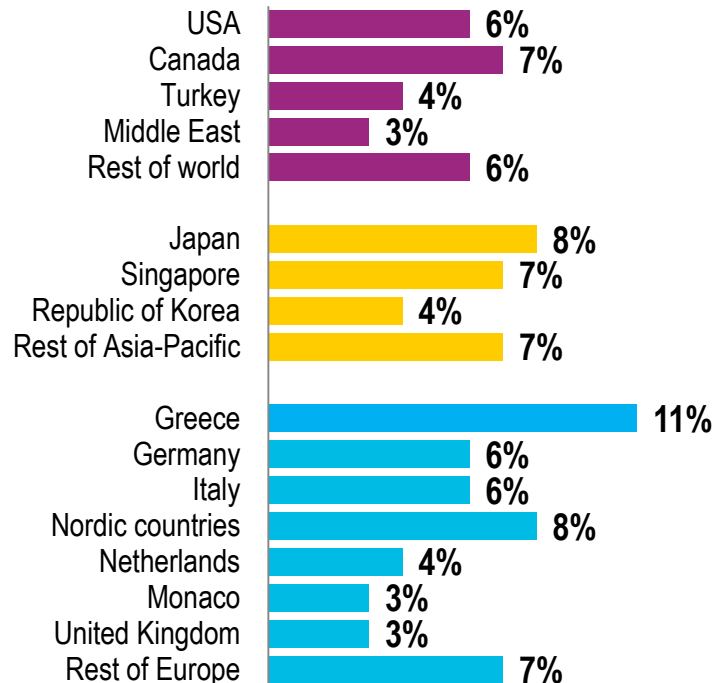
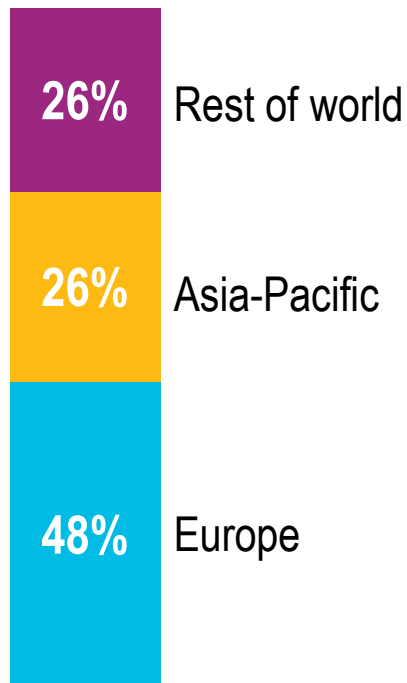
AAA capital strength

Affirmed June 2015

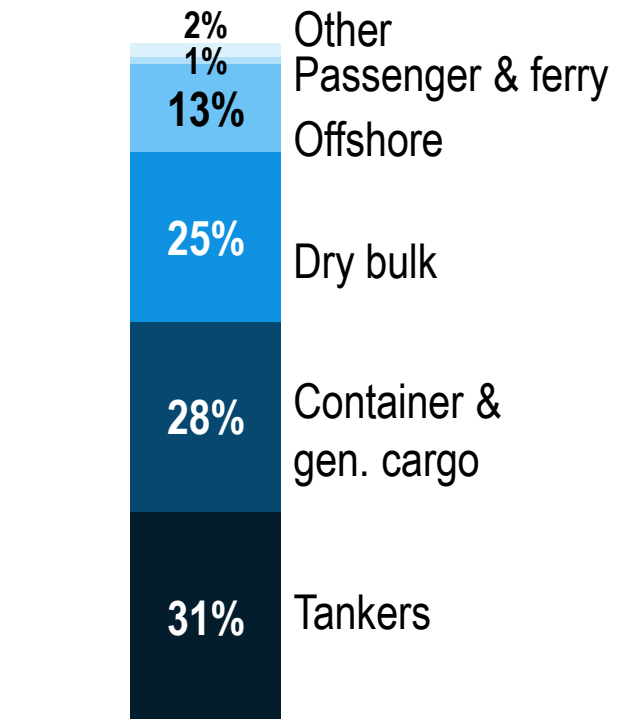
Membership

Diverse spread of business by country of management and ship type

Owned tonnage by region
116m GT



Owned tonnage by ship type
116m GT



Our ambition

01

To provide **first class financial security**

02

To be recognised for providing **excellent service** through **solving members' problems**

03

To **provide a broad range of P&I insurance & related covers** that represent **excellent and sustainable value**

04

To pursue **selective growth**, consistent with the other objectives



Enabled by a culture of **flexibility** and **innovation**

Charles
Taylor

01 Financial security



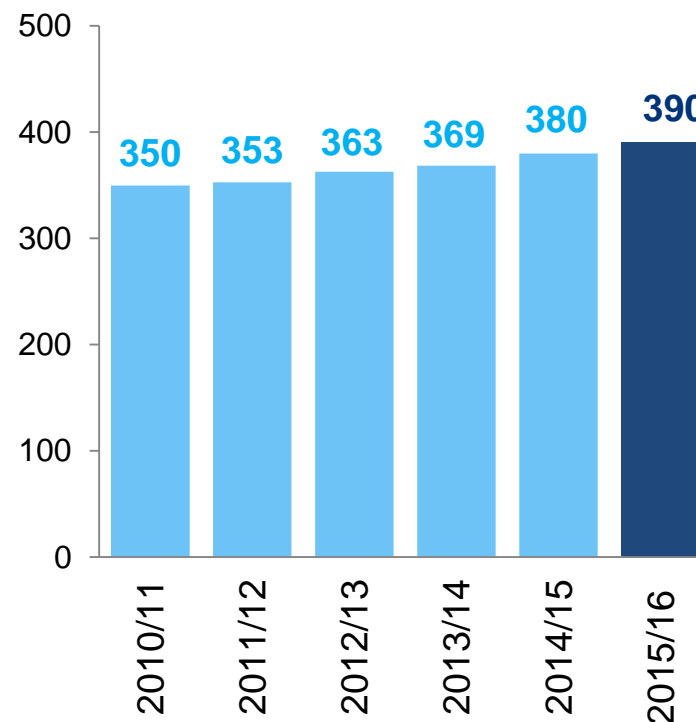
Financial security

Leading capital strength; steady growth in reserves

S&P ratings of IG clubs

CLUB	RATING	S&P CAPITAL STRENGTH
GARD	A+	AA
STANDARD	A	AAA
UK CLUB	A	AAA
BRITANNIA	A	AAA
SKULD	A	AA
NORTH OF ENGLAND	A	AA
STEAMSHIP MUTUAL	A-	AA
SHIPOWNERS	A-	AAA
JAPAN	BBB+	A
WEST OF ENGLAND	BBB+	AA
SWEDISH	BBB+	AAA
LONDON	BBB	AAA
AMERICAN	BBB-	BBB-

Free reserves, USDm



No unbudgeted supplementary calls for over 20 years
Release calls among the lowest in the IG

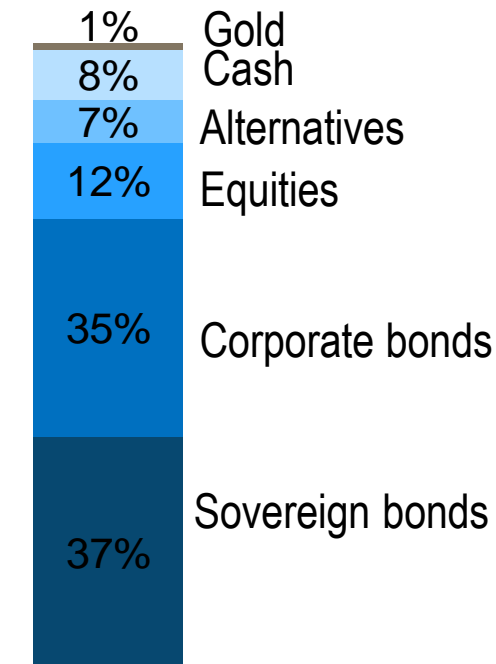
Investment policy

The portfolio is low-risk, consistent with AAA capital strength

Portfolio breakdown

% of portfolio

20 February 2016 unaudited



Approach

- Aim to **'break even'** on underwriting; investment returns as a 'buffer'
- **Prioritising capital preservation**; risk profile has reduced over past 3 years to combat market volatility
- Asset allocation criteria established by the board
- Managers seek to maximise returns while operating within criteria and maintaining AAA capital strength
- Performance monitored actively by the board using agreed benchmarks

02

Excellent service



Principles of the Standard service model

- **‘Single point of contact’** – all underwriting, claims and loss prevention services managed through integrated teams
- A commitment to **listening to members** and **‘going the extra mile’ to find solutions** to members’ needs, particularly in times of difficulty
- **Responsive, flexible claims handling** provided via the club’s international network of offices, with a proactive approach to achieving the best solution
- **Leading expertise**, with more than **40 qualified lawyers** covering all aspects of marine liability, an in-house team of **technical experts** and access to the **full resources of CT**
- **Continuous improvement** in service levels – with efforts informed by member feedback and enabled by our culture

*96% of members expressed a likelihood
to recommend the club to another shipowner (August 2015)*

Club service teams in key hubs

Supported by Charles Taylor's global network



03

Broad range of covers,
excellent & sustainable value

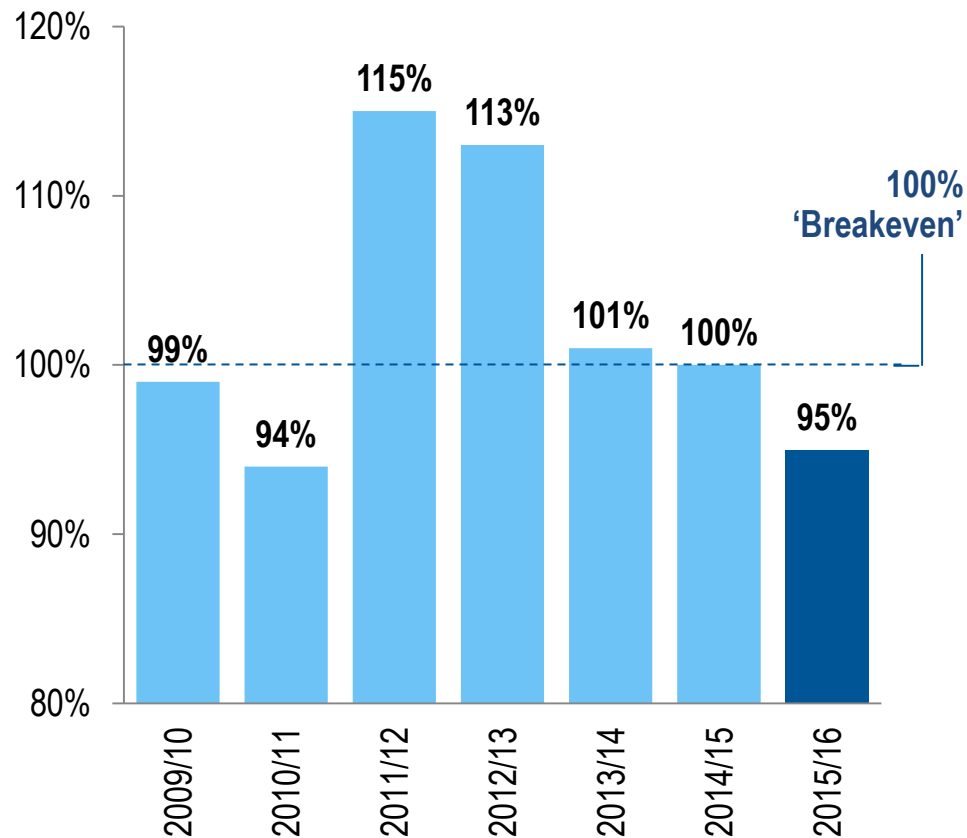


Meeting members' insurance needs

P&I	War & defence	Non-P&I liabilities*	Assets*	Specialist risks*
<ul style="list-style-type: none"> • Mutual owned pooled • Fixed premium owned • Fixed premium charterers • Tailored extensions – e.g., <ul style="list-style-type: none"> – Contractual cover – Crew – Kidnap & Ransom – Passengers – Salvors etc. 	<ul style="list-style-type: none"> • War risks <ul style="list-style-type: none"> – War P&I – War hull • Defence (FD&D) 	<ul style="list-style-type: none"> • Liability <ul style="list-style-type: none"> – Ship owners / operators – Ship builders – Port authorities – Terminal operators – Stevedores – Wharfingers etc. • Corporate lines <ul style="list-style-type: none"> – E&O – D&O 	<ul style="list-style-type: none"> • Hull & machinery <ul style="list-style-type: none"> – IV, Loss of Hire – Mort'gee's Interest – Builder's Risks – Marine War Risks • Cargo & specie <ul style="list-style-type: none"> – Transport liability – Loss or damage – General / specialist, logistics, ROVs, specie, project • Property <ul style="list-style-type: none"> – Marine property – Ports and terminals infrastructure – Buildings, equipment – Industrial / commercial property – Business interruption 	<ul style="list-style-type: none"> • Energy <ul style="list-style-type: none"> – Property – e.g., offshore platforms, drilling rigs, FPSO's. – Oil, gas or condensate wells offshore / onshore – Construction projects for offshore installation • Political risk & terrorism

Sustainable 'breakeven' underwriting

Financial year combined ratio



Key principles

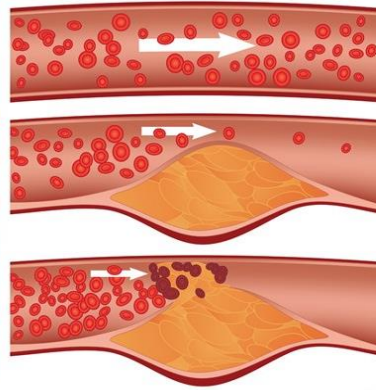
- Disciplined underwriting to align member premiums with claims and risk
 - Assessment of risk profile
 - Proprietary pricing tools
- Selection and management of risk based on a sound understanding of operating quality
- Continuous improvement in efficiency to minimise rate rises required – e.g.,
 - Agreed rate reductions with lawyers and other 3rd-party suppliers
 - Centralised operational activity
- Diversification into profitable non-P&I lines to support P&I business

Focus on quality of operations

- Focus on operating quality supported by **‘Loss Prevention’ technical experts**
- Assessment of **member / vessel risk profile** – to support members and the club
 - **‘Desktop’ assessment** pre-attachment
 - **‘Member Risk Review’** carried out by the club’s own technical experts
 - **‘Ship Risk Review’** with ~20% carried out by the club’s own technical experts
 - Efforts at each renewal to improve operating quality via non-renewal of some members
- Unique **Safety and Loss Advisory Committee**
 - Technical and operational experts from the membership
 - Informs the club’s stance and advice on safety and operational issues
- Communication of **‘best practice’** via **publications, seminars, member dialogue**

Selecting and managing risks based on operating quality

Communication of operational 'best practice'

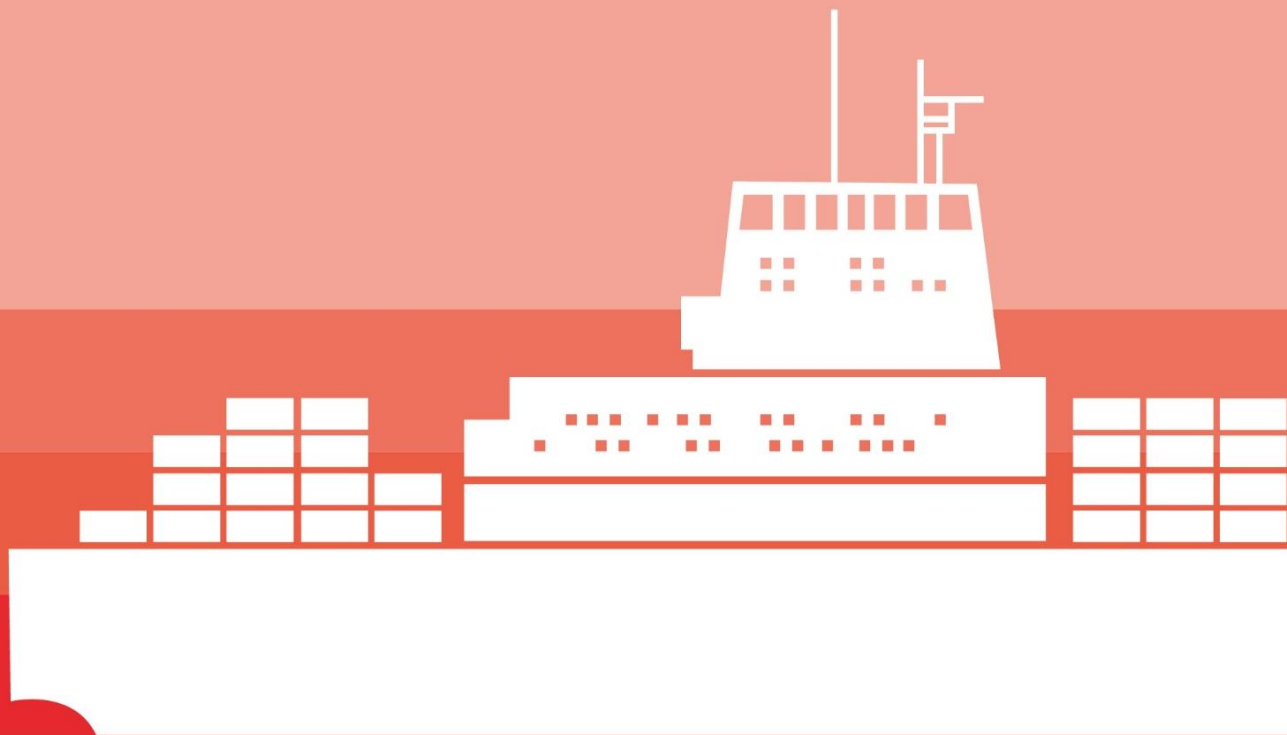


www.standard-club.com/what-we-do/loss-prevention/

Ongoing focus on reducing members' losses

04

Selective growth



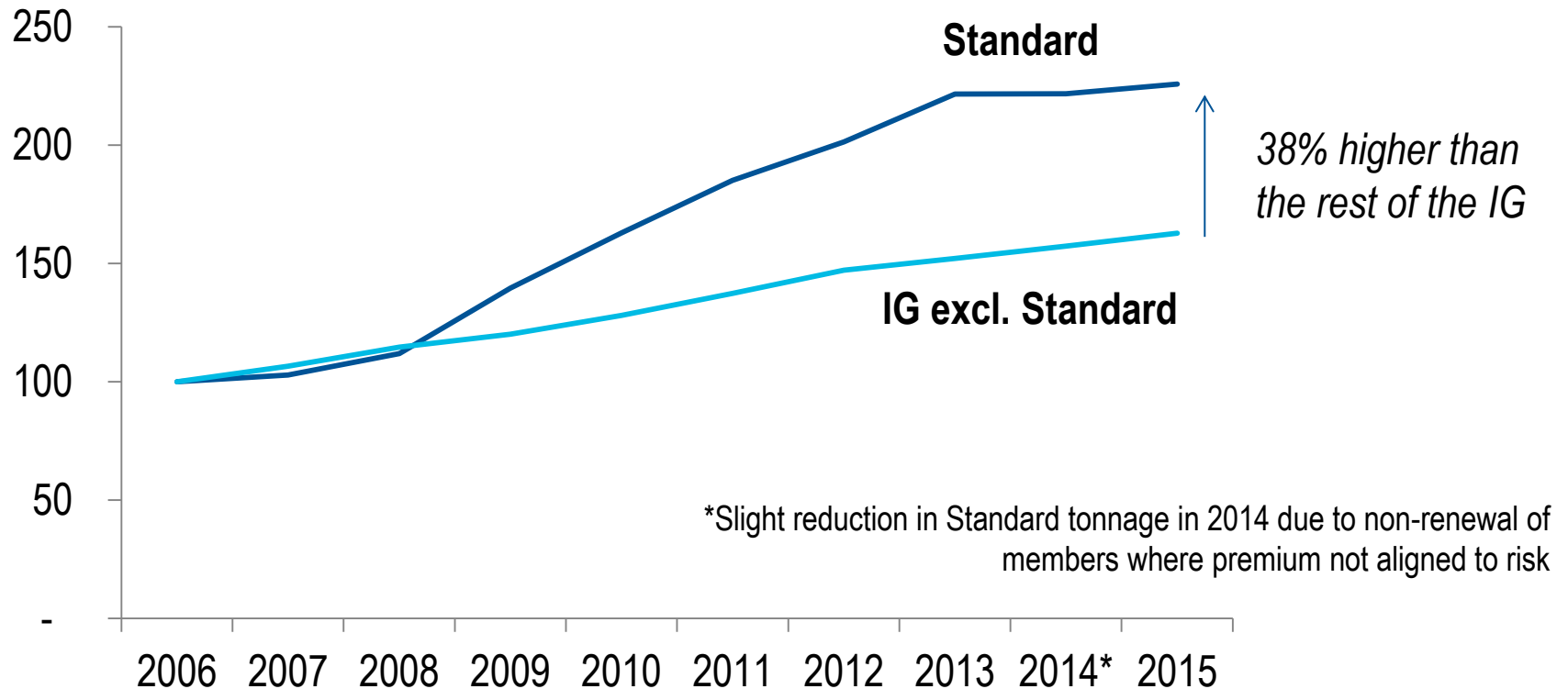
Approach to growth

- High-quality growth viewed as **positive for the membership** as a whole, as it increases the financial strength and efficiency of the club over time
- In pursuing new business, the club will ensure the **operating quality** of members and ships and an **appropriate spread of risk**
- Preference is to **grow with existing members** – in P&I and in non-P&I covers
- The club welcomes new members that are **quality operators** seeking a **long-term partnership** with their marine and energy insurer
- The club aims to build in all major trades and markets, but has particular specialisms in **offshore energy, LPG/LNG, and small craft** (coastal and inland)

Aiming to drive growth, as long as this is consistent with the club's focus on operating quality, financial stability and service

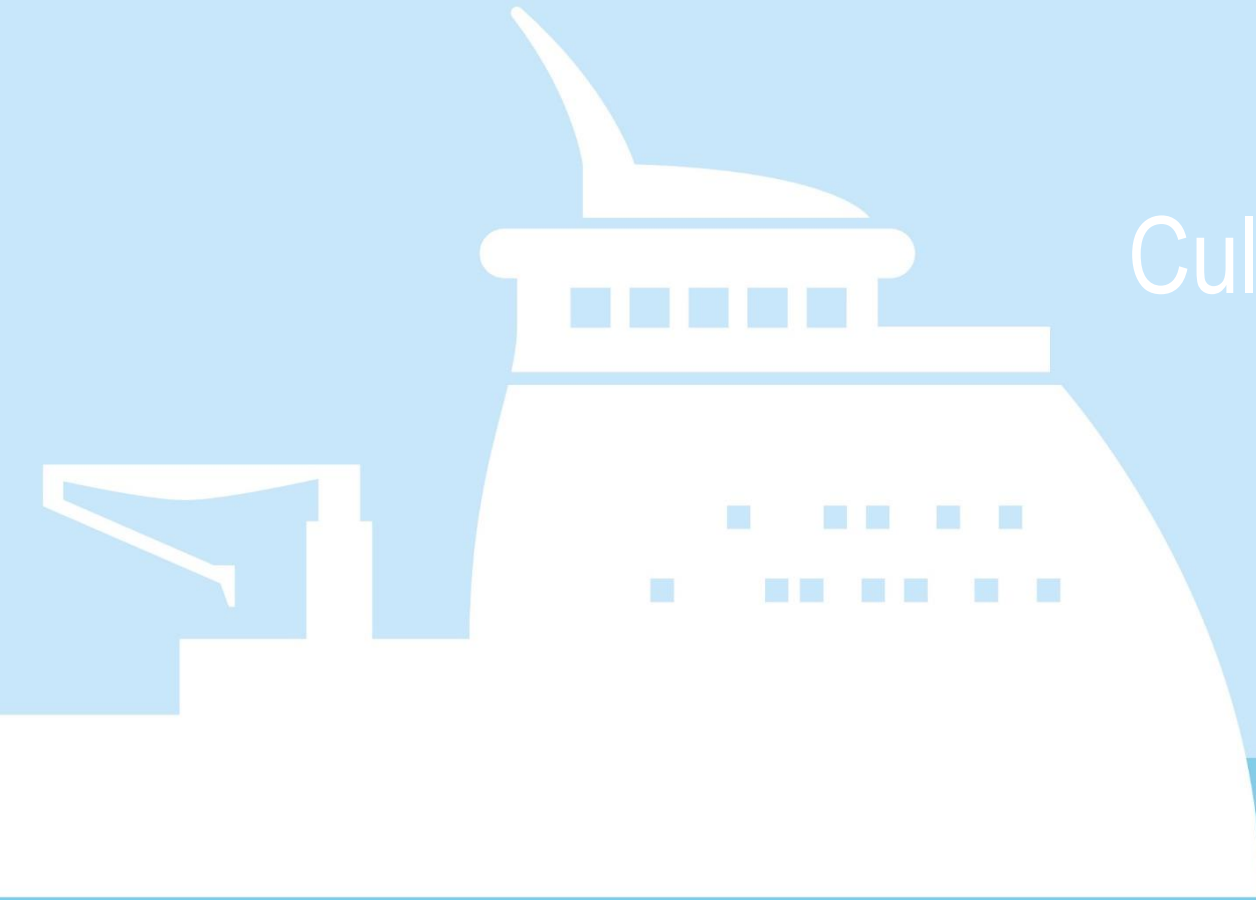
Track record of high-quality growth

Poolable tonnage, rebased to 2006 = 100



05

Culture of flexibility and innovation

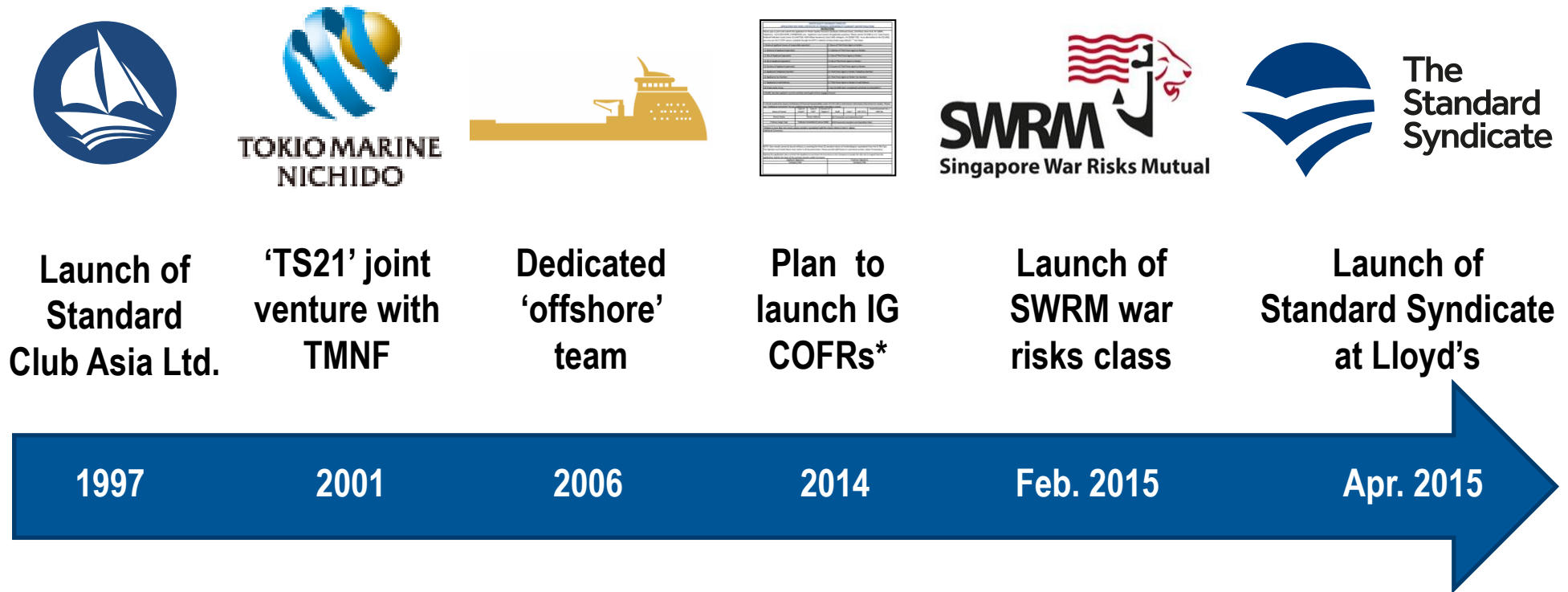


Principles of flexibility and innovation

The club will...

- Create **tailored solutions for members** by combining poolable and non-poolable P&I and other covers (right limits, competitive price, minimal overlap / gaps)
- Develop **innovative partnerships** to provide capabilities 'on the ground' in key markets (e.g., TS21 with Tokio Marine & Nichido Fire)
- **Work with the International Group** to refine and strengthen the system, and to maximise its benefits to shipowners (e.g., development of IG-backed COFRs)
- **Seek efficiencies** within the club's operations and in third-party spend, in order to sustain the result of the club and minimise rate increases
- **Expand the club's range of products and services**, in order to serve members better and to strengthen the club (e.g., The Standard Syndicate at Lloyd's)

Track record of flexibility and innovation



*Not supported by the International Group, but resulted in a competitive new entrant to this market
 "Owners could save close to \$40m each year if International Group clubs support [Standard's] move and guarantee US COFRs" – Tradewinds, January 2014

The Standard Syndicate – overview

- **Launched** as planned in **April 2015**
- Aims: to improve the **financial strength** of the club and to expand the **range of marine and energy covers** available to members
- An **alternative approach** to other Lloyd's syndicates, leveraging the **relationships, knowledge, service** of The Standard Club
- Early **performance** has been highly encouraging, in terms of:
 - Premium levels achieved
 - Support from the club's members and brokers
- **Ambitious plan** for 2016 and beyond, in order to achieve scale; we will need to build further on the support from members

The Standard Syndicate – approach

- Marine and energy covers **tailored to operators' needs**
- **Lloyd's insurance in local markets**
- Alignment of **club and member interests** in directing attractive business to the Syndicate
- Underwriting excellence for long-term **sustainability and profitability** – based on **knowledge of the risk**
- Club quality **service** and **claims handling**
- **Focus on low catastrophe risk**

A differentiated approach, leveraging the relationships, knowledge, service of The Standard Club

Conclusion



Current priorities

- Continue to **service existing business** to the highest standards
- Deliver a **stable ‘breakeven’** underwriting performance
- **Grow** The Standard Club’s **core P&I business**
 - Existing members – new attachments, acquisitions
 - New members – operating quality, relationship focus
- Help to **deliver The Standard Syndicate’s business plan**
- Build on our culture of **flexibility** and **innovation**

Regulatory status

The Standard Club



The Standard Club Ltd is regulated by the Bermuda Monetary Authority. The Standard Club Ltd is the holding company of the Standard Club Europe Ltd and the Standard Club Asia Ltd. The Standard Club Europe Ltd is authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority. The Standard Club Asia Ltd is regulated by the Monetary Authority of Singapore.

The Standard Syndicate



The Standard Syndicate 1884 is managed by Charles Taylor Managing Agency Ltd, a Lloyd's managing agent, which is authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority.

The Standard Syndicate Services Limited, trading as 1884 Europe, is a service company and a Lloyd's coverholder that is part of the Charles Taylor PLC group of companies. The Standard Syndicate Services Limited is an appointed representative of Charles Taylor Managing Agency Ltd which is authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority. The Standard Syndicate Services Limited has authority to enter into contracts of insurance on behalf of the Lloyd's underwriting members of The Standard Syndicate 1884 which is managed by Charles Taylor Managing Agency Ltd.

The Standard Syndicate Services Asia Pte. Ltd, trading as 1884 Asia, is a service company and a Lloyd's coverholder that is part of the Charles Taylor PLC group of companies. The Standard Syndicate Services Asia Pte. Ltd. is regulated by the Monetary Authority of Singapore in its capacity as a Lloyd's coverholder under the Insurance (Lloyd's Asia Scheme) Regulations. The Standard Syndicate Services Asia Pte. Ltd. has authority to enter into contracts of insurance on behalf of the Lloyd's underwriting members of The Standard Syndicate 1884 which is managed by Charles Taylor Managing Agency Ltd.





The Standard



 **@StandardPandi**
 **The Standard P&I Club**
www.standard-club.com

Charles
Taylor

 **@ctaylorplc**
 **Charles Taylor plc**
www.ctplc.com

The Standard Syndicate

Gillian Musgrave, Head of Claims

Presentation at The Standard Club New York Forum
24 May 2016

Contents

- Introduction to The Standard Syndicate
- What does The Standard Syndicate cover?
- The teams
- Our distribution model
- Claims

Introduction to The Standard Syndicate



- The Standard Syndicate has been insuring risks since 1st April 2015, with an all Marine and Energy physical damage (PD) focus
- The Syndicate grew out of The Standard Club and the ethos, values and underwriting philosophy of the club run deep through The Standard Syndicate
- The Standard Syndicate's future results may help to further strengthen The Standard Club's financial security. This in turn could help to underpin competitive premium levels for the club's core P&I cover
- The Standard Syndicate aims to mirror the club offer in key geographical locations through selected strategic relationships and by investing in our service company distribution model
- In its first year of operation, The Standard Syndicate exceeded investor expectations by achieving stamp (ie net written premium) likely to achieve in excess of GBP28m

The Standard Syndicate Approach



Deep understanding of Marine and Energy business

- Builds on The Standard Club's 130 years of experience and represented in our Syndicate number - 1884

Wrap around cover for our assureds - "the whole package"

- We have the capability to cover the entirety of our clients' typical operational insurance needs:
 - **Liabilities:** P&I, Marine and Corporate Lines (D&O/E&O)
 - **Assets:** Hull & Machinery, Cargo, Specie, Property (Marine and Non-marine)
 - **Specialist Risks:** Political Violence & Terrorism

Tailored and flexible covers underwritten by experts

- Highly experienced, client-focused Underwriting team
- Solution-based underwriting philosophy
- Tailored, responsive insurance programs and exemplary claims handling services
- Risk management initiatives and services

Lloyd's insurance in local markets

- Global reach through our Service Companies and strategic Partners
- Compliant, flexible underwriting and claims services where our Clients are located
- Coverage provided locally or via Lloyds depending on Clients and their Brokers' preference

First Year of Trading - 2015

- **£27.5m GNP**

- **1,590 policies bound**

- **73% of business new to Lloyd's**

- **Ultimate Loss Ratios currently on plan**

What does The Standard Syndicate cover?



Liabilities	Marine & Energy Liability	<ul style="list-style-type: none"> Marine energy related non-P&I liabilities, fault-based liabilities for port & terminal operators, and various other non-P&I marine liabilities 	<ul style="list-style-type: none"> USD 20m
	Corporate Lines	<ul style="list-style-type: none"> Marine Errors & Omissions and Directors' & Officers' Liabilities 	<ul style="list-style-type: none"> USD 10m
Assets	Hull & Machinery	<ul style="list-style-type: none"> Hull & Machinery for bulk cargo, liquid cargo, container, passenger / ferry, small ships and yachts Increased Value, Mortgagees' Interest and War 	<ul style="list-style-type: none"> USD 15m
	Cargo & Specie	<ul style="list-style-type: none"> General and specialist cargo, logistics, ROVs, specie 	<ul style="list-style-type: none"> USD 15m USD 25m PR
	Wet and Dry Property	<ul style="list-style-type: none"> Ports, terminals, warehouses & other storage facilities, storage of goods not covered in cargo policies Non-marine property (e.g. head offices, Manufacturing plants, forestry products) 	<ul style="list-style-type: none"> USD 15m
Specialist Risks	Energy	<ul style="list-style-type: none"> Physical damage relating to the marine energy business, including construction risks and control of well, and covering mobile installations, fixed platforms, and associated onshore facilities 	<ul style="list-style-type: none"> USD 25m (USD 35m any one complex or asset)
	Political Risks & Political Violence	<ul style="list-style-type: none"> Terrorism, Political Violence, War on Land, CNED, Contract Repudiation, Contract Frustration, Trade Credit 	<ul style="list-style-type: none"> USD 12.5m

Class Summary – Hull & Machinery



Kate Butlin

Hull Underwriter

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Danielle Burr

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M: + 44 7901 114 869



Alice Wakeley

Underwriting Assistant

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Line Size(s)

- \$15m max for marine hull
- \$25m max for marine war

Key Geographies

- Worldwide

Underwriting Appetite

- Hull & Machinery for bulk cargo, liquid cargo, container, passenger/ferry, small ships and yachts
- Preference for family run operations or owner operators rather than ship managers
- Tankers
- Bulk carriers - financially strong operators with maintenance budget in place
- Brown water fleets - tugs, barges etc.
- LPG's /LNG's - below 10 years of age
- Offshore support vessels
- Yachts
- Containers (see below for exclusions)
- IV/War/Builders risks/port risks/MII
- Limited appetite for Ro-Ros/ferries

Out of Appetite

- Cold lay ups
- Fishing vessels
- Singletons
- Doubletons
- Livestock carriers
- Cement carriers
- Car carriers
- Landing crafts
- Standalone LOH
- Fast ferries
- KG operators

Terms and conditions

- Normal commercial exclusions will apply
- Policy period beyond 18 months in length, excluding construction risks
- Sanctioned countries and individuals
- Non-Lloyd's licensed countries
- Fronting for markets

Class Summary – Marine & Energy Liability



Robert Dorey
Class Underwriter
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Hannah Day
Assistant Underwriter
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M: + 44 7824 406 620



Kimberley Hodgetts
Underwriting Assistant
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M: + 44 7918 361 081

Line Size(s)

- \$20m

Key Geographies

- Worldwide

Marine Underwriting Appetite

P&I/ Marine

- Direct Insurance; Primary/XS Liability
- Fixed P&I and Excess P&I (Ship Owners/Operator's Liability)
- Non pool risks/Charterers Liability/Ship Builders/Repairer's Liability
- Comprehensive General Liabilities
- Third Party Liability
- Pollution Liability
- Traders Liability
- Facultative Reinsurance/Reinsurance of Insurance Companies

Ports and Terminals

- Terminal Operators Liability
- Port Authorities Liability
- Wharfinger's Liability
- Stevedore's Liability

Cargo

- Through transport
- Cargo Owners Legal Liability (COLL)
- Non Vessel Owning Common Carrier (NVOCC)

Energy Appetite

- Onshore (i.e. Tank farm and storage operators, onshore drilling contractors)
- Offshore (Upstream i.e. Drilling contractors, E&P companies)
- Offshore (midstream - limited appetite)
- Fixed/mobile operations
- Construction All Risks (CAR)
- Decommissioning (DAR)
- Pollution/OPOL
- Primary and excess appetite
- Standalone TPL's

Out of Appetite

- Ground Up U.S. CGL's (depending upon deductible) and standalone MEL
- Energy Liability: downstream
- Standalone products liability
- Standalone pipelines
- Liability: standalone Personal Accident coverage

Terms and conditions

- Normal commercial exclusions will apply

Class Summary – Cargo



Nick Holding
Class Underwriter
T: + 44 20 7767 2034
M: + 44 7984 801733



Georgina Wescombe
Underwriting Assistant
T: + 44 20 7767 2773
M: + 44 7920 711432

Underwriting Appetite

- Cargo risks of all variety and nature
- Stock throughput
- Freight Forwarders Liability
- Project Cargo and DSU
- **Dry Bulk:** Grains, Cotton, Seeds, etc. including Rejection
- **Wet Bulk:** Crude Oil, Bulk oil, LNG
- **Target Stock:** Wines and Spirits, Tobacco, Electrical Equipment
- Agriculture
- Refrigerated Cargo

Line Size(s)

- \$15m
- \$25m Project Risks

Out of Appetite

- Historically unprofitable accounts
- Sanctioned entities

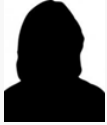
Key Geographies

- US
- Europe
- Asia
- Latin America
- Australasia

Terms and conditions

- Normal commercial exclusions will apply
- Operational policies over 18 months in period and construction projects over 5 years
- Sanctioned countries and individuals
- Non-Lloyd's licensed countries
- Fronting for markets

Class Summary – Specie



Joshila Tailor (Starting 11th July)

Class Underwriter

T: + 44 20 7767 2885

M: + 44 7825 087 888

Line Size(s)

- \$15m

Key Geographies

- US
- Med regions
- Norway

Underwriting Appetite

- Private/corporate fine art collections
- Art on board yachts
- Private jewellery collections (Inc. wearing risk)
- Exhibition risks
- Classic car collections
- Musical instruments
- Wine collections
- Other collectables (books)

Mining Risks

- Precious metals in ores
- Refiners
- Precious and semi precious stones

Specie Risks

- Bullion
- Excess vault risk

- Cash in transit – limited appetite

Out of Appetite

Jewellers block

- Wholesale
- Manufacturers
- Retailers (limited appetite for retailers on board ships)

- Excess SIPC/ERISA bonds
- TPL in respect of classic cars

Terms and conditions

- Normal commercial exclusions will apply

Class Summary – Marine Property



Tom Graham
Class Underwriter
T: + 44 20 7767 2033
M: + 44 7825 087 891



Luke Read
Underwriting Assistant
T: + 44 20 7767 2784
M: + 44 7342 055 815

Line Size(s)

- \$15m

Key Geographies

- US
- Europe
- Middle East
- Far East

Underwriting Appetite

- Container Terminals, Dry/Wet bulk Terminals, Shipbuilders, RO-RO terminals, Port Authorities
- **Infrastructure:** Quays, Berths, Docks, Jetties, Breakwaters, Slipways, Container yards, Hardstand
- **Buildings:** Warehouses, Offices, Custom Houses, Control Towers, Perimeter Fences, Gates
- **Equipment:** General Machinery, Gantry Cranes, Ship Loaders, Straddle Carriers, Reach Stackers, Forklifts, Vehicles within the port
- **Business Interruption:** Following machinery breakdown, port or berth blockage, vessel impact

Out of Appetite

- Refineries
- Construction
- Road Licensed Vehicles

Terms and conditions

- Normal commercial exclusions will apply
- Policy period beyond 18 months in length, excluding construction risks
- Sanctioned countries and individuals
- Non-Lloyd's licensed countries
- Fronting for markets

Class Summary – Non Marine Property



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Underwriter
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Luke Read
Underwriting Assistant
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M: + 44 7342 055 815

Line Size(s)

- \$15m

Key Geographies

- Worldwide

Underwriting Appetite

- Well risk managed risks with focus on
- Industrial (heavy and light) & Manufacturing Risks (e.g. metals and minerals processing, paper mills, sugar mills, fabrication and assembly, food and drugs processing etc.)
- Mining risks
- Commercial risks (e.g. shopping malls, hospitals, Professional, Technical & Business Services etc.)
- Infrastructure risks (e.g. Rail, airports, etc.)

Out of Appetite

- Onshore Energy & Petrochemical Refineries
- Residential risks
- Retail risks with large schedules
- Cat only placements

Terms and conditions

- Normal commercial exclusions will apply
- Policy period beyond 18 months in length, excluding construction risks
- Sanctioned countries and individuals
- Non-Lloyd's licensed countries
- Fronting for markets

Class Summary – D&O



Sarah McGurk

Class Underwriter

T: + 44 20 7767 2039

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Line Size(s)

- \$10m
- Preferred
 - \$2-\$5m primary
 - \$5m-\$10 excess

Key Geographies

- Europe
- Middle East
- North America (non-listed)
- Asia
- Limited South America

Underwriting Appetite

- Focus on private/family-owned companies
- Ship managers
- Crew managers
- Ship owners
- Logistics/Freight Forwarding companies
- Port/terminal operators
- Lloyd's Agents
- Lawyers focusing on non-contentious marine work (D&O only)
- Insurance companies concentrating on marine insurance coverages
- Includes less than 50% listed companies (not US listed)

Out of Appetite

- D&O (or E&O) for Financial Institutions (including banks, lending institutions, investment advisors or fund managers)
- POSI insurance (Public Offerings of Securities Insurance)
- D&O coverage on the basis of Any One Claim (unaggregated coverage)
- Defence cover outside the limits of the policy
- Litigation funding companies
- No Professional Sports Teams
- No Aviation / Aerospace
- No aviation or vehicle parts manufacturers
- No pharmaceuticals
- No social media companies

Terms and conditions

- Normal commercial exclusions will apply

Class Summary – Energy



Oliver Paine

Class Underwriter

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M: + 44 7917 147 940



Joe Peachey

Deputy Class Underwriter

T: + 44 20 7767 2808
M: + 44 7826 884 666



Paul McDevitt

Underwriting Assistant

T: + 44 20 7767 2733
M: + 44 7920 711 528

Line Size(s)

- \$25m per policy limit all coverage combined
- Combined single limit (“Asset”) up to USD 35m

Key Geographies

- Worldwide

Underwriting Appetite

- Property owned or leased by operators and/or contractors within the oil and gas industry such as offshore platforms, drilling rigs and FPSO’s. Assets may be located offshore or onshore
- Oil, Gas or condensate wells offshore or onshore
- Business Interruption/Loss of Production Income
- Construction projects for offshore installation
- Liabilities written in conjunction with separate Liabilities class when under a packaged policy

Out of Appetite

- Downstream
- Power and Petrochemical plants
- Renewable energy
- Oil sands
- Onshore only Construction projects
- Stand-alone Business Interruption/Loss of Production Income

Terms and conditions

- Normal commercial exclusions will apply
- Operational policies over 18 months in period and construction projects over 5 years plus maintenance & discovery
- Sanctioned countries and individuals
- Non-Lloyd’s licensed countries
- Fronting for markets

Class Summary – Political Risks



Robert Dorey
Class Underwriter
T: + 44 20 7767 2885
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Line Size(s)

- \$12.5m
- PR/CR/CF/WL

Key Geographies

- US
- Med regions
- Norway

Underwriting Appetite

Asset based cover

- Confiscation, Expropriation, Nationalisation and Deprivation (CEND)
- Political Violence and Terrorism
- War on Land

Contractual based cover

- Contract Repudiation, (Non-payment/Non-delivery)
- Contract Frustration (CI/ET, Embargo, Licence Cancellation)
- Trade Credit (Single situation & Specialty)

- “Investors” Insurance – Asset and Contractual cover
- “Lenders” form – Asset and Contractual cover

Period

- Tenor of 3/5 years (longer with Lloyd's approval)

Target product lines

- Ship repair/building guarantees
- Non-honouring of a guarantee offered by a govt.
- Trader & Banks financed Commodity contracts
- Physical Assets held overseas
- Container lessor

Target insureds

- Shipping companies
- Trading Companies
- Oil companies
- Large corporate
- Banks
- Trade export agencies

Out of Appetite

- Whole turnover trade credit

Terms and conditions

- Normal commercial exclusions will apply
- Sanctioned countries and individuals
- Non-Lloyd's licensed countries
- Fronting for markets

Class Summary – Political Violence



Robert Dorey

Class Underwriter

T: + 44 20 7767 2885

M: + 44 7825 087 888

Line Size(s)

- \$12.5m
- TO /TU/PR/WL

Key Geographies

- Worldwide

Typical Wordings

- Terror: LMA3003
- Political Violence LMA3092
- War on land: LSW667

Underwriting Appetite

Damage to property caused by:

Political Violence

- Strikes
- Civil commotion/riots
- Malicious damage

Terrorism

- Use of force or violence committed for political/religious/ideological purposes
- Sabotage

War on Land – arising from hostile act by/against a belligerent power

- War
- Civil war
- Revolution
- Rebellion
- Insurrection

Out of Appetite

None

Terms and conditions

- Normal commercial exclusions will apply

The London underwriting team

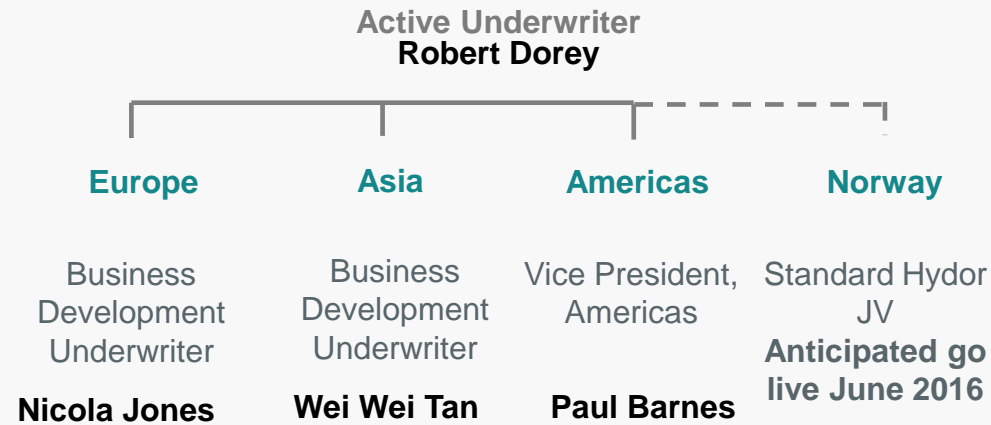


Active Underwriter
Robert Dorey



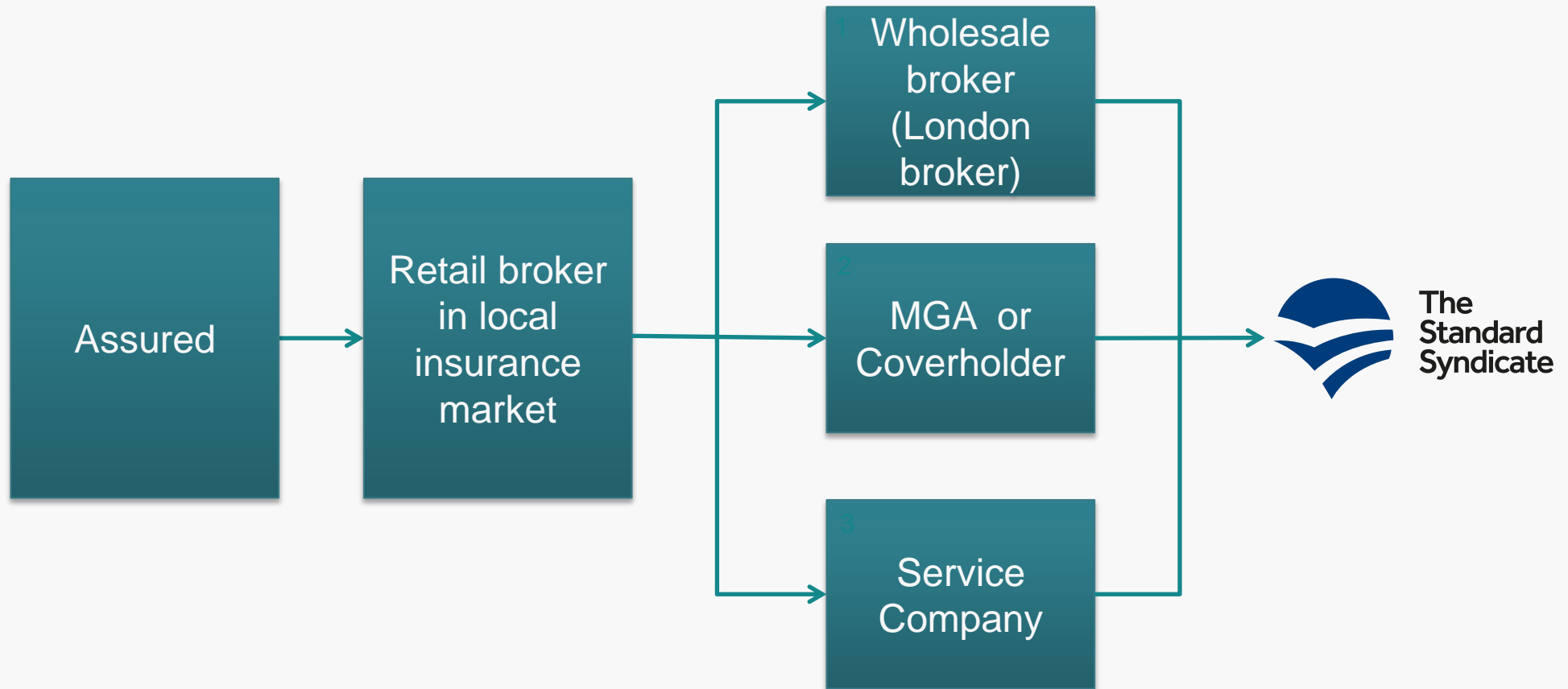
www.syndicate1884.com

Non London distribution



Our distribution model

How business may be routed to The Standard Syndicate



Our distribution model



The Standard Syndicate
1884 Europe
Standard-Hydor
The Standard Syndicate Asia

Note: 1) US business currently being routed through 1884 Europe service company. We are in the initial phase of setting up a US domiciled coverholder; Joint Venture with Hydor in Norway being implemented, planned go live June 2016

- Claims managed from London
- Total claims @ 9 May 2016 = 1,117
- Reserve value of TSS share = £7,617,412
- Claims arise in the hull, energy, liability, cargo and property classes
- 80% hull class
- Subscription market
- Lloyd's leader on 287 claims
- Overall lead on 5 claims
- Member/non-member split of incurred
 - Member 48.38%
 - Non-member 51.62%
- One large (property) loss with a reserve of over GBP 500k

Claims team



Head of Claims
Gillian Musgrave

Senior Claims
Adjuster
C. Cecilia
Stevens



Charles Taylor Insurance Services
Head of Technical Adjusting
Richard Cook

Senior Adjuster
Neil Carter

Senior Adjuster
Stephen Black

Regulatory status



The Standard Syndicate 1884 is managed by Charles Taylor Managing Agency Ltd. Charles Taylor Managing Agency Ltd is a Lloyd's managing agent and is authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority.

The Standard Syndicate Services Limited, trading as 1884 Europe is a service company and a Lloyd's coverholder that is part of the Charles Taylor PLC group of companies. The Standard Syndicate Services Limited is an appointed representative of Charles Taylor Managing Agency Ltd which is authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority. The Standard Syndicate Services Limited has authority to enter into contracts of insurance on behalf of the Lloyd's underwriting members of The Standard Syndicate 1884 which is managed by Charles Taylor Managing Agency Ltd.

The Standard Syndicate Services Asia Pte. Ltd., trading as The Standard Syndicate Asia, is a service company and a Lloyd's coverholder that is part of the Charles Taylor PLC group of companies. The Standard Syndicate Services Asia Pte. Ltd. is regulated by the Monetary Authority of Singapore in its capacity as a Lloyd's coverholder under the Insurance (Lloyd's Asia Scheme) Regulations. The Standard Syndicate Services Asia Pte. Ltd. has authority to enter into contracts of insurance on behalf of the Lloyd's underwriting members of The Standard Syndicate 1884 which is managed by Charles Taylor Managing Agency Ltd. Charles Taylor Managing Agency Ltd is authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority.

www.syndicate1884.com



**THE STANDARD CLUB NEW YORK FORUM
STRIKE CLUB
PRESENTATION**

24 May 2016

The Club

Profile

- Specialist marine mutual since 1957
- Similar structure to a P&I Club:
 - owned by members
 - not for profit
 - service-oriented
- Reinsurance programmes to limit net exposure and protect reserves
- Premium income US\$36m*
- US\$27m free reserves*
- S&P rating BBB+
- Managed by Charles Taylor since 1 March 2015

*Year ended 31 Jan 2015

The Board



FURNESS WITHY (CHARTERING) LTD.



RICKMERS GROUP



TOKO LINE



The Cover

1. Mutual delay

Costs of vessel delay caused by

- By shipboard incidents
- By onshore incidents

2. Fixed premium war

War cover including

- Hull & Machinery
- Loss of Hire
- Liability
- Piracy incl. K&R and Piracy LOH

3. Fixed premium loss of hire

- Loss of Hire resulting from an incident covered under the ship's Hull and Machinery policy

4. Special covers

- Tailored fixed premium cover for delay risks in excess of or outside the mutual rules
- Net profit protection for time charterers (total loss)

COVER FOR DELAYS

The
STRIKE CLUB



Charles
Taylor

What risks can you insure?

Shipboard risks

1. Collision, Stranding, Grounding, Striking FFOs	4 / 17
2. Fire, Explosion or Breakdown in Machinery	7 / 14
3. Piracy	2 / 12
4. War	2 / 12
5. Actual or Alleged Pollution	1 / 20 / 90
6. Quarantine	1 / 20 / 90
7. Illness, Injury or Death on board or ashore	1 / 20 / 90
8. Stowaways, Refugees, Saving Life at Sea	1 / 20 / 90
9. Discovery of contraband: drugs, arms, munitions...	1 / 20 / 90
10. Crimes committed on board by officers and crew	1 / 20 / 90
11. Actions of a ship in the same beneficial ownership	1 / 20 / 90
12. Crew Strikes	1 / 20 / 90

What risks can you insure?

Onshore risks

13. Strike, lockout, stoppage, restraint of labour	1/20
14. Revolution, insurrection, riot, civil commotion, political protest	1/20
15. Action of environmental objectors or religious zealots	1/20
16. War and piracy	1/20
17. Fire, explosion or mechanical breakdown on land	1/20
18. Storm, tempest, flood, sandstorm, snow, ice, fog, lightning	1/20
19. Earthquake, volcanic eruption, avalanches, heave, landslide	1/20
20. Aircraft impact or accident, delay to / misdirection of air cargo	1/20
21. Accidental loss or damage to any transshipment vehicle	1/20
22. Partial or total closure of a port*	1/20
23. Physical obstruction, high or low levels of water	1/20
24. Import / export controls, embargo, prohibition, border closure	1/20
25. Physical or electronic damage by strikers, vandals, terrorists...	1/20
26. Expropriation, confiscation or seizure of cargo	1/20

Case study 1

An LNG Vessel proceeding to a terminal to load cargo collides with another vessel. The hull is breached and there is a minor leakage of fuel into the sea. Temporary repairs are required to seal the hull before the vessel can move. These take 2 days, following which the vessel is towed to a yard for permanent repairs. Towage and subsequent repairs take 12 days. The vessel sustains a total delay of 14 days and a loss of US\$141,000 (or US\$10,000 per day) in running costs. These would be covered by the Strike Club under Class III of the Mutual Delay Cover and the member would receive US\$100,000 (total Claim less 4 day deductible).

Please Note: whilst the H&M policy would cover the cost of repairs to the vessel and potentially three quarters liability to the other ship, and the P&I Club one quarter liability and pollution clean-up costs, an LOH policy would not engage because the claim would fall below the typical 14 day deductible for such policies. Delay insurance with The Strike Club would fill this gap in cover.

Case Study 2

M.V NORDIC ANNE at Ruwais, UAE, August 2013 (Class III)

The 73,723 DWT tanker sustained damage to three out of five cylinder liners of the main engine while she was for bunker operations at Ruwais.

The vessel moved to Fujairah anchorage, waiting for the delivery of the spare parts and execution of overhaul. Loss of time was 11 days and 13 hours, generating 6 day and 13 hour claim (excess of the deductible). The Member's indemnification under Rule 10(a)[x] was USD 163,541.67 (DES USD 25,000).

Examples

Grounding – August 2015

- The vessel grounded on 25th August and refloated on 30th August. Repairs complete 4th September, leading to a delay of 11 days.
- Claim = 7 days (4 day deductible)

Quarantine

- During the Ebola epidemic from 2013 to 2015 some member's ships entering ports in affected countries, or arriving in other ports from these countries, were quarantined for periods of up to 10 days.
- Claim = 9 days (1 day deductible)

Machinery breakdown

- Engine breakdown and vessel towed into port of refuge. Repairs undertaken leading in total to a 14 day delay.
- Claim for 7 days (7 day deductible)

Detention by authorities

- A member's ship was detained for 8 days because of a failure to put up security in relation to a collision which another ship in the fleet had been involved in.
- Claim = 7 days (1 day deductible)

Actual or alleged Pollution

- Majority of claims on bulkers and containers occur when slopping or deslopping during bunkering operations, or when moving residues from one tank to another there can be overspills. Delays between 3 and 7 days.
- Claims 6 days (1 day deductible)

Illness, injury or death

- Where a crew member is injured, sick or dies and the vessel deviates to a port, the delay in doing so, waiting there and resuming position is covered. Also applies to stevedores injured / killed ashore during port operations.
- Claims up to 20 days (1 day deductible)

Case Study 3

A container vessel is delayed loading for five days during a strike at a port in South America. Although the strike ends on the fifth day, consequential congestion in the port delays loading a further three days.

The container operator has lost eight days, equating to running costs (or hire) of US\$120,000 (or US\$15,000 per day).

The claim would be covered under Class I & II and the member would receive US\$105,000 (total Claim less one day deductible)

Case Studies 4 & 5

M.V COURAGEOUS at Pointe Noire, Democratic Republic of Congo, September 2014 (Class I)

The 52,364 DWT general cargo vessel was scheduled to call Lagos for loading purposes.

The next port would be Pointe Noire, but at that time the Congo Authorities did not allow the entrance of the vessels which had previously called at Ebola affected countries. In order to avoid a lengthy delay at the later port she changed her rotation from Lagos to Point Noire.

Recoverable amount under Rule 8(a)[iii](ff)(Partial or total closure of any port, berth, sea-lane, as a result of an order made lawfully by an authority of competent jurisdiction), for loss of time due to deviation and additional costs (substitute expenses) incurred net of deductible equals to USD 60,067.50.

M/V CLIPPER BARI-STAR at Isabel, Philippines, November 2013 (Class II)

The 38,243 DWT bulker loaded copper concentrate at Salvary for discharging to Isabel.

A typhoon hit Philippines and severely damaged the premises of the port and receivers' facilities. Due to the damages all terminals were closed and port congested due to great number of vessels waiting.

The ship sustained 10 day delay which was a maximum claim under Rule 9(a)[ii](bb) (storm, tempest, flood, sandstorm, snow, ice fog or lightning) and the Member was reimbursed for 6 days X USD 13,000 = USD 78,000

Examples

Strikes

- Labour unrest in South America, particularly Argentina, is widespread so far this year. For example, we have received two claims for 12 days each, arising from delays in Ushuaia.
- Claim = 11 days (1 day deductible)

Onshore weather conditions

- Floods affected production of coal and iron ore at mines in Australia and India causing delays to ships waiting to load at the ports.
- Both ice and flooding has affected rail links between mines and ports in Ukraine and Australia causing similar delays.
- Claims = up to 20 days (1 day deductible)

Physical obstructions

- Mostly seen on rivers and inland waterways, particularly in South America, where there are regular groundings. We have paid claims for up to 12 days (with 1 day deductible) due to such blockage.

Port closures

- Authorities close a port to undertake urgent – not scheduled – dredging (Baltic countries, India, Mississippi, Argentina).
- E.g. incident
- Where ships are delayed and / or only partially load cargo because of the draught and thereby avoid further delays.
- Claims = up to 20 days (1 day deductible)

Examples

Fire and explosion

- Tianjin explosion in 2015. It was the 10th busiest port in the world and gateway for iron ore, coal and oil into China.
- Ships delayed outside awaiting entry to other parts of the port.
- Claims = up to 20 days (1 day deductible)

Import / export controls

- Members' have been affected in circumstances where they have signed COAs to ship goods from West Africa to South America, but the governments of the relevant countries subsequently introduce prohibitions or limitations on trading in certain things, usually precious metals or commodities in short supply.
- Claims = up to 20 days (1 day deductible)

Mechanical breakdowns onshore

- Breakdown of onshore conveyor belts used for loading leading to delay, or intermittent delays which together exceed deductible, are covered,
- Affects bulk carriers
- Claims = up to 20 days (with 1 day deductible)

Seizure of cargo

- Would not apply to receivers arresting a ship due to off spec cargo, but would apply to situations where cargo (and the ship where it is loaded) is detained by authorities because of inadequate documentation or to investigate the final receivers of the cargo.
- Claims up to 20 days (1 day deductible)

Design your own cover

Risks

- Collision, grounding etc.
- Fire, machinery damage
- Actual or alleged pollution
- Quarantine
- Discovery of contraband
- Onshore strikes

Deductibles and limits

- 10 days excess 4
- 7 days excess 7
- 10 days excess 1
- 20 days excess 1
- 60 days excess 1
- 20 days excess 1

Costs protected

- ✓ HIRE

Premium calculation

How is it calculated?

- Premium = % of 'daily entered sum'
- % determined by:
 - Risks selected
 - Profile of fleet and trade
 - Spread of risk
- E.g. 'DES' = US\$ 10,000
 - Initial call rate = 80%
 - Closing call rate = 30%
 - Total annual rate = 110%
 - Premium = US\$10,000 x 110%
 - = US\$11,000 / ship / annum

Who buys the cover and why?

Charter party terms

- Owner or charterer?
- Spot market, voyage charter or time charter?
- See over.

Financing requirements

- Are the vessels mortgaged?
- What are the lending banks insurance requirements?
- How to pay in the event of a delay?

Profit protection

- Ensure predictability of financial results.
- Public or private company?

Charter party clauses

On each and every occasion that there is a loss of time (whether by way of interruption in the vessel's service or, from reduction in the vessel's performance, or in any other manner);

- (i) Due to deficiency of personnel or stores; repairs; gas freeing for repairs; time transiting to and from, in and waiting to enter dry dock for repairs; breakdown (whether partial or total) of machinery, boilers or other parts of the vessel or her equipment (including without limitation tank coatings); overhaul, maintenance or survey; collision, stranding, accident or damage to the vessel; or any other similar cause preventing the efficient working of the vessel; and such loss continues for more than three consecutive hours (if resulting from interruption in the vessel's service) or cumulates to more than three hours (if resulting from partial loss of service); or;
- (ii) Due to industrial action, refusal to sail, breach of orders or neglect of duty on the part of the master, officers or crew; or;
- (iii) For the purpose of obtaining medical advice or treatment for a landing any sick or injured person or for the purpose of landing the body of any person, and such loss continues for more than three consecutive hours; or;
- (iv) Due to any delay in quarantine arising from the master, officers or crew having had communication with the shore at any infected area without the written consent or instructions of Charterers or their agents, or to any detention by customs or other authorities caused by smuggling or other infraction of local law on the part of the master, officers, or crew; or
- (v) Due to detention of the vessel by authorities at home or abroad attributable to legal action against or breach of regulations by the vessel, the vessel's owners, or Owners (unless brought about by the act of neglect of Charterers); then;

Without prejudice to Charterers' rights... the vessel shall be off-hire from the commencement of such loss of time until she is again ready and in an efficient state to resume her service from a position not less favourable to Charterers than that which such loss of time commenced...

Charter party clauses

In the event of loss of time arising out of and / or connected with one or more of the matters under the sub-paragraphs (a)-(d) below, preventing working of the vessel exceeding a period of 15 running days, charterers shall have the option to cancel the charter (without prejudice to accrued rights/obligations, if any) and to redeliver the vessel otherwise in accordance with charter terms upon the giving of written notice of cancellation to owners and/or vessel's managers:

- (a) boycott and/or refusal to work the vessel by port/shore labour and/or by any governmental authority, local or otherwise caused by the vessels flag, ownership or crew or by reason of the terms and conditions of their employment and/or conditions of work;
- (b) the trading or operation of the vessel or any other vessel under the same/associated ownership or management;
- (c) repairs/renewals to the vessel and/or its equipment;
- (d) arrest/detention of the vessel by any third party, not by reason of any breach of charter by charterers or their servants.

in any event, payment of hire shall cease for any time actually lost arising out of and/or connected with any of the matters under sub-paragraphs (a)-(d) above and owners shall reimburse charterers for all unavoidable costs/expenses/hire paid in advance.

Regulatory disclosure

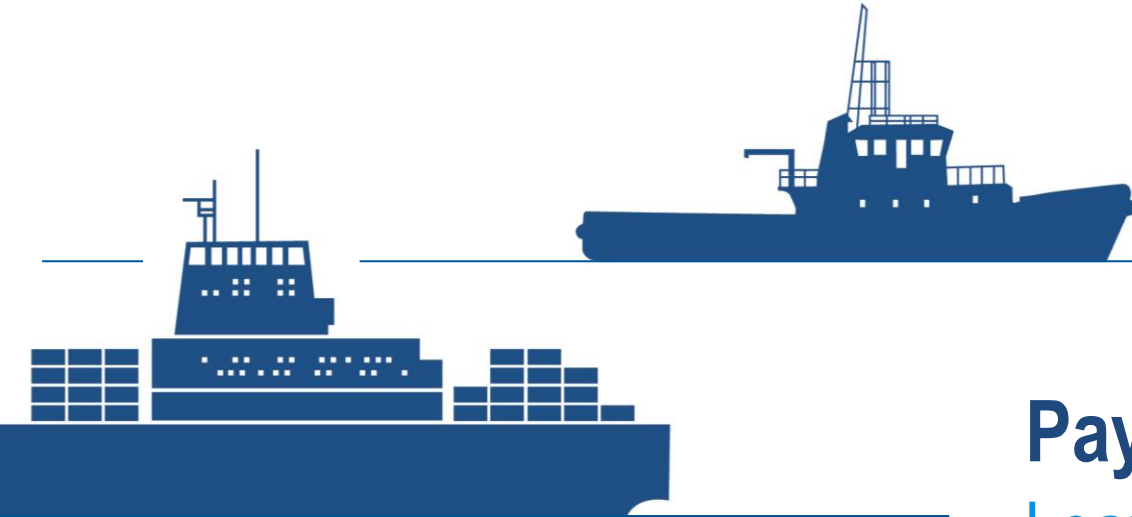
The Shipowners' Mutual Strike Association (Bermuda) Limited and The Shipowners' Mutual Strike Insurance Association (Bermuda) Limited are regulated by the Bermuda Monetary Authority. The Shipowners' Mutual Strike Insurance Association Europe is regulated by the Commissariat aux Assurances in Luxembourg.

The information here is not intended to amount to legal or technical advice. Every effort is made to make it accurate and up to date. However, no responsibility is assumed for its accuracy nor for the views or opinions expressed, nor for any consequence of or reliance on them. You are advised to seek specific legal or technical advice from your advisers about any specific matter.

The
STRIKE CLUB



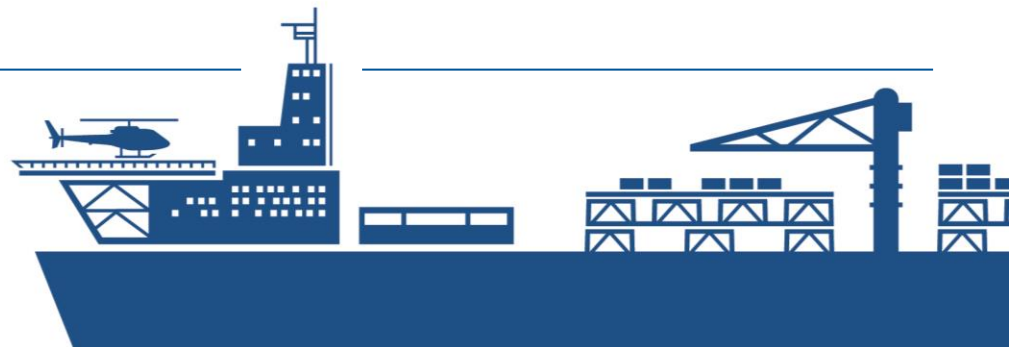
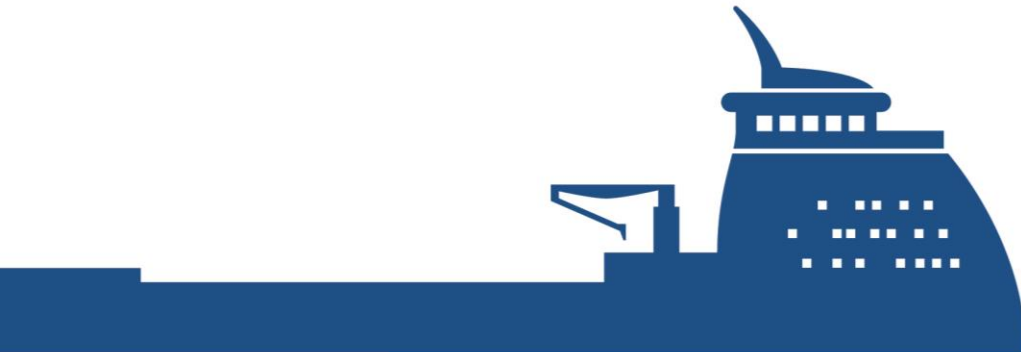
**Charles
Taylor**



Pay to be paid

Leanne O'Loughlin, Claims Director

24 May 2016



Contents

01 Direct action under English law

02 Erosion of the 'pay to be paid' rule

01

Direct action under English law



The nature of P&I cover

- Indemnity v. liability cover
- The 'pay to be paid' rule
 - assured shipowners can only be 'indemnified' for the amount actually paid

Direct action under English law

- Third Parties (Rights Against Insurers) Act 1930
 - applies to all contracts of insurance providing cover for third party liabilities
 - direct right of action against insurer triggered by insolvency/bankruptcy of assured
 - ‘stepping into shoes’ - subrogated right of action
 - assured must be legally liable to the third party, established by judgment, award or recorded settlement
 - insurer can rely on any defences that would have been available against the insured

Application of the 1930 Act to P&I insurance

- ‘troubled maritime lawyers, in the City of London and the Temple, ever since the enactment of the Third Parties (Rights against Insurers Act) 1930’ (Lord Goff in the Fanti and Padre Island cases)
- For the purposes of the Act, a P&I club constitutes an insurer and the cover given by the club to their member amounts to a contract of insurance
- When can a foreign company be subjected to insolvency proceedings in England?
- Insured company’s right of action against his insurer could constitute an asset for the purpose of initiating a winding-up order in English courts
- ‘In the shoes of the assured’
- ‘Pay to be paid’ rule – most effective defence

Pay to be paid

as a defence against direct action

- 1930 Act voids policy clauses purporting to prevent a third party from claiming against an insurer by reason of the assured's insolvency
- But, the insurer can rely on all the defences available to him under the original policy
- Breach of condition by assured prejudices a third party claim
- 'Pay to be paid' pre-condition unlikely to be satisfied by an insolvent/bankrupt assured

Fanti and The Padre Island cases

- Ending years of uncertainty...eventually
- Arbitration: both upheld the 'pay to be paid' rule
- Commercial Court: opposing decisions
- Court of Appeal: rule should be struck down, compliance rendered impossible
- House of Lords: upheld the rule - any other outcome would put third party in better position than member
- Lord Goff's warning to P&I clubs: don't hide behind the rule!

Third Parties (Rights Against Insurers) Act 2010

- Royal Assent 25/03/10; deficiencies addressed by Insurance Act 2015 and parliamentary regulations
- Widens the definition of insolvent company to include voluntary arrangements
- Eliminated the requirement of first establishing liability of the insured
- Extend the scope of the definition of a 'relevant person'
- Third party right to obtain to information
- Insurer's defences are restricted: s 9(5) transferred rights are not subject to any pay-first clause
- BUT, s 9(6) excludes marine insurance from s 9(5), except for death/personal injury

Pay to be paid defence preserved

- 2010 Act preserves the status quo
- ‘Pay to be paid’ clauses in marine insurance will still constitute a precondition of recovery, which would effectively prevent a third party from recovering directly from P&I clubs
- EXCEPTION: claims for personal injury or death

02

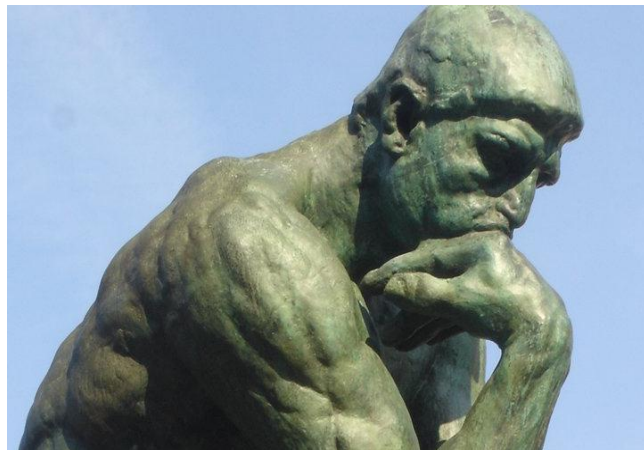
Erosion of the 'pay to be paid' rule



Manager discretion

- The Standard Club P&I and Defence rules, 6.15:

“Unless the managers otherwise determine, it is a condition precedent of a member’s right to recover in respect of any liabilities that he must have first discharged or paid the same out of funds belonging to him unconditionally and not by way of loan or otherwise”



Club Letters of Indemnity



Jurisdictions where direct rights of action are protected



Direct action in the US

- Connecticut
- Georgia
- Guam
- Iowa
- Kansas
- Louisiana
- Nebraska
- New Jersey
- Puerto Rico
- Rhode Island
- Texas
- Wisconsin

Turkey: *Yusuf Cepnioglu*



Spain: *The Prestige*



International Conventions

International convention	Application	Already in force?	Type of security
International Convention on Civil Liability for Oil Pollution Damage, and the 2003 Protocol (“CLC”) & International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (“Fund Convention”)	Pollution arising from the carriage of persistent oil as cargo	Yes	Blue Card issued by P&I club
International Convention on Civil Liability for Bunker Oil Pollution Damage (“Bunkers Convention”)	Pollution caused by fuel oil carried as bunkers	Yes	Blue Card issued by P&I club
Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974 (PAL) and its 2002 Protocol (“Athens Convention”)	Liability for death and injury to passengers	Yes	Blue Card issued by P&I club
Nairobi International Convention on the Removal of Wrecks (“Wreck Removal Convention”)	Wreck removal liabilities	Yes	Blue card issued by P&I club
Maritime Labour Convention 2006 (“MLC”)	Liability and compensation in respect of claims for death, personal injury and abandonment of seafarers	Yes, 2014 amendments under discussion	P&I Certificate of insurance




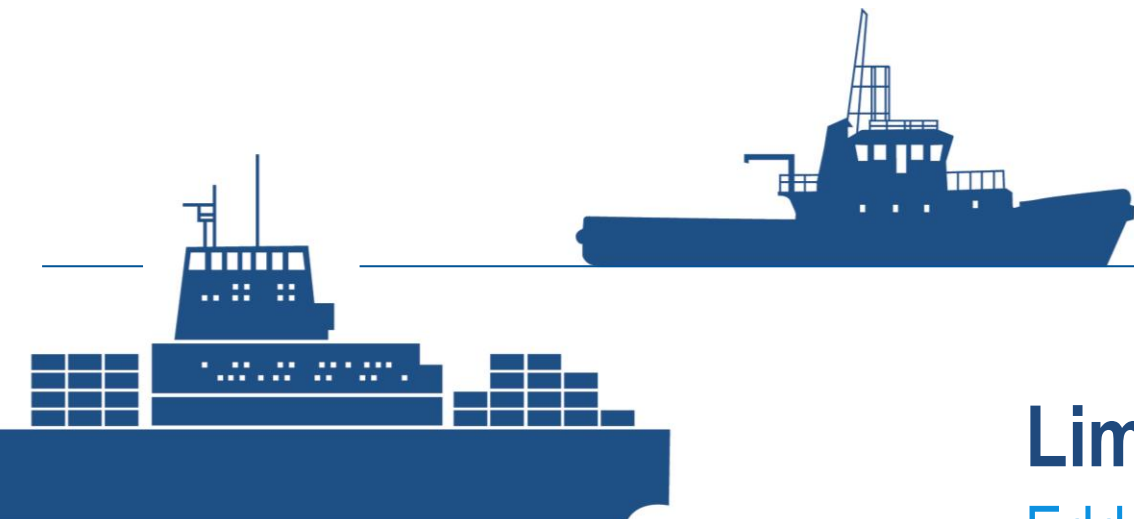
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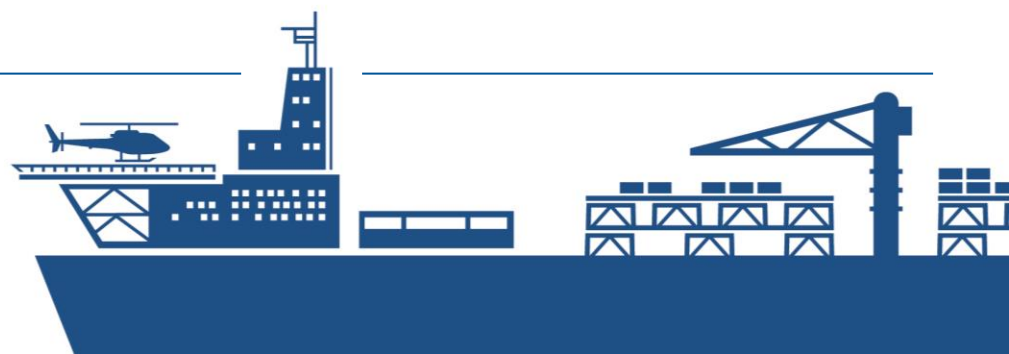
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Limitation of liability

Eddy Morland, Underwriting Director

24 May 2015



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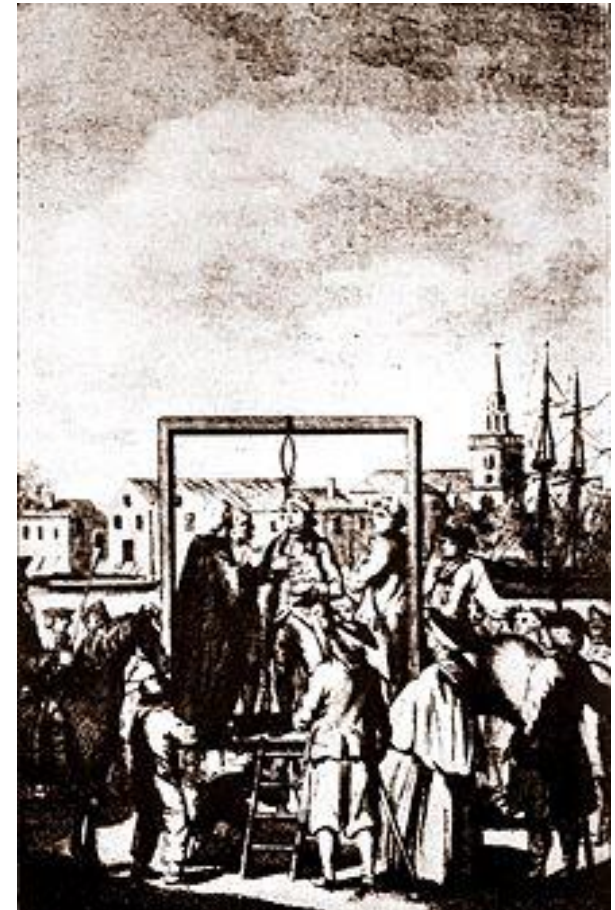
05 Conclusion

01 History



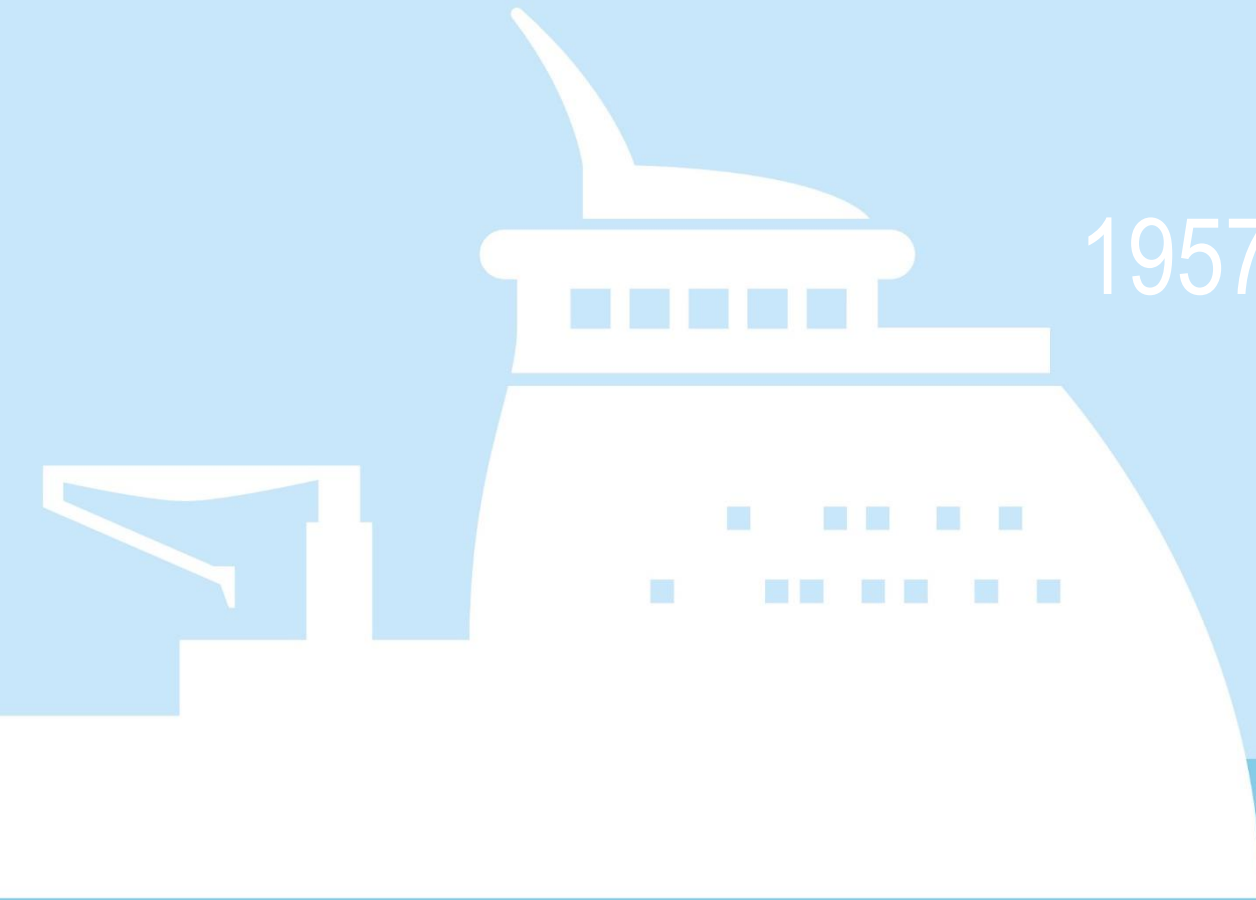
History

- First formalised in 18th Century to encourage trade
- Shipowners Act 1733
- *Sutton v. Mitchell*, (1785) 1 T.R. 18
- The Merchant Shipping Act 1786
- Two schools of thought:
 - 1851 Limitation of Vessel Owner's Liability Act
 - 1957 Brussels Limitation Convention



02

1957 Brussels Limitation Convention



1957 Convention

- **Still in effect:**

- Malaysia, South Africa etc

- **Limitation property claims:**

- 1000 Gold Francs/ton; or
- 1979 Protocol amended to 66.67SDR



- **Conduct barring limitation:** Actual fault or privity of the owner.

- Governed by the national law where the fund is constituted

03 LLMC and 1996 Protocol



LLMC and 1996 Protocol

- **Who can limit?**

- Owners
- Charterer, manager or operator
- Any person for whose act, neglect or fault the owners are responsible
- Salvors
- Insurer



- **Conduct barring limitation:** Personal act or omission committed intentionally or recklessly

- 19 April 2012 IMO announced new limits to take effect in 2015

LLMC and 1996 Protocol

- Subject to limitation:
 - Loss of or damage to property
 - Loss of life and personal injury
 - Non-contractual rights
 - Delay in carriage by sea
 - Wreck removal of ship and cargo
 - Measures taken by any person to minimise losses
- Not subject to limitation
 - Salvage awards and general average
 - Oil pollution as defined under CLC
 - Nuclear damage
 - By statute and contract

Ming Galaxy C/W Herceg Novi

- 18 August 1996 in the Straits of Singapore
- Herceg Novi sank
- Singapore: 1957 Brussels Limitation Convention
- UK: LLMC 1976
- Ming Galaxy
 - Singapore: US\$2.9m vs. UK: US\$5.8m
- Herceg Novi
 - The Ming Galaxy claim would not exceed the limit of the Herceg Galaxy



Ming Galaxy C/W Herceg Novi

- 21 August 1996 legal proceeding instituted in Singapore
- Writ was served by fixing it to the mast of the Herceg Novi
- 28 August legal proceedings instituted in England
- Writ served on sister ship of Ming Galaxy in Felixstowe

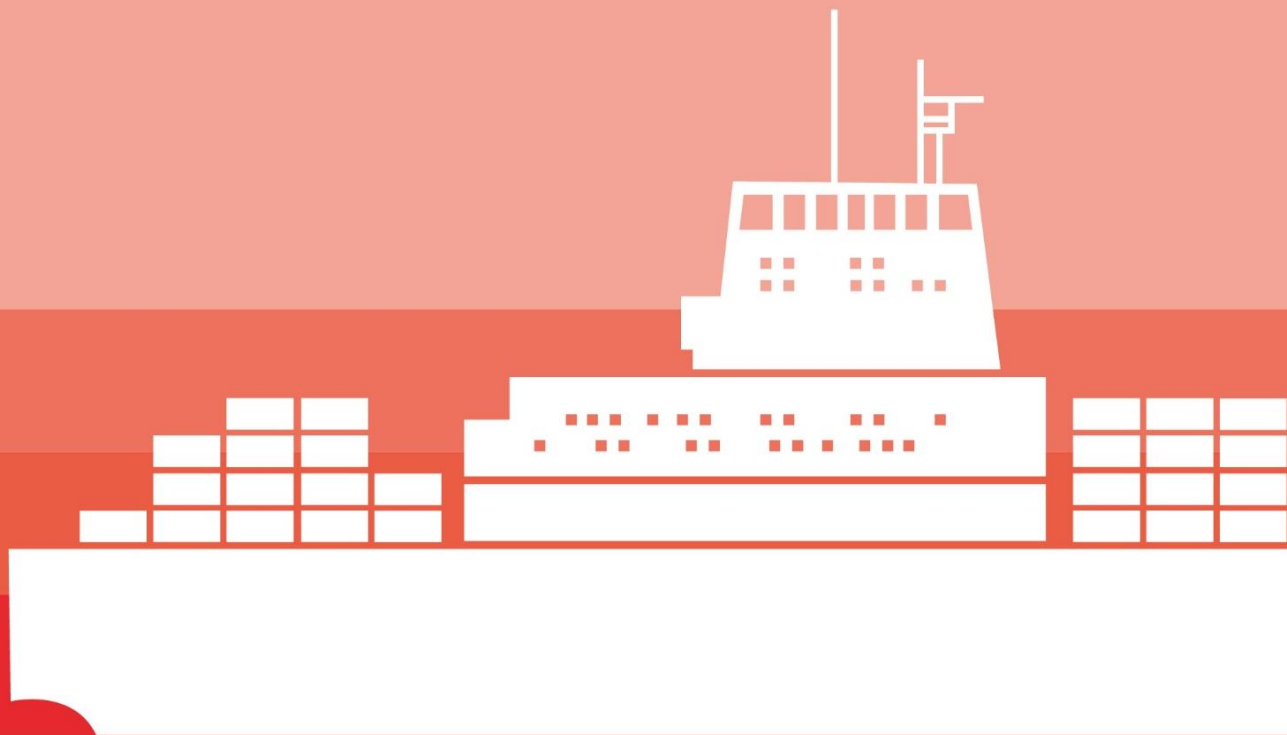


Forum Shopping

- Limitation amount is important, but there is much more to consider, for example:
 - Division of liability – what happened? Who was at fault?
 - Each ship's losses – repairs, cargo claims, loss of hire
 - In which jurisdictions could proceedings be commenced?
 - Which limitation regime would those jurisdictions apply – their own or another?
 - How is the test for breaking limitation applied?
 - Is there a possibility of limitation being broken?
 - How long are proceedings likely to take?
 - Any local influence?
 - Will local law still allow limitation on the basis of the ship's flag?



04 USA Limitation



USA Limitation

- **Source of Limitation:**

- Limitation of Vessel Owner's Liability Act (46 U.S.C. §30501 (FORMERLY §181))

- **Who?**

- All shipowners/bareboat charterers

- **Conduct barring limitation:**

- Casualty occurred in the owner's privity and knowledge (owner's burden of proof)



USA Limitation

- **General Limitation:** Value of the ship and pending freight at the end of the voyage (ie abandonment) §30505 (§183)
- **Personal Injury and death** – §30506 [§183(b)]
 - \$420 per ton



USA Limitation

- **Procedure:**

- F.R.C.P. Supplemental Admiralty Rule F
- Owner can file Petition/Complaint to Limit Liability
- §30511 and specifically, Rule F require filing within 6 months of written notice of claim
- **Venue:** Federal District Court
- **Security**
- **Concursus:** All other actions are enjoined



S.S. El Faro

- 1 October 2015 El Faro lost with all hands
- 30 October 2015 Limitation Action Filed in Jackson
- **Amount of Limitation Fund**
 - Owners filed stipulation for US\$15,309,003.50
 - >Value of ship: US\$0
 - >Pending Freight: US\$2,072,793.50
 - >Injury/Death fund: US\$13,236,300



S.S. El Faro

- **Non-injury and death claims:**

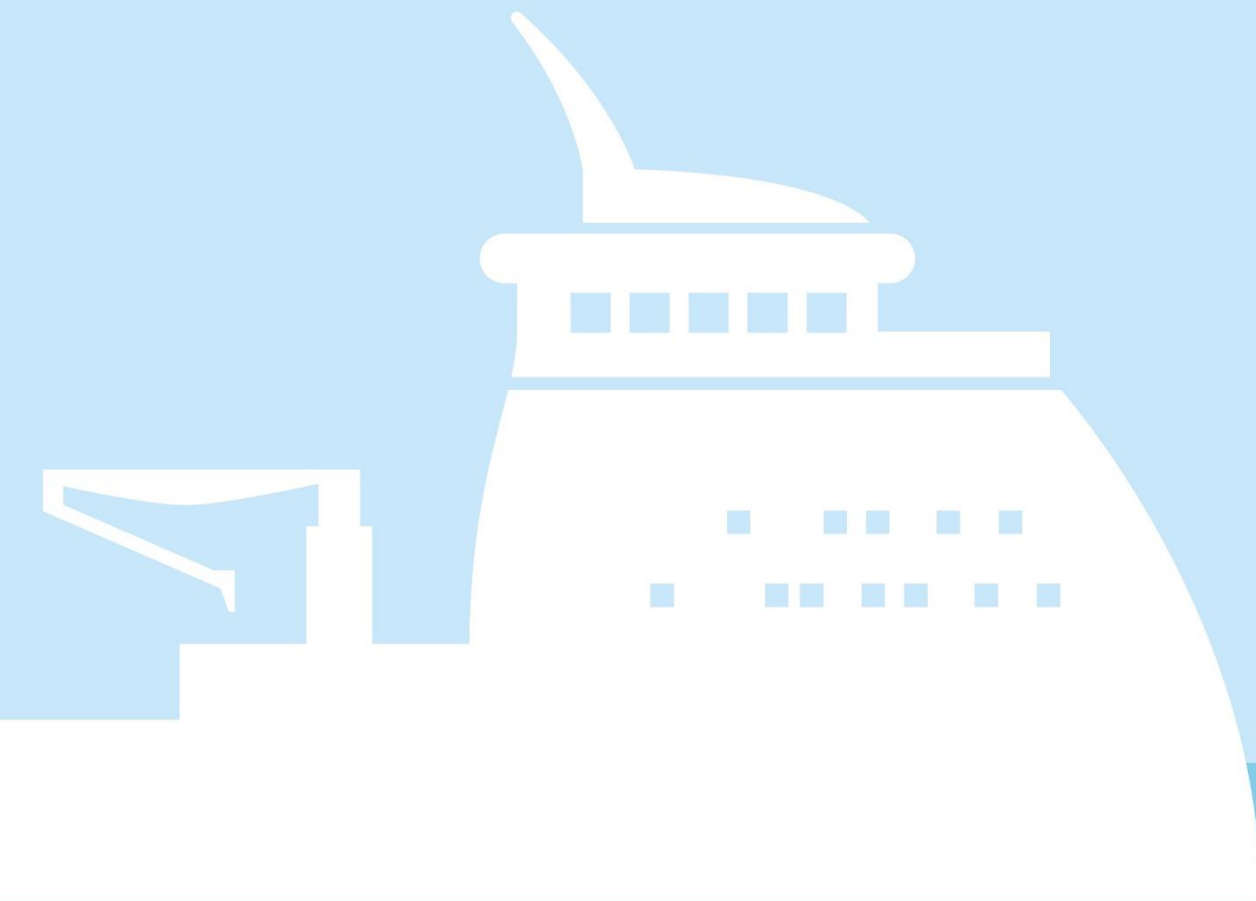
- Value of vessel after casualty is fair market value (experts, comparable sales, insured value)
- Non-injury/death have access to a very small fund (ie freight)
- Claims not subject to limitation: certain contracts, pollution and wreck removal

- **Death claims**

- All 33 crew lost
- The fund for these claims only would be US\$13,236,300 plus proportional share of the pending freight
- Settled claims are not deducted from limitation fund

S.S. El Faro

- **Limitation rarely granted when there is serious injury or death:**
 - Privity and knowledge of the owners
 - > Seaworthiness of ship at beginning of the voyage (shoreside management/master)
 - > Condition and maintenance of El Faro
 - > Cargo considerations
 - > Weather routing etc
 - Sympathy with families
 - High profile cases may prompt attempts to challenge limitation



05

Conclusion

Conclusion

- Limitation is an important right for owners and their clubs
- Different limitation conventions or domestic regimes may apply
- Forum selection is important and complex
 - Assess which jurisdictions are available
 - What limitation regimes will apply
 - Division of liability
 - Consider all factors that might affect the outcome.

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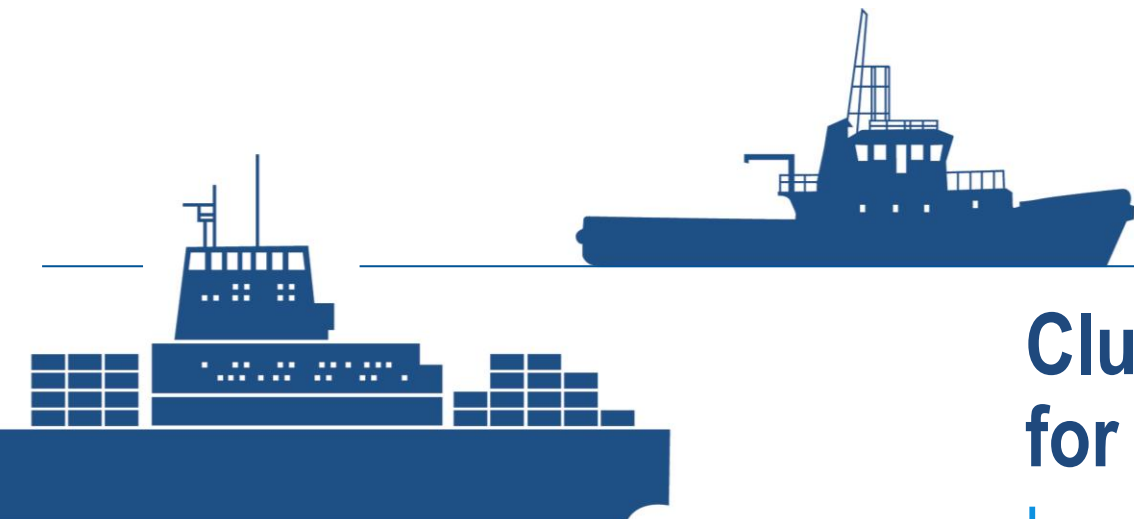
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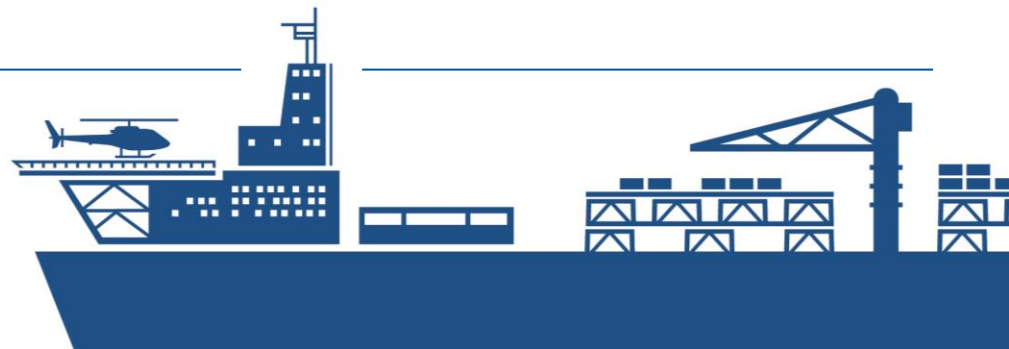
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Club cover & deviation for injury and illness

Leanne O'Loughlin, Claims Director

24 May 2016



Contents

01 Why is deviation important?

02 What is a deviation?

03 Permissible deviations

04 The migrant crisis in Europe

05 Club cover issues

06 Costs recoverable

07 Scenarios and questions

Why is deviation important?

Carriers: breach of the voyage/contract of carriage.

lose the right to rely on the exceptions contained in Article IV of the Hague/Hague-Visby Rules or other contractual exclusion clauses.

Clubs: deviation which deprives the member of the right to rely on defences or rights of limitation otherwise available may be excluded from club cover.

Club members should always consult with the club before embarking upon a deviation in order to confirm that they are not prejudicing cover

Legal consequences of unjustifiable deviation

- **There are two views**
- (1) Deviation = fundamental breach - old cases such as Hain S.S. Co v Tate & Lyle (1936) and Stag Line v Foscolo Mango (1932) *'however slight the deviation, the other party to the contract is entitled to treat it as going to the root of the contract, and to declare himself as no longer bound by any of the contract terms'*
- Result is carrier cannot rely on any exclusions/contract ends
- Carrier may be sued for damages

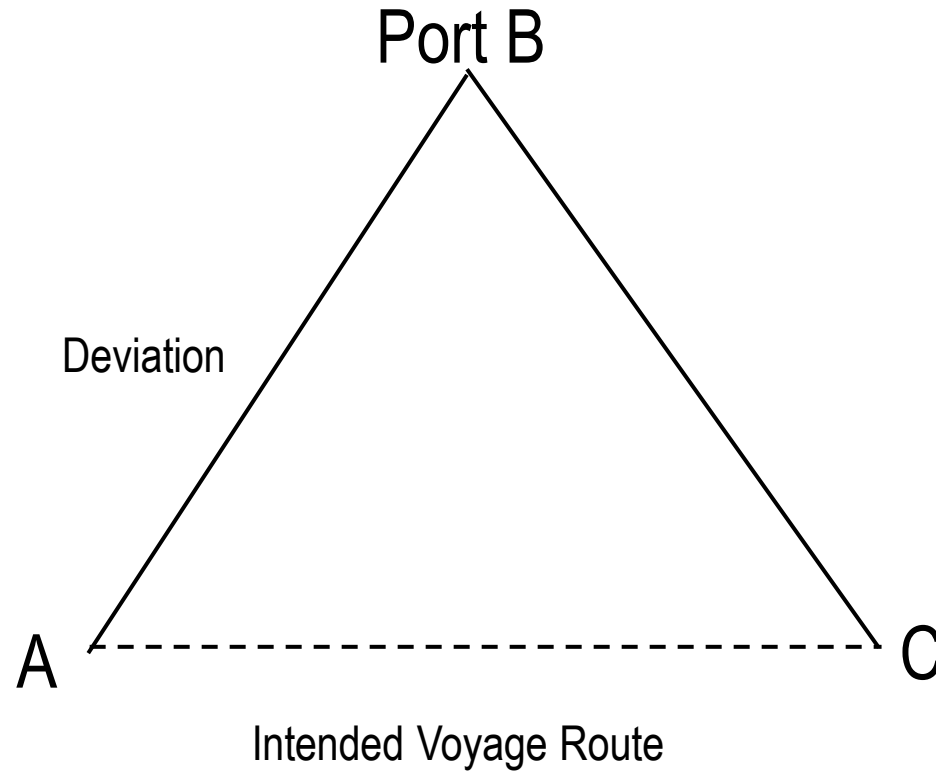
Legal consequences cont'd

- (2) deviation is simply a breach of a condition, like any other - if there is a deviation, the innocent party can rescind or affirm the contract
- If contract is affirmed, the carrier will not be able to rely on an exemption clause if the cause of the loss is the deviation
- Carrier remains liable in damages for losses arising from the breach

What is deviation?

- **Basic carrier obligation:** ‘proceed without unnecessary deviation in the usual and customary course’
- Deviation
- Carrier remains liable in damages for losses arising from the breach
 - Deliberate diversion from the usual and customary course
 - Costs are ‘solely incurred’ due to deviation; no additional business (eg bunkers)
 - Deviation can be defined as:
 - > Commencing as soon as the vessel changes course
 - > Completed when the vessel has returned back on course

Deviation example



Permissible deviations under pooling agreement (App. V, para 13 (c))

- Lawful deviation, no prejudice to cover; BUT no cover for costs
- Minor departures from geographical route... relating to bunkering in whole or in part for the voyage being performed
- Minor departures from geographical route...relating to crew changes, taking on spares, stores or supplies, minor repair etc.
- A ship calls at the nearest available port ...to carry out repairs necessary for the safe completion of voyage
- The ship calls at any place ...to embark or disembark security personnel to...reduce risk of piracy
- Situation appears to be covered by an appropriately drafted liberty clause in... bill of lading
- Situation appears to be within a custom of the trade

Permissible deviations; saving life

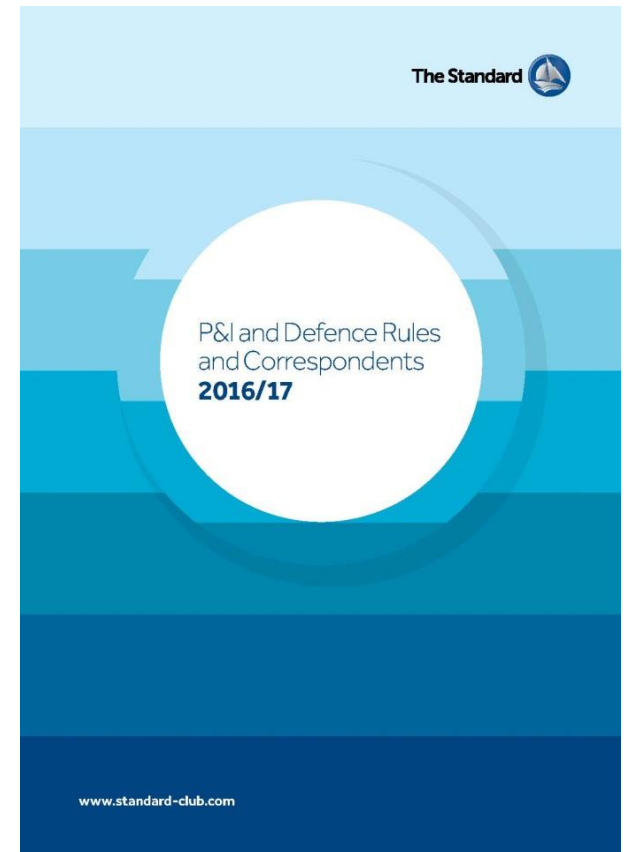
- **Lawful deviation; with cover for costs**
- **Medical grounds** – crew, passenger, third party
- **Contracts/charterparties** – liberty clause to deviate for the purpose of saving life and/or property – allows deviation for property only; no contractual clause required iro saving life
- **Persons in distress:** duty to render assistance
- International Convention on Salvage 1989
- International Convention for the Safety of Life at Sea 1974 (SOLAS)
- UN Convention on the Law of the Sea 1982 (UNCLOS)
- International Convention on Search and Rescue 1979 (SAR)
 - **exclusion:** serious danger to the ship, the crew or the passengers

Club rule

- Rule 3.4

Port and other charges solely incurred for the purpose of landing stowaways or refugees, or others saved at sea, or landing or securing the necessary treatment for an injured or sick person, other than crew, including the net loss to the member in respect of fuel, insurance, wages, stores and provisions incurred for such purpose.

- 3.1.6 – same as above iro crew



The migrant crisis in Europe

- United Nations Human Rights Council Report
 - 1 million migrants reached Europe via a Mediterranean crossing in 2015
 - 3,800 individuals lost their lives
 - Five fold increase in arrivals from 2014 figures
- Majority of arrivals are from Syria and Afghanistan
- Primarily arriving in:
 - Greece
 - Italy
- Shipowners under an obligation to assist through international law and convention
- Inevitably leads to questions regarding insurance

Club cover issues

- Whether SAR operations and deviations result in P&I cover being excluded
 - Particularly cover for cargo liabilities
- Vessels are often laden with cargo when ordered to assist
- Deviation may be a breach of contract of carriage (under any bill of lading issued)

Club rule

- Rule 3:13 (Exclusion):

....there shall be no recovery [from the Club] in respect of [cargo] liabilities arising out ofdeviation, or a consequence of a deviation, from the contractually agreed voyage, which may deprive the member of the right on defences or rights of limitation which would otherwise have been available to him



Cargo liabilities

- Hague-Visby Rules
- Article 4:
 - *‘Any deviation in saving or attempting to save life or property at sea or any reasonable deviation shall not be deemed to be an infringement or breach of these Rules or of the contract of carriage, and the carrier shall not be liable for any loss or damage resulting therefrom.’*
- SAR missions will not be a breach of the Hague-Visby Rules
 - Shipowner defences remain in place

Deviation for disembarkation of rescued individuals

- No longer a deviation for persons in 'distress' as they are safely on the rescuing ship
- Is further deviation for the purpose of disembarkation justifiable? - not addressed in any of the International conventions
- Arguably this part of the mission is coordinated by relevant states => involuntary deviation; no breach of contract

Costs recoverable

- Members should be able to recover:
 - Extra cost of bunkers
 - Insurance
 - Wages
 - Stores
 - Provisions
 - Port charges
- Must be supported with evidence

Costs recoverable

- Costs of maintaining those rescued
 - Food
 - Water
 - Medicine
- Costs of security at receiving port
- Loss of hire **not** covered by club
 - Consider making express provision for this in commercial contracts

Scenarios



Scenarios (1)

- **Ship deviation for the purposes of landing the body of a deceased crewmember following suicide.**
- **Suicide note blaming his act on his experiences of being bullied and feelings of loneliness on the ship.**
- **The vessel CBA excludes death by willful act from death benefit entitlements**
- Questions
 1. Club cover responds to the member's liabilities towards the crew; here, if the owner is excluded from liability due to death by own hand; is the club obliged to provide reimbursement to the member if the member elects to pay death benefits to the family?
 2. The ship deviated to land the remains and was delayed at port pending investigation into the death. Is this a permissible deviation?
 3. If so, list some examples of covered deviation costs.

Scenarios (2)

- **Ship deviates to an unscheduled port due to an outbreak of scabies. Entire crew was removed from the ship for treatment, quarantine and repatriation when fit to fly. A new replacement crew was required. The ship was fumigated including replacement of all bedding to meet standard of entry at the next port. Subsequent voyage was cancelled due to the delays.**
- Questions
 1. Which club rule is applicable to this situation?
 2. List what expenses are not reimbursable by the club
 3. What would happen if the replacement crew arrived following fumigation, and once the ship had sailed, there was a fresh outbreak of scabies?
 4. Bonus q: And if the ship had to be quarantined at the next port of call?

Scenarios (3)

- **Ship fully laded with cargo deviates to respond to a distress call from Malta's SAR center. Crew discovers an Egyptian fishing boat with about 500 people on it in danger of sinking. The occupants of the distressed craft, refused to be picked up unless the captain undertook to take them to an Italian port, rather than to Malta, which would have been the nearest 'place of safety'. The captain made the courageous decision not to abandon them, despite having no assurance at the time that Italy would take them. One of the rescued passengers, a woman from Syria, collapsed just before the vessel reached land and had to be airlifted to hospital. Ultimately, after disembarking its passengers in Sicily and being cleaned and fumigated, the vessel arrived seven days late in Qatar. The charterers alleged damages against shipowners for the delay in the arrival of their cargo.**
- Questions
 1. List the risks assumed by the ship in adopting the above course of action
 2. Would the master have been justified in refusing to allow the migrants on his ship?
 3. List any non-P&I covered costs





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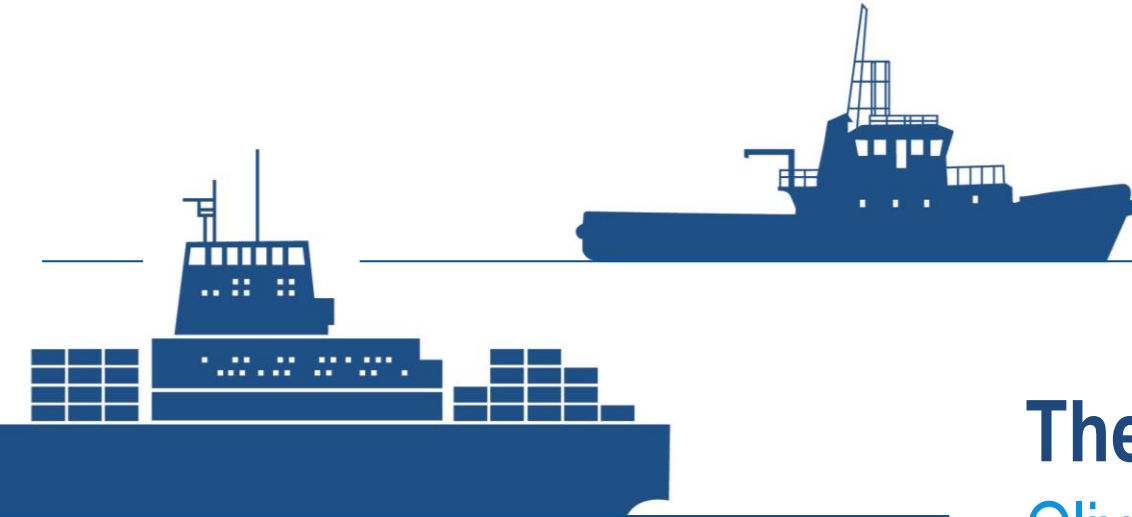


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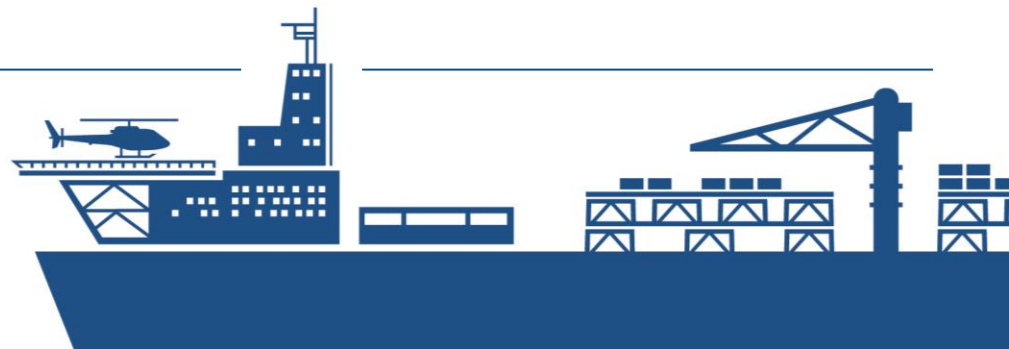
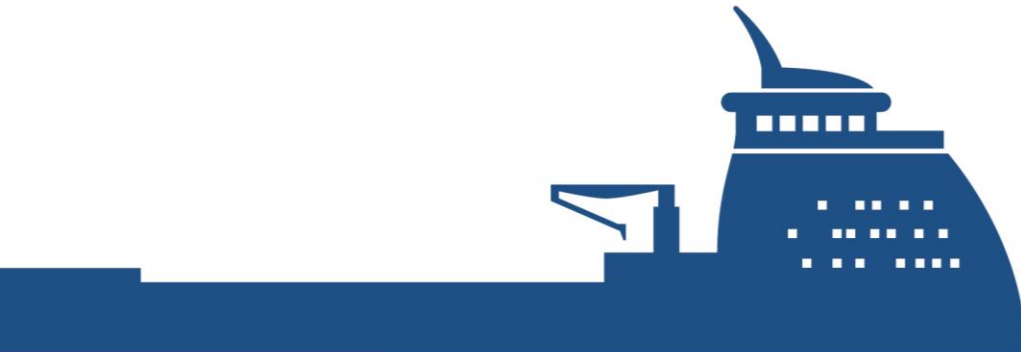
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The Standard Club

Olivia Furmston, Legal Director

24 May 2016





IRAN and CUBA: OPEN FOR BUSINESS?

The Standard Club
New York Forum
May 24, 2016

William L. Juska, Jr.

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IRAN IS OPEN FOR BUSINESS FOR NON-U.S. PERSONS, WITH SOME RESTRICTIONS

1. No U.S. dollar transactions
2. No transactions with persons on SDN List
3. Gap in P&I Insurance

GAP IN P&I INSURANCE

1. U.S. reinsurers participating in IG reinsurance program cannot pay on Iran-related claims
2. U.S. reinsurers write 20% of IG reinsurance program
3. The IG has obtained OFAC approval for a “fall-back” insurance policy – \$113M in cover

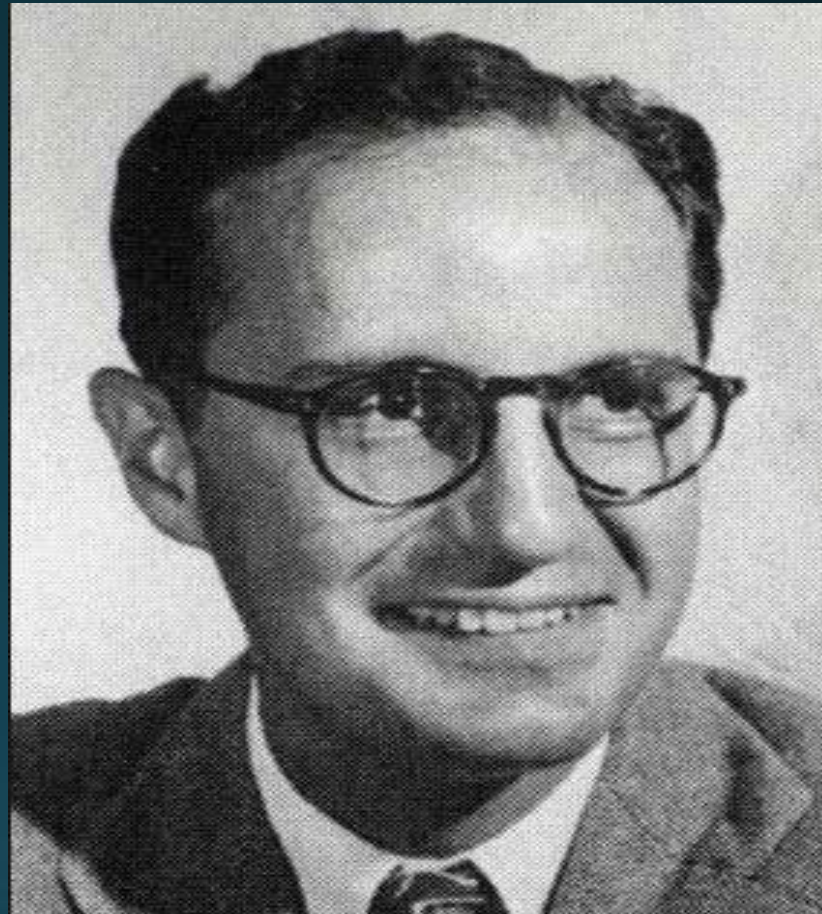
SIGNIFICANT CHANGE IN U.S. PRIMARY SANCTIONS

- Under General License H, U.S.-owned or controlled foreign subsidiaries are free to transact business with Iran
- Previously, a foreign subsidiary could not do anything prohibited to its U.S. parent

Mohammad Mosaddegh



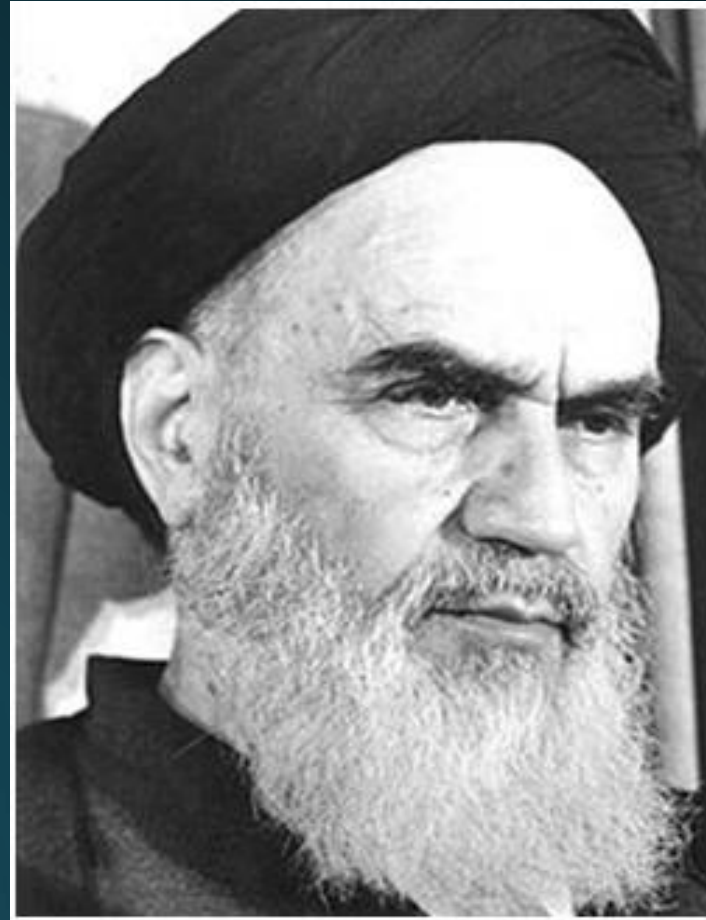
Kermit Roosevelt, Jr.



Mohammad Reza Shah Pahlavi



Ayatollah Ruhollah Khomeini





U.S. Hostages in Iran

President Jimmy Carter



- BANNED IRANIAN OIL IMPORTS TO U.S.
- FROZE IRANIAN GOVERNMENT ASSETS IN U.S. - \$12 BILLION
- EMBARGOED ALL U.S. TRADE WITH IRAN
- ALL SANCTIONS LIFTED WHEN HOSTAGES WERE RELEASED

President Ronald Reagan



- DECLARED IRAN A SPONSOR OF INTERNATIONAL TERRORISM
- PROHIBITED WEAPONS SALES AND ALL U.S. ASSISTANCE TO IRAN
- BANNED THE IMPORTATION OF GOODS AND SERVICES FROM IRAN TO THE U.S.

President Bill Clinton



- PROHIBITED U.S. TRADE IN THE IRANIAN OIL INDUSTRY
- BANNED ALL U.S. TRADE WITH IRAN

President Ahmadinejad



RECOMMENCED IRAN'S
ENRICHMENT OF URANIUM



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He's Safe!!

U.S. TRADE EMBARGO AGAINST CUBA

- IMPLEMENTED BY CUBAN ASSET CONTROL REGULATIONS
- APPLIES TO U.S. PERSONS AND PROHIBITS MOST TRANSACTIONS BETWEEN U.S. PERSONS AND CUBA
- “THE 180 DAY RULE” - 31 CFR 515.207

THE 180 DAY RULE

- 31 CFR 515.207
- ANY VESSEL WHICH ENTERS A CUBAN PORT TO ENGAGE IN TRADE OF GOODS, OR TO PURCHASE GOODS OR SERVICES, CANNOT ENTER A U.S. PORT FOR 180 DAYS
- NO VESSEL CARRYING GOODS OR PASSENGERS TO OR FROM CUBA CAN CALL AT A U.S. PORT WITH SUCH GOODS OR PASSENGERS ON BOARD

EASING OF CUBAN RESTRICTIONS

- TRAVEL - 12 CATEGORIES OF INDIVIDUAL TRAVEL TO CUBA ARE NOW AUTHORIZED BY A GENERAL LICENSE
- HOWEVER, TOURIST TRAVEL TO CUBA IS STILL PROHIBITED
- U.S. PASSENGER VESSELS MAY CALL AT CUBA, BUT ONLY WITH PASSENGERS WHO FIT INTO THE AUTHORIZED TRAVEL CATEGORIES

EASING OF CUBAN RESTRICTIONS

- REMITTANCES TO CUBAN NATIONALS INCREASED
- APPROVAL FOR UNLIMITED HUMANITARIAN REMITTANCES, ON A CASE BY CASE BASIS
- U.S. CREDIT/ DEBIT CARDS CAN BE USED IN CUBA IN CONNECTION WITH AUTHORIZED TRAVEL, AND U.S. BANKS CAN PROCESS THE TRANSACTIONS
- U-TURN FINANCIAL TRANSACTIONS
- U.S. PERSONS CAN MAINTAIN A BUSINESS PRESENCE IN CUBA TO PROVIDE TELECOMMUNICATION AND INTERNET- RELATED SERVICES

FIRE AT SEA OFF CUBA







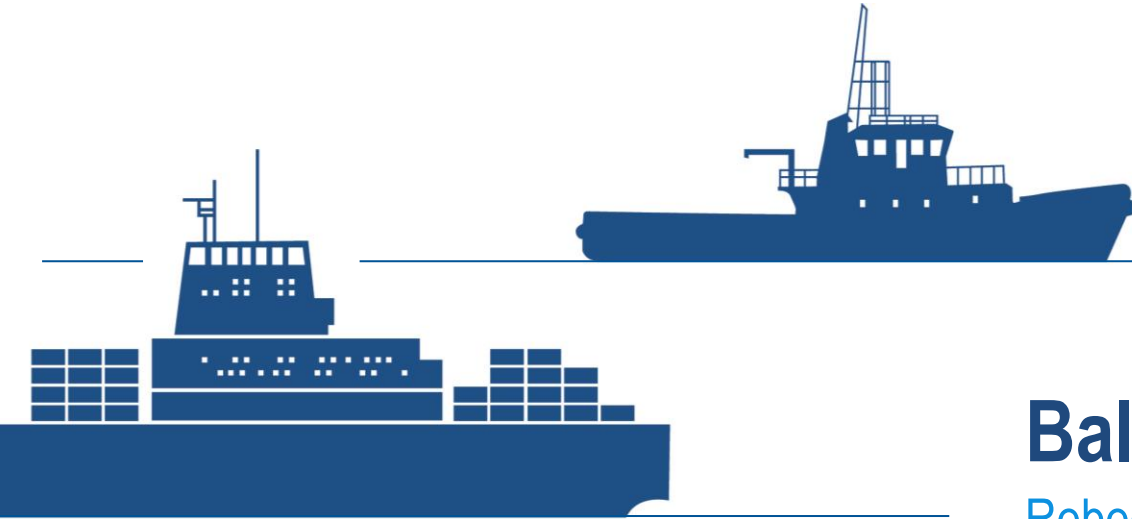


Thank you for your
attention.

William L. Juska, Jr.

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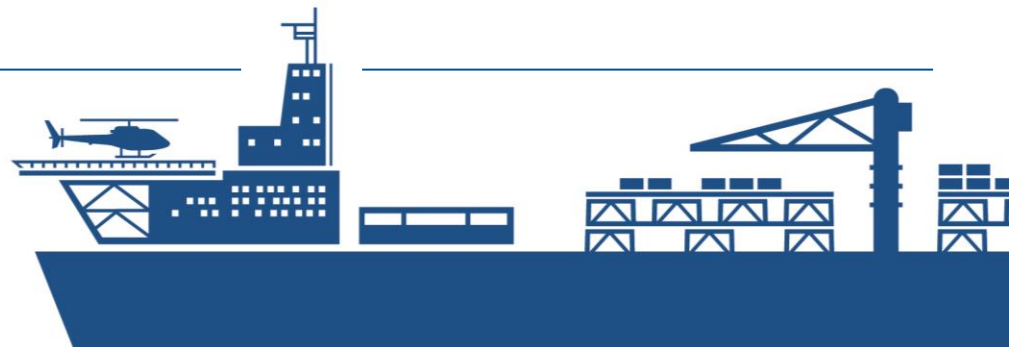
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Ballast Water Update

Rebecca Hamra, Senior Claims Executive

24 May 2016



Contents

- 1 Overview of ballast water and challenges

- 2 IMO, USCG & EPA ballast water regulations

- 3 Enforcement

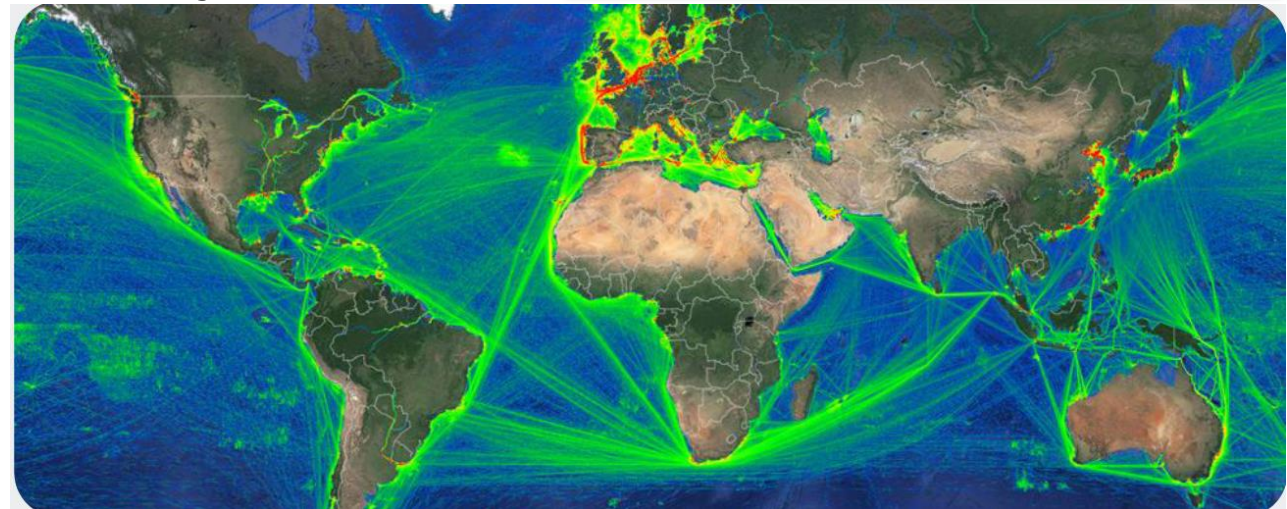
- 4 Challenges and risks

Ballast Water – What is it?



Ballast water
Ballast water
management system

Shipping routes



Challenges

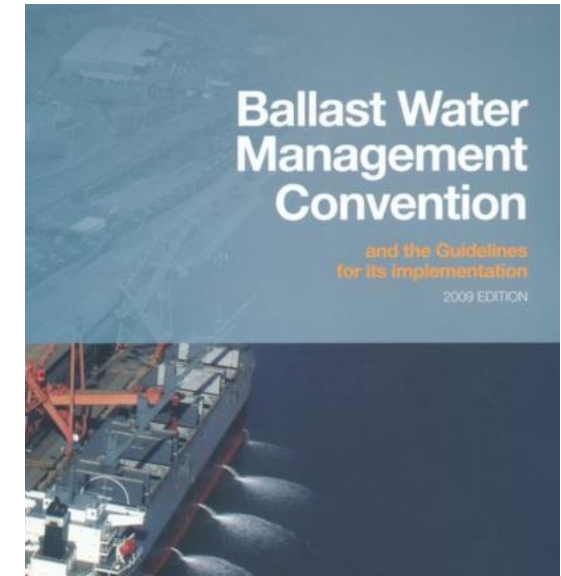
- USA not party to the IMO's Ballast Water Convention
- Both EPA and USCG regulate ballast water
- Technical issues with equipment and more...



IMO – Ballast Water Convention

- Albania
- Antigua and Barbuda
- Barbados
- Belgium
- Brazil
- Canada
- Congo
- Cook Islands
- Croatia
- Denmark
- Egypt
- France
- Fiji
- Georgia
- Germany
- Ghana
- Indonesia
- Iran (Islamic Republic of)
- Japan
- Jordan
- Kenya
- Kiribati
- Lebanon
- Liberia
- Malaysia
- Maldives
- Marshal Islands
- Mexico
- Mongolia
- Montenegro
- Morocco
- Netherlands
- Nigeria
- Niue
- Norway
- Palau
- Republic of Korea
- Russian Federation
- Saint Kitts and Nevis
- Sierra Leone
- South Africa
- Spain
- Sweden
- Switzerland
- Syrian Arab Republic
- Tonga
- Trinidad and Tobago
- Turkey
- Tuvalu

49 states have ratified as of April 2016

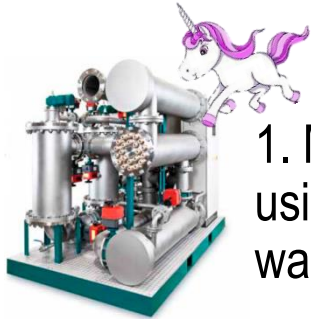


USCG – Ballast Water Management

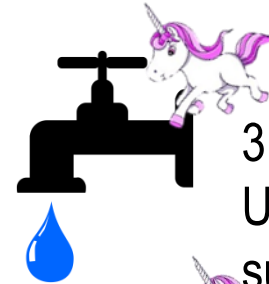


- Applies to all vessels coming to the US with ballast water tanks
- Penalties for non-compliance

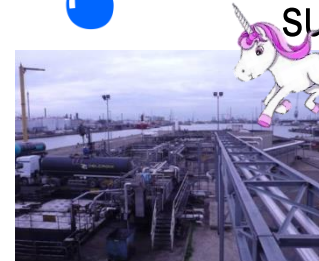
Options for compliance



1. Meet discharge standard using USCG approved ballast water management system



3. Use water from a US public water supply



4. Discharge to a reception facility



2. Do not discharge ballast water



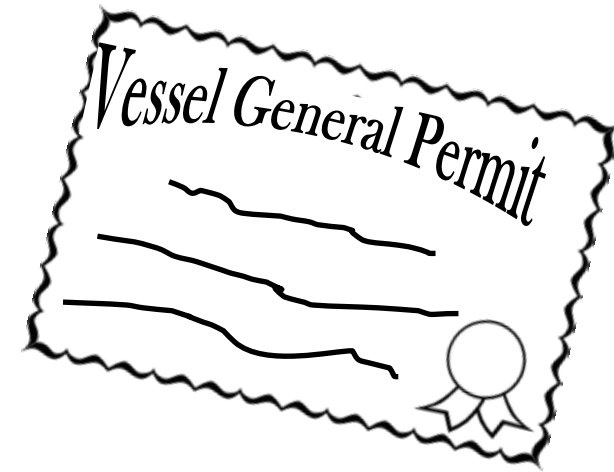
5. Use an alternative management system, buy yourself 5 years (risky)



EPA ballast water regulations

EPA Vessel General Permit

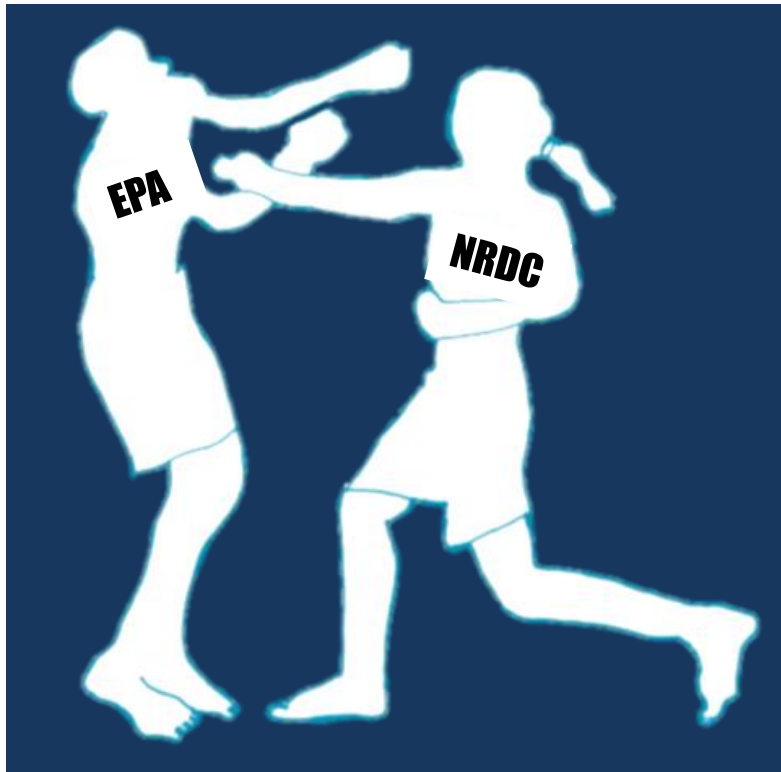
- For thirty years or so, there was an exemption for ballast water discharge under EPA regulations
- Environmental suit forced the EPA to regulate ballast water discharge
- Requirements of 2013 Vessel General Permit
 - Numeric limits on ballast water discharge
 - Requires monitoring and sampling of ballast water
 - Has requirements to avoid uptake of ballast water when more organisms are present in the water
 - Requires ships to clean ballast water tanks regularly



Comparing the USCG and EPA BW regulations

Requirement	USCG (per National Invasive Species Act)	EPA (per Clean Water Act/ 2013 VGP)
Discharge standard	IMO	IMO
BWMS approval	USCG type approval	None (best available technology)
BWMS installation – New vessels	Keel laid after 1 Dec 2013: Upon Delivery	Same as USCG
BWMS Installation – Existing Vessels	First drydocking after: <1,500 m ³2016 1,500 – 5,000 m ³ ...2014 >5,000 m ³2016	Same as USCG
Extensions	Yes	No

EPA litigation continues

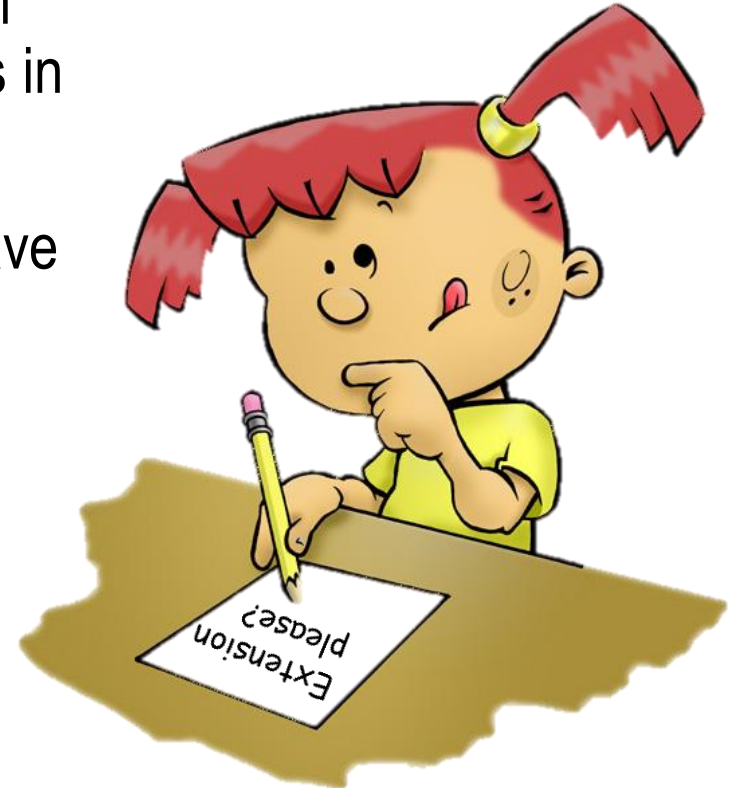


NRDC v. EPA, No. 13-1745 (2d Cir. 2015)

- Court ruled that EPA acted “arbitrarily and capriciously” in drafting the ballast water discharge provisions of the 2013 Vessel General Permit
- EPA has stated that they will address this issue in the 2018 Vessel General Permit

USCG Extensions

- USCG revised its policies on extensions from compliance with CG ballast water regulations in November 2015
- Roughly half of the ships calling in the US have received an extension
 - Request for extension requires the following info:
 - Name of ship, next drydock date
 - Statement that alternative compliance not possible
 - Certification of compliance with Ballast Water Management Plan



USCG & EPA inspections & enforcement




USCG ballast water regulations → USCG inspects and enforces



EPA ballast water regulations → USCG inspects and EPA enforces

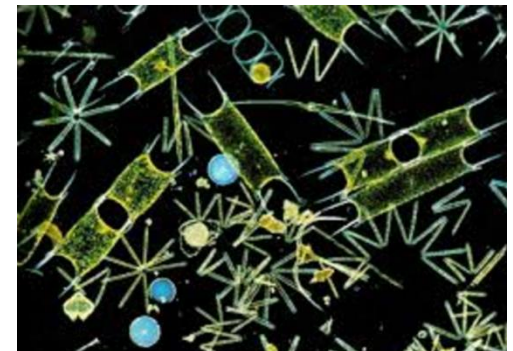
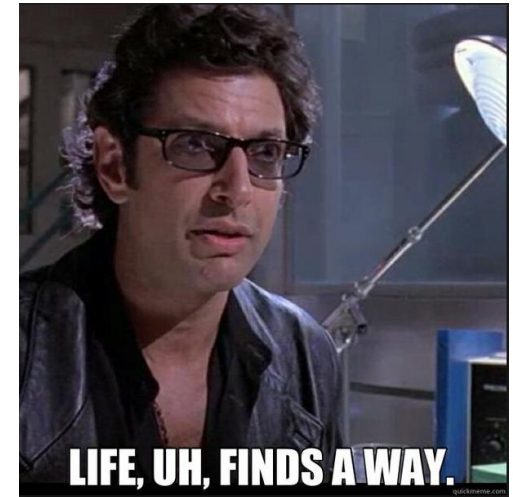
EPA compliance: Is it possible?

- Extension from USCG  Compliance with EPA's VGP
- Instead, EPA has a 'low enforcement policy'
- Problems with this policy:
 - Run the risk of enforcement
 - Potential charterparty term issues
 - Oil majors vetting ships
 - VGP report will show non-compliance



USCG and the question of dead or alive

- USCG and IMO protocol used to test the treatment systems is not the same
 - IMO system requires the organisms to be non-viable after treatment, in other words the organisms need to be sterile
 - USCG requires the organisms to be dead after treatment
 - Problem with USCG requirements is that it takes a much bigger machine with a lot more power to actually kill the organisms.
 - Litigation probable against USCG



Conclusion

- The USCG and EPA rules are in effect and here to stay
- There are no USCG type-approved systems (nothing can kill the organisms and is practical for ships)
- Installing an AMS system will not guarantee long term compliance with USCG regs
- EPA's low enforcement policy has its own risks
- IMO Ballast Water Convention will be ratified very soon





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Harassment, bullying and employment issues in the maritime context

Rebecca Hamra, Senior Claims Executive

24 May 2016



Contents

- 1 Definitions, causes of actions

- 2 Consequences and Defences

- 3 Coverage issues

- 4 Handling a crewmember's complaint

Consequences of shipboard harassment

- Low crew morale
- Infighting
- Deterioration of the chain of command
- Poor performance (which may result in safety concerns)
- Inability to retain high-performing seafarers in permanent positions
- Loss of money and effectiveness if a crewmember must be replaced mid-voyage
- The cost of transportation, maintenance and cure, attorneys' fees, settlement payments or money damages



Defining bullying, harassment and discrimination

- Bullying
 - Unwanted, aggressive behavior that involves a real or perceived power imbalance
 - At present, no federal or state law in the US directly addresses bullying
- Harassment
 - A form of discrimination
 - unwelcome conduct that is based on who or what you are, as defined by certain characteristics
- Types of Discrimination
 - Age, disability, equal pay/compensation, genetic information, national origin, pregnancy, race, religion, retaliation, sex and sexual harassment



**BULLYING AND
HARASSMENT IS
AGAINST THE LAW**

Retaliation

- One of the most frequently alleged complaints in employment discrimination cases
- Master cannot punish a crewmember for making discrimination or harassment complaints.
- Punishment does not just include firing or demotion; it can also include negative employment activities such as denying the crewmember a raise or refusing to transfer the crewmember to a more desirable position
- Legal standard is if it would deter a reasonable person from making a complaint



Maritime retaliation at its worst?

Defences

- Did the company take reasonable measures to avoid the harassment and the crewmember failed to avail himself or herself of those procedures?
- If the crewmember quit, can the company show that a reasonable person in the same circumstance would not have felt compelled to quit?



Causes of action

- Federal law (Title VII) claims
- State law claims
- Jones Act claims
- Unseaworthiness
- Maintenance and Cure



Determining cover

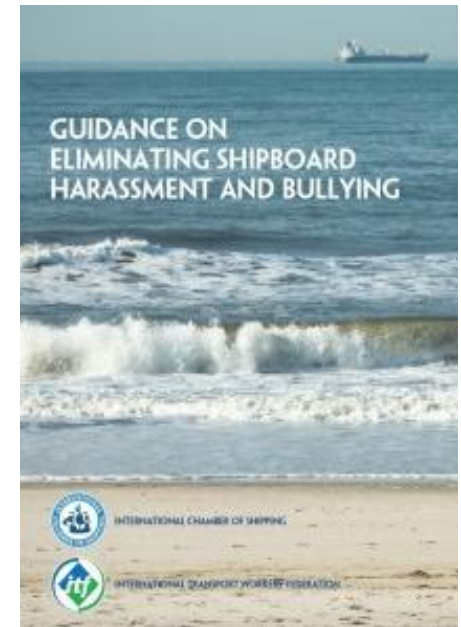


Handling a crewmember's complaint

- All complaints should be notified to master or to a shore side contact
- If possible, master should be the shipboard investigator
- Investigation should be discreet, alert, and sensitive to privacy concerns. Everyone should be treated with respect, no sides taken, do not engage in retaliation, and investigation should be fully documented.
- Master should notify shore side management , take remedial action (if possible) to defuse any tension, decide whether harassment/discrimination has taken place and take steps to prevent future incident
- Document all decisions and actions in detail

Best Practice

- Need to make and enforce strong shipboard policies to prevent claims from arising
- Policies must clearly define and prohibit harassment, discrimination and retaliation
- Require training of all employees
- Require proper reporting and be sure to describe the procedure
- Require proper investigation steps and description of that procedure
- Policies should be posted and handed out to the crew
- Employer should obtain signatures confirming the crewmember has received the policies and training
- Training should be done with new crewmembers and refresher training should be done for regular crewmembers
- Employers should not rely on other operators or unions to provide private harassment and discrimination training







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Punitive Damages and Loss of Society/Consortium

LeRoy Lambert, President/Regional
Claims Director

24 May 2016



Contents

- 01 A Brief History – three causes of action, two judge-made, one statutory – what damages are recoverable?

- 02 Pecuniary and non-pecuniary damages

- 03 1990 – Miles v. Apex Marine – pecuniary only, uniformity, at last?

- 04 2009 – Atlantic Sounding v. Townsend – non-pecuniary damages return

- 05 2015 – McBride v. Estis Well Services – Miles reaffirmed

- 06 Where we are today – pecuniary damages only in Fifth Circuit (Texas, Louisiana, Mississippi); not settled elsewhere; California state court particularly irksome

A brief history

- Seafarers in the US have three causes of actions for workplace injuries
 - Maintenance and cure (judge-made)
 - Injured or ill in the service of the ship – a daily stipend (maintenance) and medical bills (cure) along with wages to end of voyage
 - Unseaworthiness (judge-made)
 - ‘A species of strict liability’
 - Negligence under the ‘Jones Act’ (statutory – since 1920)
 - ‘Featherweight causation’
 - Jones Act created right to jury trial; court decisions allowed jury to decide all three
 - Recoverable damages?

Recoverable damages

Pecuniary damages

- Pecuniary damages recoverable no matter the cause of action:
- ‘Pecuniary’ damages, because they ‘can be estimated in and compensated by money’.
 - 1) pre-judgment loss of wages;
 - 2) loss of future earning capacity;
 - 3) past and future medical expenses;
 - 4) pain, suffering, and loss of life’s enjoyments; and
 - 5) prejudgment interest.
 - 6) maintenance and cure (but no double recovery)

Recoverable damages

Non-pecuniary damages

- Loss of society: ‘a broad range of mutual benefits . . . including love, affection, care, attention, companionship, comfort and protection’.
- Loss of consortium is closely related and ‘involves similar interests which stem from the marital relationship’.
- Punitive damages may be awarded in maritime cases of deliberate wrongdoing, or wilful, wanton, grossly negligent or unconscionable conduct. The theory is that the wrongdoer has committed the ‘civil equivalent of a crime. [Punitive damages] are awarded to punish the particular defendant and to deter similar conduct by others.’

Miles

Miles v. Apex Marine Corp., 498 U.S. 19 (1990).

- Established “a uniform rule applicable to all actions for the wrongful death of a seaman, whether under the Jones Act or the general maritime law”.
- The Supreme Court unanimously held the estate of a Jones Act seaman is limited to pecuniary damages for Jones Act negligence claim as well as for unseaworthiness (strict liability):
 - “[O]ur place in the constitutional scheme does not permit us to sanction more expansive remedies in a judicially created cause of action in which liability is without fault than Congress has allowed in cases of death resulting from negligence. We must conclude that there is no recovery for loss of society in a general maritime action for the wrongful death of a Jones Act seamen.”
- Takeaway: status controls – Jones Act seaman limited to pecuniary damages
- But maintenance and cure not an issue in *Miles*

Atlantic Sounding

Atlantic Sounding Co. v Townsend, 557 U.S. 404 (2009)

- A seafarer may recover punitive damages for an employer's wilful failure to pay maintenance and cure
- Maintenance and cure was the only issue. No Jones Act negligence claim or unseaworthiness claim
- Maintenance and cure is a long-standing maritime remedy which preexisted the Jones Act and was not displaced by the Jones Act. Punitive damages were allowed prior to Jones Act for willful failure to pay maintenance and cure
- 5-4 decision by the Supreme Court

2015 – *McBride v. Estis Well Services* – *Miles* reaffirmed

- As a result of *Atlantic Sounding*, seafarers contended they could recover non-pecuniary damages in an unseaworthiness claim, the judge-made companion remedy to maintenance and cure
 - Unseaworthiness is a judge-made, long-standing maritime remedy for seamen which pre-existed the Jones Act and was not displaced by the Jones Act
 - Therefore, just as a seaman could recover punitive damages if the employer fails to pay maintenance and cure, a seafarer is entitled to recover punitive damages if the shipowner breaches its obligation to provide a seaworthy ship
- In the alternative, punitive damages are pecuniary, not non-pecuniary damages.
 - These arguments made their way to the Fifth Circuit in *McBride v. Estis Well Services*

McBride v. Estis Well Services – Miles reaffirmed

- District court-
 - Atlantic Sounding means that punitive damages are not precluded as a matter of law in an non-death claim based on unseaworthiness
- Three judge panel- affirmed
- En banc rehearing (closely divided court):
 - *Miles* remains good law. A seafarer recovers only pecuniary damages.
 - Maintenance and cure is a separate, additional remedy. Congress has not spoken, as it has in the case of wrongful death
 - Punitive damages are non-pecuniary
- Supreme Court declined to review

Where we are today

- *McBride* controls in federal court in Fifth Circuit (Texas, Louisiana, Mississippi)
- California state court judges have noted the holding in *McBride*, but find that they are not bound by it and routinely refuse to strike claims for punitive damages as well as damages for loss of society and consortium in an unseaworthiness claim
- If the member has ceased paying maintenance and cure, the jury will hear and decide whether the seafarer should recover punitive damages
- Members should continue to ask courts outside the Fifth Circuit to strike claims for non-pecuniary damages as a matter of law, but will have to live with the lack of uniformity until the Supreme Court decides



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HIPAA: Applicability to Shipowners

The Standard Club New York Forum, 24 May 2016

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Objectives

- What is HIPAA?
- Application of HIPAA
 - Foreign Flag vs. U.S. Flag
 - U.S. seaman working abroad vs. foreign seaman
 - Potentially covered activities of shipowners
- Overview of HIPAA
- How can Shipowners comply with HIPAA?
- Case Studies/Practical Examples
- Summary
- Questions

What is HIPAA?

- Health Insurance Portability and Accountability Act (HIPAA)
- Federal statute with regulations promulgated by the U.S. Department of Health and Human Services (HHS)
 - Standard electronic transactions
 - Privacy Standards
 - Security Standards
- Enforced by HHS Office of Civil Rights (OCR)

Application of HIPAA

Does HIPAA apply extraterritorially?

- HIPAA does not have extraterritorial reach
- The greater the U.S. nexus with the maritime operation, the greater the likelihood of HIPAA application – e.g., an American crew, flag, or ownership, or sailing within US waters.
- This is fact-based inquiry and you will need to review it with your counsel

Application of HIPAA

What types of entities must comply with HIPAA?

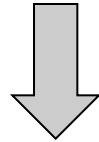
- Covered Entities
 - Covered health care providers
 - Health plans
 - Healthcare clearinghouses
- Business Associates

Application of HIPAA

Entity Test: Covered Health Care Provider

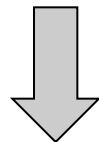
Health Care

care, services, or supplies related to the health of an individual



Health Care Provider

anyone who provides or is paid for Health Care in the normal course of business



Covered Health Care Provider

A Health Care Provider who uses a computer to transmit health information in connection with a “HIPAA Transaction”

Application of HIPAA

Entity Test: Covered Health Care Provider

HIPAA Transactions: the transmission of information between two parties to carry out administrative and financial activities related to health care, including:

1. Health care claims or equivalent encounter information
2. Health care payment and remittance advice
3. Coordination of benefits
4. Health care claim status
5. Enrollment and disenrollment in a health plan
6. Eligibility for a health plan
7. Health plan premium payments
8. Referral certification and authorization
9. First report of injury
10. Health claims attachments

Application of HIPAA

Entity Test: Health Plan

- Individual and group plans that provide or pay the cost of medical care
 - health, dental, vision, and prescription drug insurers, health maintenance organizations, Medicare, Medicaid, Medicare+Choice and Medicare supplement insurers, and long-term care insurers (excluding nursing home fixed-indemnity policies)
 - employer-sponsored group health plans, government and church-sponsored health plans, and multi-employer health plans

Application of HIPAA

Entity Test: Health Plan

- Exceptions to definition:
 - A group health plan with less than 50 participants that is administered solely by the employer that established and maintains the plan is not a covered entity
 - Certain types of insurance entities, including entities providing only workers' compensation, automobile insurance, and property and casualty insurance
 - Exception for a policy, plan, or program that provides or pays the cost of an on-site medical clinic

Application of HIPAA

What information is covered by HIPAA?

- Protected Health Information
 - Information that:
 - relates to a person's physical or mental health, the provision of health care, or the payment for health care, and
 - identifies or could be used to identify an individual

Application of HIPAA

What information is not covered by HIPAA?

- De-identified Information: Two methods to de-identify information:
 1. Remove 18 identifiers, including name, zip code, birth date and treatment dates, telephone number, social security number, medical record number, account number, health plan beneficiary number, device number
 2. Obtain opinion from statistician that very unlikely that information can be used in combination with publicly available information to identify an individual

HIPAA Requirements: Uses and Disclosures

- Covered Entities may use or disclose protected health information **only** for:
 - Treatment of patients
 - Payment for treatment
 - Health Care Operations
 - As required by law
 - For certain uses and disclosures in the public interest
 - With specific patient authorization

HIPAA Requirements: Business Associates

- Covered Entities are required to enter into “business associate agreements”
- Business associates must:
 - comply with mandatory privacy terms of business associate agreement (access, amendment, accounting of disclosures)
 - enter into agreements with subcontractors
 - comply with Security Rule
 - comply with breach notification obligations

HIPAA Requirements: Minimum Necessary

- **How much PHI may be used or disclosed?**
 - “Minimum necessary” amount of information required to accomplish the intended purpose
 - Does not apply to disclosures to a health care provider for treatment, to disclosures pursuant to authorizations requested by the individual, or to disclosures that are required by law

HIPAA Requirements: Individual Rights

- Right to access and copy health records
- Right to request amendment or correction
- Right to an accounting of disclosures
 - No obligation to account for:
 - Disclosures pursuant to an authorization
 - For plan administration
 - Incidental disclosures
 - Disclosures to the Plan beneficiary or close family members
 - Need to track for disclosures to regulators, pursuant to subpoenas and most disclosures allowed by law
- Right to specify how PHI is communicated
- Right to request a restriction on how PHI is disclosed or used for certain purposes (no obligation to accept)

HIPAA Requirements: Security Rule

- Sets forth administrative, technical and physical “Standards”
- Identifies “Implementation Specifications” to provide detailed instructions for achieving each Standard
- Each Implementation Specification is either “required” or “addressable.”
 - Required = entity must implement policies and/or procedures to satisfy
 - Addressable = entity must assess whether it is a reasonable and appropriate safeguard and document decision

HIPAA Requirements: Breach Notice Rule

- Covered Entities and Business Associates must give notice to individuals and OCR of “Breach” of “Unsecured” PHI
 - “Breach” = unauthorized acquisition, access, use or disclosure of PHI which compromises the security or privacy of such information
 - “Unsecured” = PHI at rest or in transit that is not secured using the encryption standard identified by HHS in guidance
- Presumption that any use or disclosure of PHI not permitted by HIPAA is a breach unless demonstrate there is a low probability that the PHI has been compromised

HIPAA Requirements: Enforcement

- Covered entities that fail to comply with HIPAA may be subject to civil money penalties and in addition, certain violations of the Privacy Rule may be subject to criminal prosecution
- Civil monetary penalties will vary significantly depending on factors such as the date of the violation, whether the covered entity knew or should have known of the failure to comply, or whether the covered entity's failure to comply was due to willful neglect

HIPAA Requirements: Enforcement

- Noncompliance may result in civil monetary penalties or criminal prosecution
- Civil monetary penalties:
 - Amounts vary significantly depending on factors such as the date of the violation, whether the covered entity knew or should have known of the failure to comply, or whether the covered entity's failure to comply was due to willful neglect
- Criminal prosecution:
 - A person who knowingly obtains or discloses individually identifiable health information in violation of the Privacy Rule may face a criminal penalty

Increased Enforcement Focus

- **Audits:**
 - OCR launched new round of audits to gauge compliance with patient privacy provisions of HIPAA
 - The launch is starting off with emails to Covered Entities and to Business Associates. The emails will simply ask to verify contact information, after which recipients will receive a “pre-audit questionnaire” seeking details on their business size and operations
 - After that, OCR will create a pool of audit targets
 - Audit protocols released – provide a “roadmap” for compliance expectations

Increased Enforcement Focus

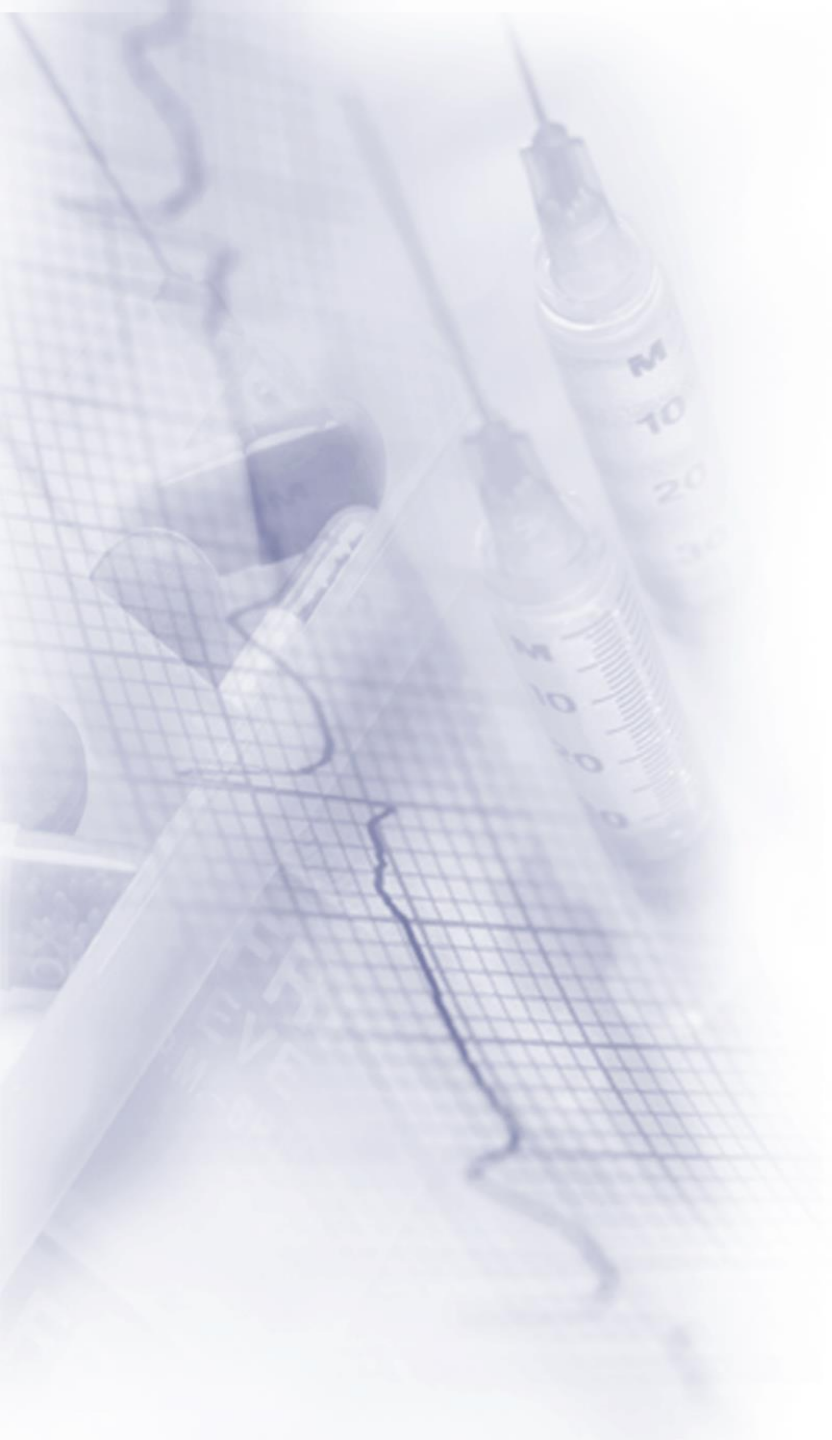
- March 17, 2016. New York Health System with a research component agreed to pay \$3.9M to settle allegations- PHI relating to 13,000 people was stored in an unencrypted, password protected lap stolen from employee's car.
- March 16, 2016. Minnesota Hospital settled allegations for \$1.5M relating to PHI involving numerous patients. Full scope of the violations is not clear but part of the claim relates to a stolen laptop containing PHI of 10,000 patients. Laptop belonged to an employee of the hospital's Business Associate. Business Associate did not encrypt the password-protected laptop stolen from an employee's car.
- February 3, 2016. Administrative Law Judge upholds a \$240,000 penalty against Lincare, Inc. Employee removed PHI without safeguards and left patient's records in her car in view of former spouse.

What Must a Covered Entity Do?

- Covered Entities must:
 1. Evaluate Privacy and Security
 - Assess current security, risks and gaps
 - Develop an implementation plan
 - Implement solutions
 - Document decisions
 - Reassess periodically

What Must a Covered Entity Do?

- Covered Entities must:
 2. Establish policies and procedures
 3. Train employees and appoint a privacy officer
 4. Establish grievance process
 5. Establish and distribute notice of privacy practices
 6. Use or disclose PHI only in accordance with HIPAA
 7. Observe Individual Rights



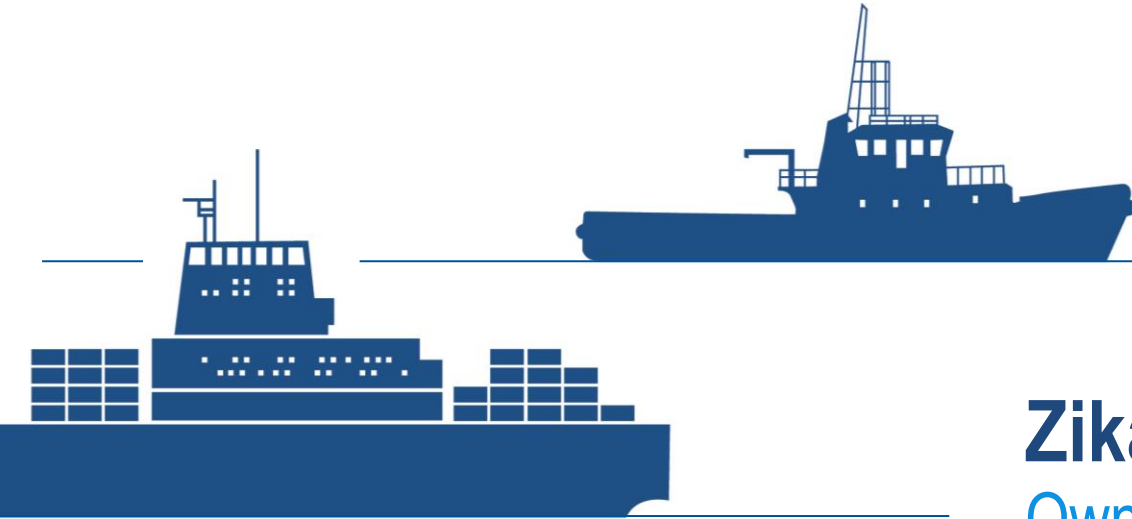
QUESTIONS?



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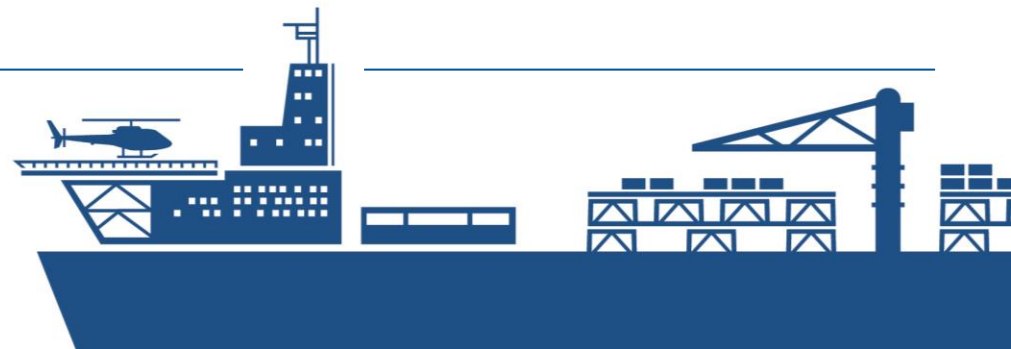
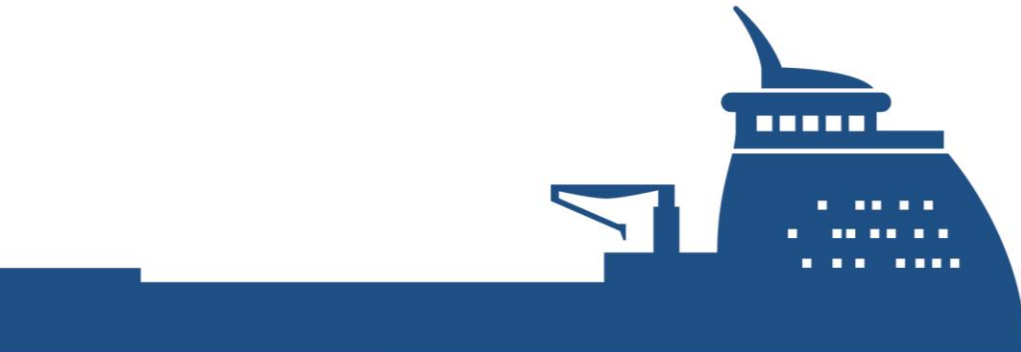
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Zika Virus on the High Seas

Owner's Potential Liability for
Infectious Disease Exposure

May 2016



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01 Zika – What is it?

02 Current Situation

03 Crewmember Legal Remedies

04 Best Practices

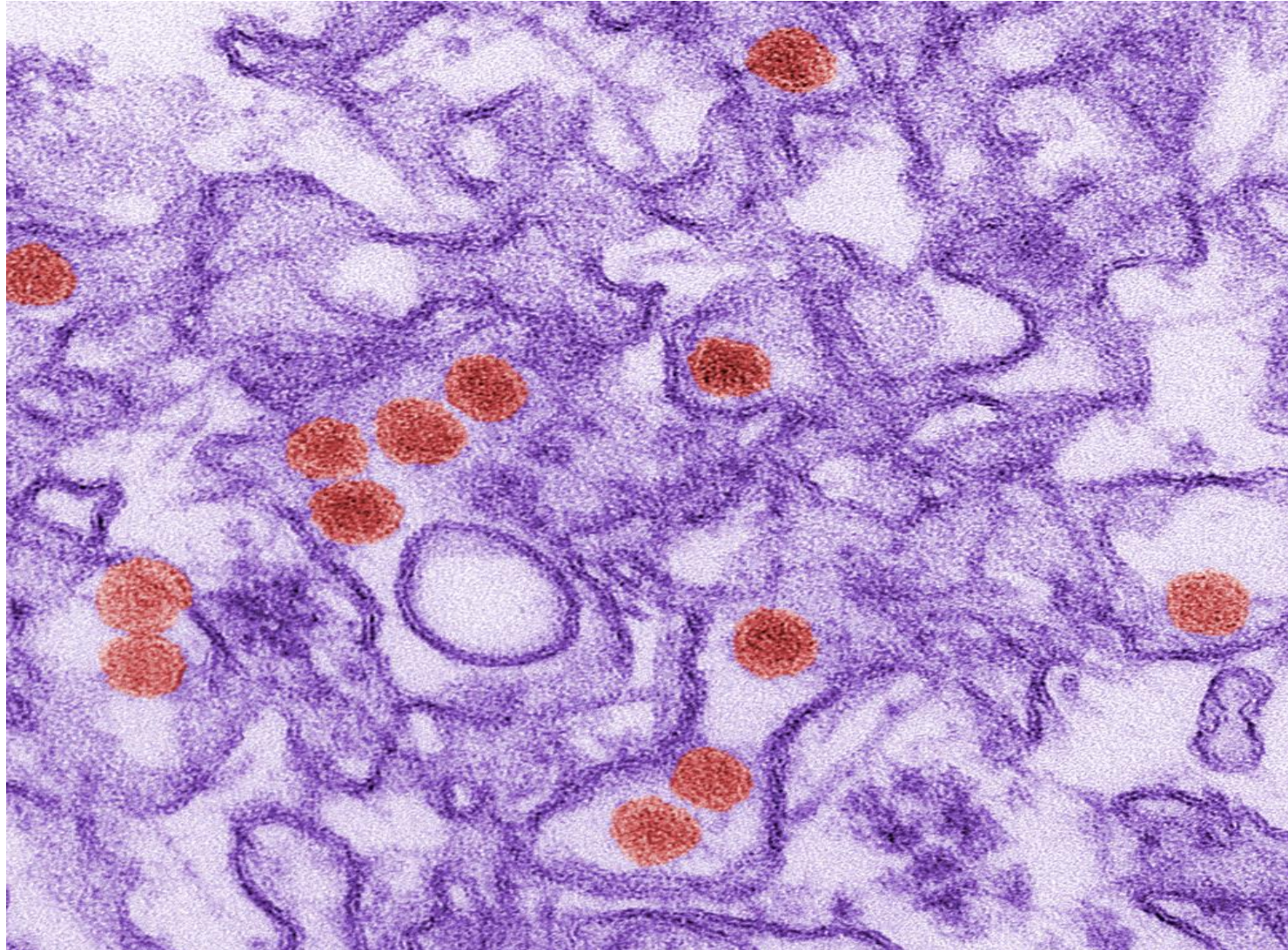
05 Club Cover

06 Conclusion

01 What is Zika?



What is Zika?



What is Zika?

- Zika is a virus spread through the bite of an infected Aedes mosquito
- Most people don't realize they have been infected.
- Symptoms include (lasting a few days to a week)
 - Fever
 - Rash
 - Joint pain
 - Conjunctivitis (red eyes)

02 The Current Situation

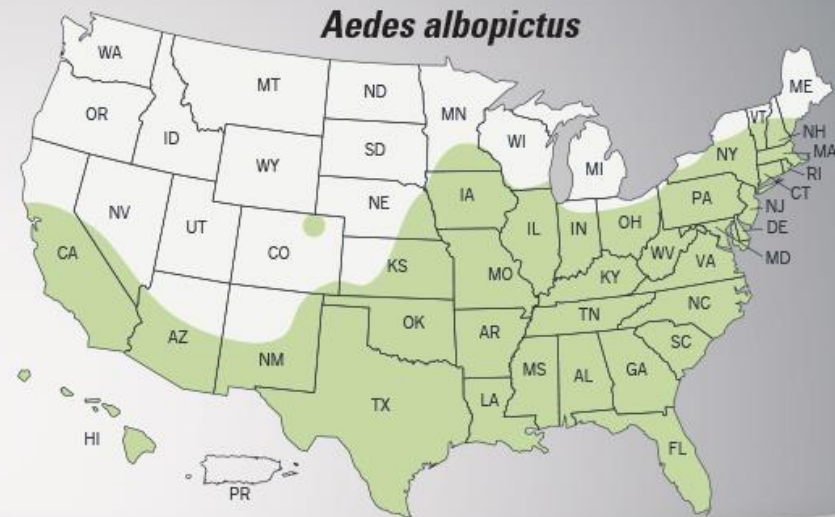


The Current Situation

- Declared Public Health Emergency of International Concern by the World Health Organization (WHO) on 1 February 2016
- Currently no vaccines to prevent or medicine to treat the virus
- Several tests in development to test for the presence of the Zika virus
- As of 11 May 2016:
 - 503 US cases with 48 of those involving a pregnant woman
 - 701 US territories cases with 65 involving a pregnant woman

Estimated Range of the Aedes Mosquito

Estimated range of *Aedes aegypti* and *Aedes albopictus* in the United States, 2016*



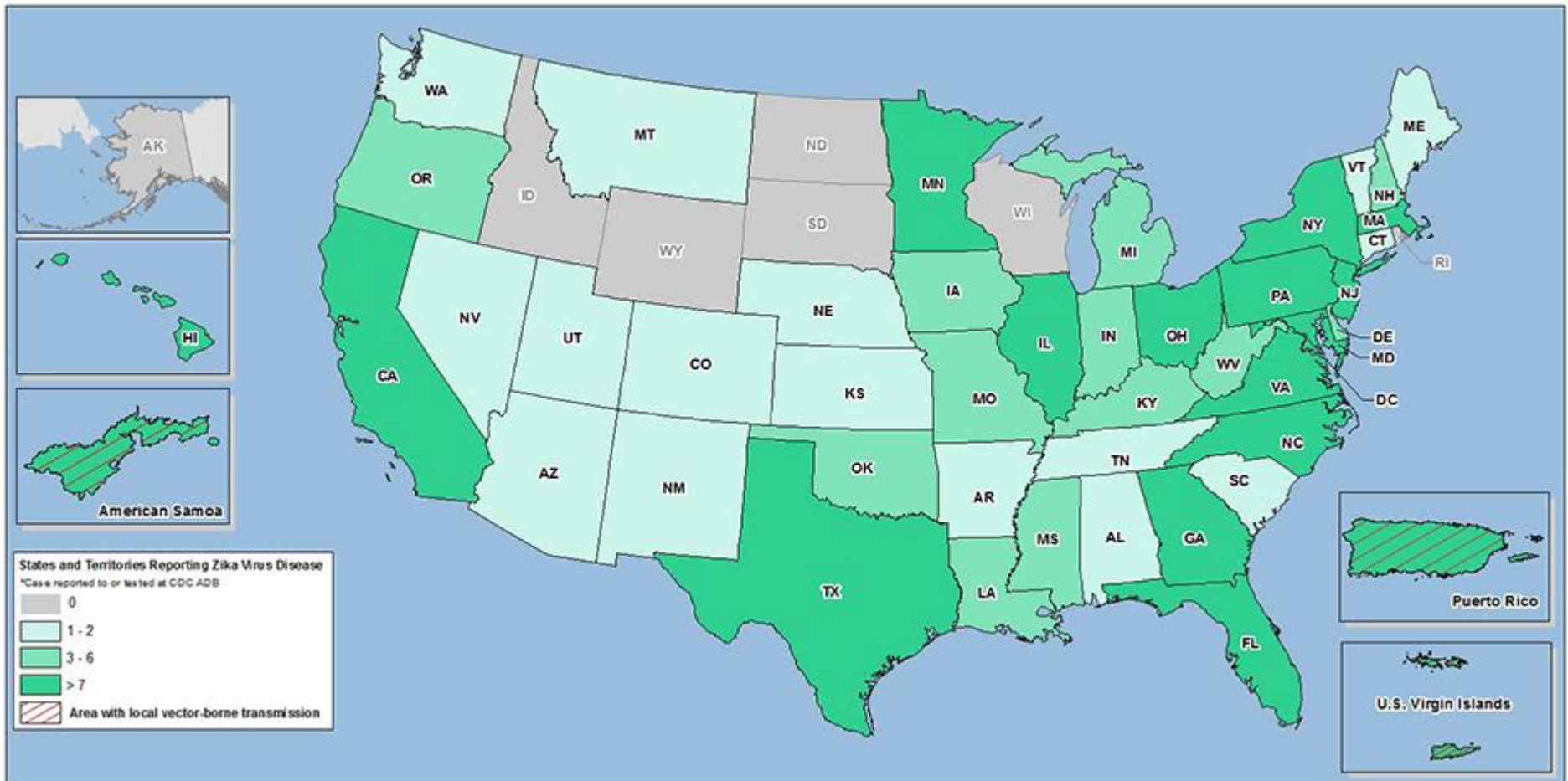
***Aedes aegypti* mosquitoes are more likely to spread viruses like Zika, dengue, chikungunya than other types of mosquitoes such as *Aedes albopictus* mosquitoes.**

- These maps show CDC's best estimate of the potential range of *Aedes aegypti* and *Aedes albopictus* in the United States.
- These maps include areas where mosquitoes are or have been previously found.
- Shaded areas on the maps do not necessarily mean that there are infected mosquitoes in that area.

*Maps have been updated from a variety of sources. These maps represent CDC's best estimate of the potential range of *Aedes aegypti* and *Aedes albopictus* in the United States. Maps are not meant to represent risk for spread of disease.

SOURCE: Zika: Vector Surveillance and Control. www.cdc.gov/zika/vector/index.html

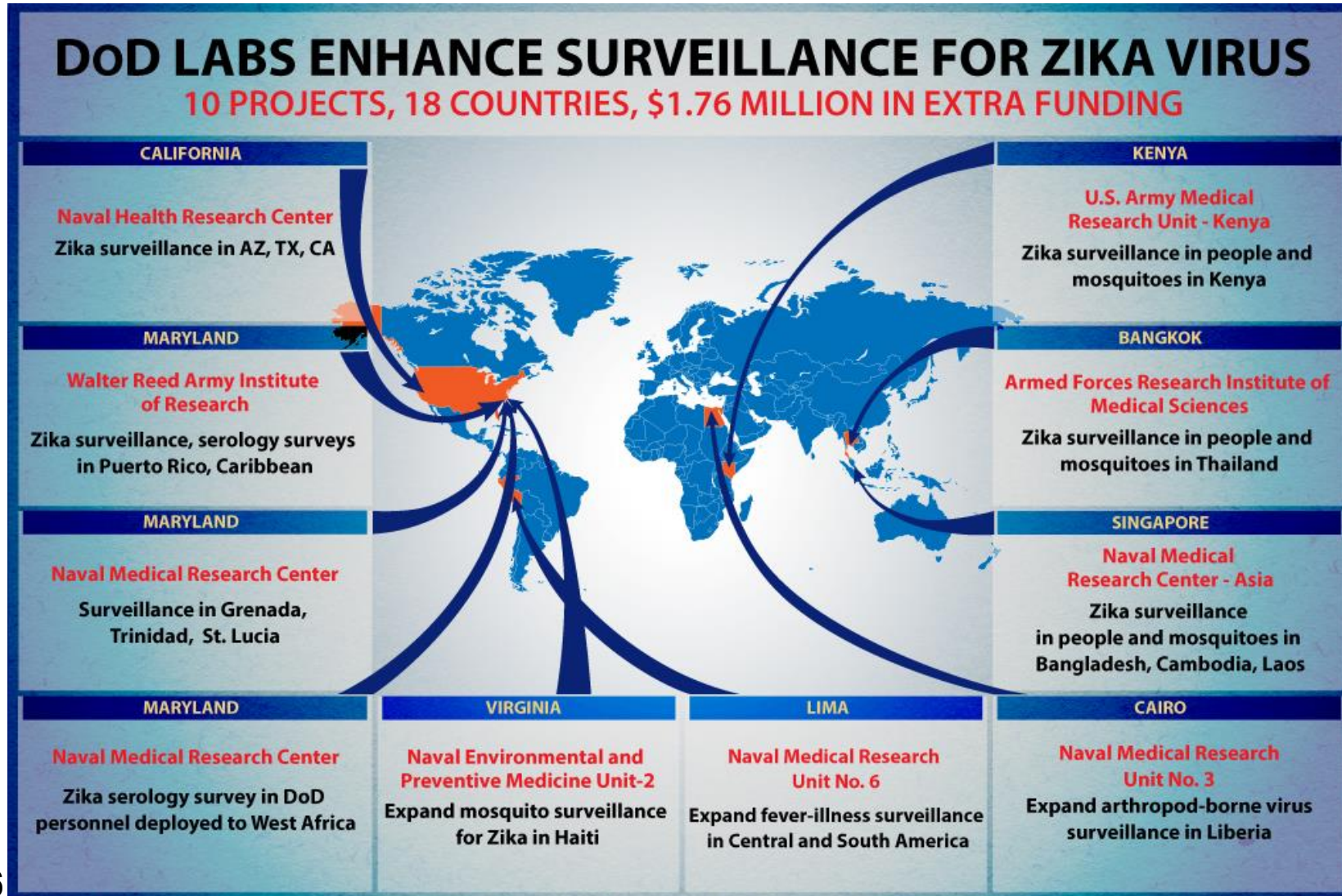
US Cases (4 May 2016)



The Current Situation

- Defense Department announced \$1.76 million in extra funding to military labs
 - Zika virus surveillance worldwide
 - Virus impact on deployed service members
- Department of State announced they are making funds available
- WHO expects Zika virus to spread to Europe in late spring and summer

Department of Defense



World Wide Cases (4 May 2016)



03

Crewmember Legal Remedies



Legal Implications

Non-pregnant Crewmember

- Crewmember will retain all standard remedies against the shipowner
 - Maintenance & Cure
 - Jones Act Negligence
 - Unseaworthiness

Legal Implications

Pregnant Crewmember

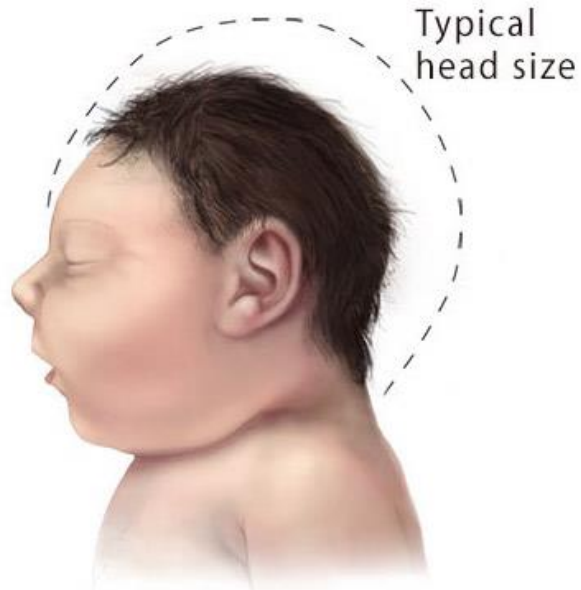
- Pregnant crewmember will maintain all the legal remedies that a non-pregnant crewmember has
 - Maintenance & Cure
 - Jones Act Negligence
 - Unseaworthiness

Legal Implications

Child born w/ Microcephaly or other birth defects



Baby with Typical Head Size



Baby with Microcephaly



Baby with Severe Microcephaly

Legal Implications

Child born w/ Microcephaly or other birth defects

- Not entitled to any crewmember benefits
 - Not employed on board in furtherance of its purpose
 - Microcephaly is a incurable, lifelong condition & even crewmembers cannot recover for those
- Right of recovery for unborn child
 - UK: Congenital Disabilities (Civil Liability) Act 1976
 - US: States uncertain

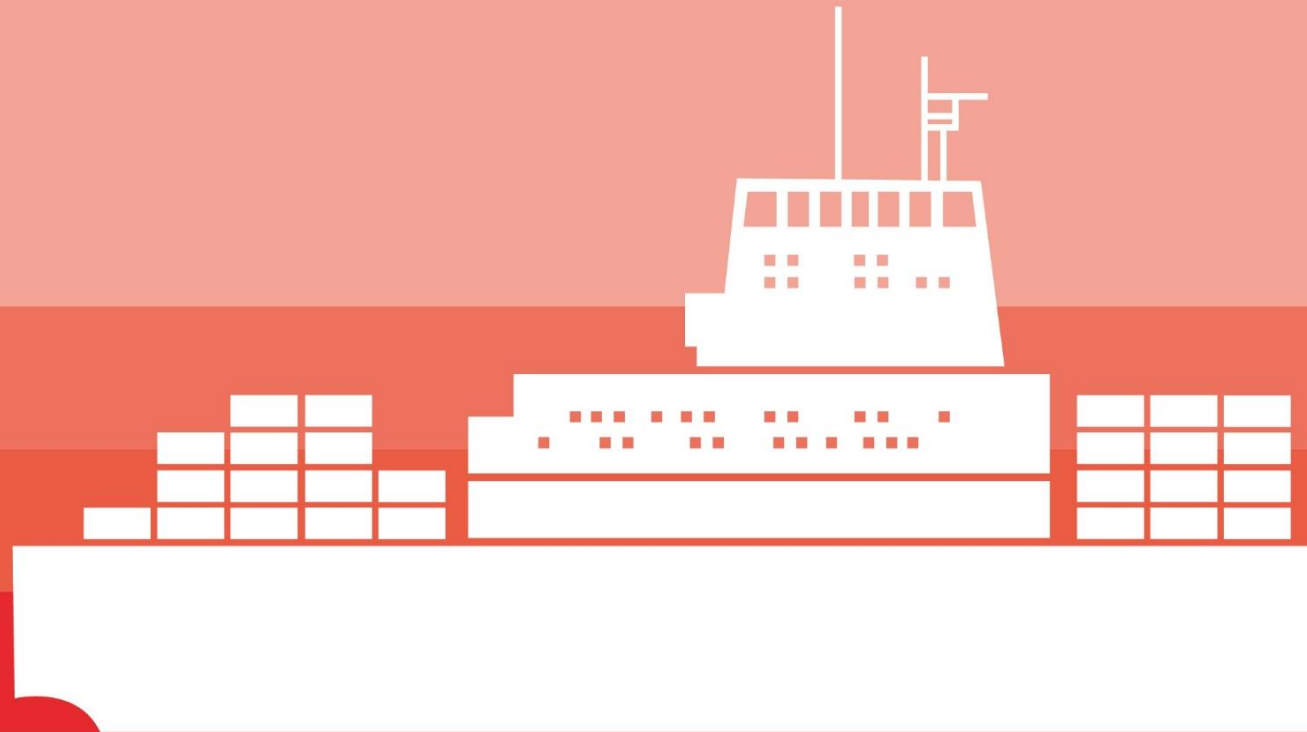
Legal Implications

Child born w/ Microcephaly or other birth defects

- Child could recover as a passenger if lawfully on board
 - Shipowner owes passengers duty of reasonable care
 - Unlawful or unknown passengers are owed duty of humane treatment
- Doctrine of contributory negligence is applicable in passengers cases
 - Did pregnant crewmember know the vessel was traveling to a country where Zika virus was active?
 - Did they fail to tell the shipowner they were pregnant?
 - Did they fail to use proper mosquito bite prevention while on board?

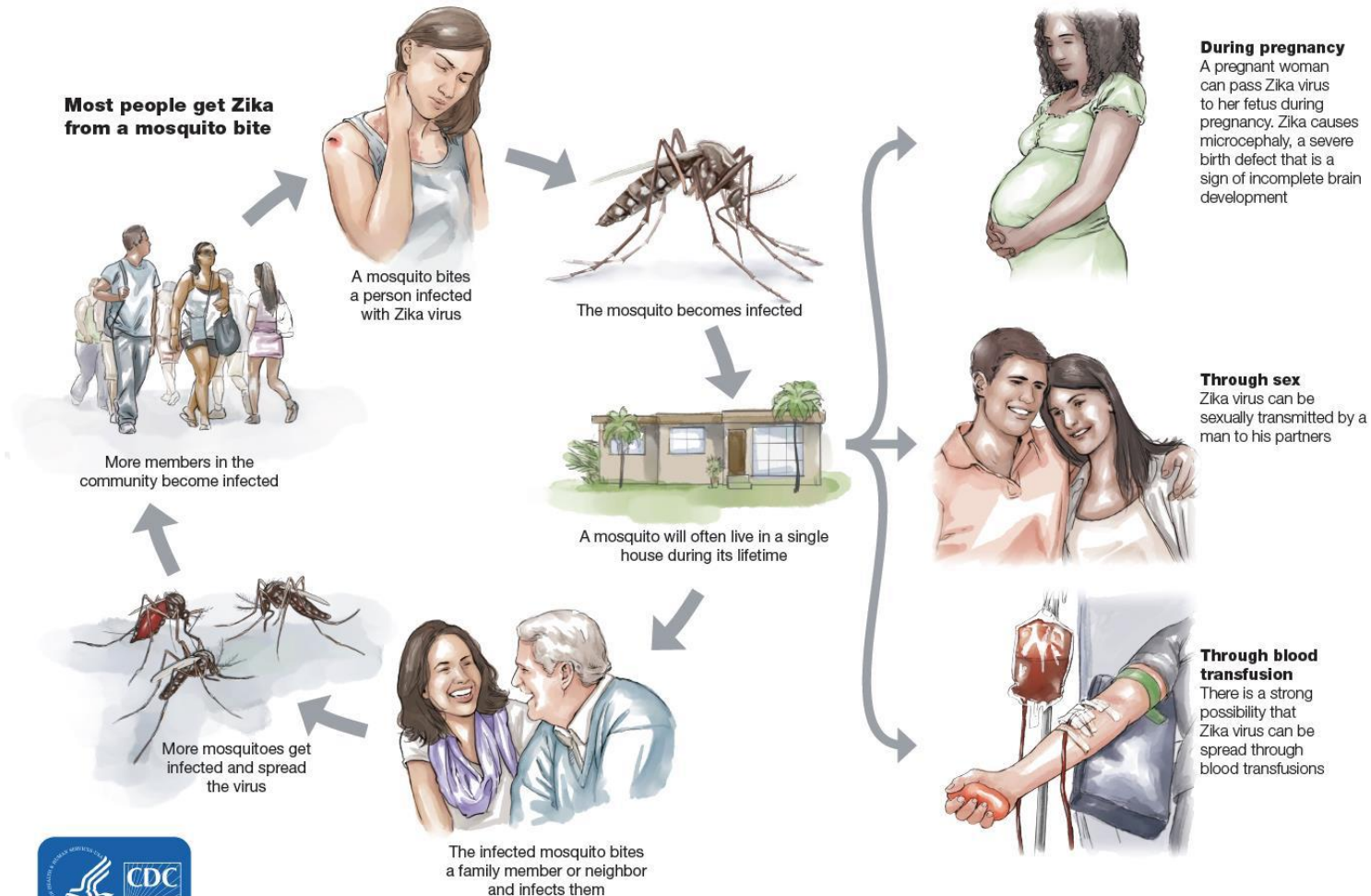
04

Best Practices



How Zika Spreads

PROTECT YOUR FAMILY AND COMMUNITY: HOW ZIKA SPREADS



How Zika Spreads – Sexual Transmission

What We Know & Don't Know

What we know

- Zika virus can be spread during sex by a man infected with Zika to his partners. This includes vaginal, anal, and oral (mouth-to-penis) sex.
- In known cases of sexual transmission, the men had Zika symptoms. From these cases, we know the virus can be spread when the man has symptoms, before symptoms start, and after symptoms end.
- The virus can stay in semen longer than in blood.



What we don't know



- How long Zika virus can stay in the semen of infected men or spread through sex.
- If men infected with Zika who never develop symptoms can have Zika virus in their semen or spread Zika through sex.
- If a woman can spread Zika virus to her sex partners.

Best Practices

Prevention

- Prevention of Mosquitoes
 - Eliminate standing water and other areas where mosquitoes breed and lay eggs
- Prevention of Bites
 - Long shirts & pants
 - EPA registered insect repellent
 - Screens & nets
 - Working air conditioner

- Prevention of Transmission

- Prevention of further bites

- Use condoms or abstain from sex during partner's pregnancy

- Wait at least 6 months before attempting to conceive with your partner

- *No reported cases where the virus was transferred through breastfeeding

Best Practices Prevention





05
Club Cover

Club Cover

- Covers crewmember personal injury, illness, or death and the applicable hospital, medical and funeral expenses
 - Cover can include crewmember families or spouses on occasion
 - Should get the club's approval beforehand
- Cover additional and extraordinary expenses incurred as the result of an outbreak of infectious disease
 - This includes quarantine and disinfection expenses and net loss to member

06 Conclusion



Conclusion

Club Recommendations

- Do not allow pregnant crewmembers or their families to travel on vessels traveling in active Zika areas
- Ensure all crew know if vessel's route includes an active Zika area
- Ensure crew have all necessary proper mosquito bite prevention equipment
 - Insect repellent, working screen, sleeping nets, working air conditioning...etc
- Ensure crew are trained in how best to prevent mosquitos, mosquito bites, & Zika transmission
- Stay up-to-date with travel warnings and restrictions

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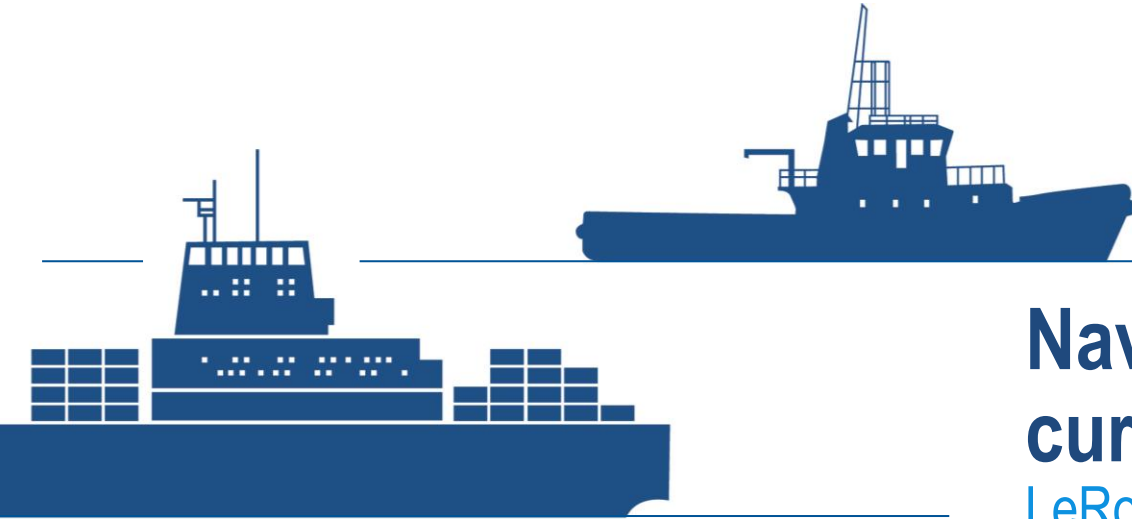


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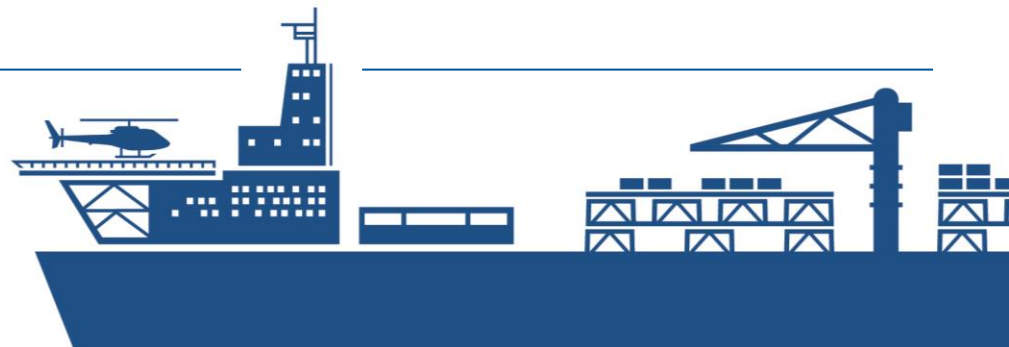


Navigating maintenance and cure claims

LeRoy Lambert, President

Rebecca Hamra, Senior Claims Executive

24 May 2016



Maintenance & Cure 101

- ‘Cure’ is payment for reasonable and necessary medical care for all medical conditions which manifest themselves or become aggravated while a crewmember is in the service of the ship.
- ‘Maintenance’ is payment for food /lodging ashore similar to those on the ship. The amount is normally fixed by contract and generally, but not always, approved and applied by US courts.
- M&C is due when a crewmember becomes injured or ill in the service to the ship, whether ashore or during recreation.
- M&C continues until a diagnosis of an incurable disease is made and further medical treatment will not result in improvement or only controls pain (maximum medical improvement or ‘MMI’).
- M&C is not limited to a shipboard injury or illness but applies to any injury or illness which manifests itself during service to the ship.
- M&C is a strict liability obligation of the employer and the ship.
- Unreasonable failure to pay M&C can result in a maritime lien and subject the ship to arrest, as well as lawyer fees and punitive damages.
- The crewmember’s right to M&C is only waived by the most extreme misconduct on the part of the crewmember.
- Entitlement can be challenged if a crew member intentionally fails to disclose, conceals or misrepresents medical facts during a pre-employment physical examination (‘PEME’) but the employer must show the nondisclosure was an important part of the decision to hire the crewmember.

Hypo – Fired up

- **A 2nd engineer was fired after failing to show up on time for his shift on multiple occasions. Back in his cabin, he drank several shots of vodka while gathering up his belongings. As he made his way off the ship, he tripped while he was walking down the gangway. No incident report was filed as the incident was unobserved and the crewmember had been terminated. Several weeks later he demands maintenance and cure for a rotator cuff injury.**
 - Does the shipowner/operator have to pay maintenance and cure?
 - See *Leblanc v. BGT Corp.* (1st Circuit, 1993)



Hypo – End of the road

- **A crewmember was declared unfit for duty due to severe headaches. Several months later he was diagnosed with brain cancer. He underwent chemotherapy and radiation treatment in an attempt to cure the cancer. An MRI taken six months after the initial diagnosis revealed the cancer had metastasized to other areas of the crewmember’s body. Treatment was continued and the cancer was determined to be in remission. The crewmember attempted to return to work but he and the shipowner mutually agreed to terminate his employment. At the same time his doctors advised that there was a new lesion on his brain. The shipowner received medical bills for payment a few weeks later for his doctor visits and treatment.**
 - Does the shipowner/operator have to pay maintenance and cure?
 - See



Hypo – Crewmen with benefits

- **An electrician develops a rash around his genitals while in port in South Korea. One week later, another crewmember comes down with a similar rash and states that he contracted the rash due to sexual intercourse with the first infected crewmember. Both crewmembers demand payment for medical bills associated with the treatment of the rash. Medical reports indicate that the rash is recurring in nature and incurable.**
 - Does the shipowner/operator have to pay cure? At what point can the company cease M&C?



Hypo – Rocking and rolling

- **An AB was in the mess hall while the ship was in port. Due to the wake of a passing ship, the AB lost his balance and broke his ankle. At the hospital, blood tests were conducted indicating cocaine use 24 to 48 hours before the accident. The crewmember denies any drug use and demands payment for maintenance and cure.**
 - Does the shipowner/operator have to pay maintenance and cure?
 - See *Coleman v. Omega Protein, Inc.*, 2011 U.S. Dist. LEXIS 102043 (E.D. La. Sep. 8, 2011)



The importance of getting it right

- **“Ambiguities or doubts regarding the seaman’s right to maintenance and cure to be resolved in the seaman's favor.” – Vaughan v. Atkinson 369 U.S. 527 (1962)**



An employer’s decision not to pay, or to cease to pay, maintenance and cure is one which, like marriage, should not be taken “unadvisedly or lightly, but reverently, soberly, and in the fear of God,” here, the fear of attorney’s fees and punitive damages.





The Standard



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Managing Longshore & Harbor Workers' Claims

Presented by:

Richard Wood, President & COO

Charles Taylor Americas

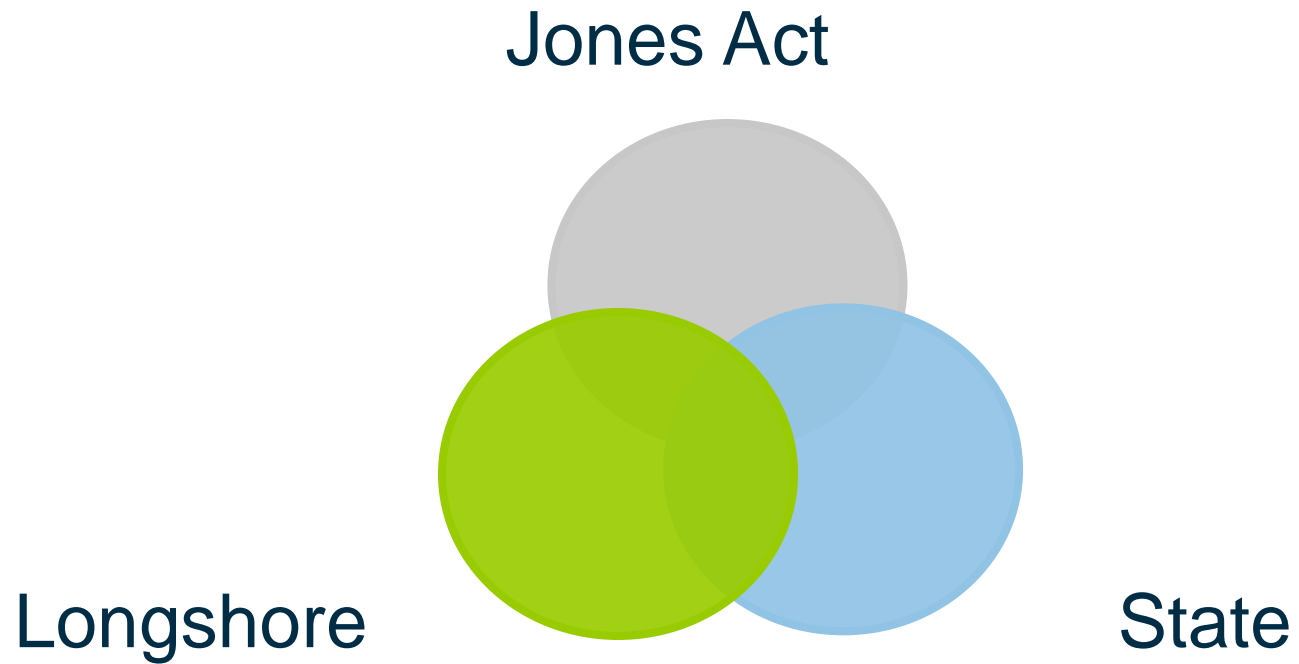
- Signal Mutual – Key Facts
- Maritime Employers WC Exposures
- Claim investigation
- Medical benefits
- Temporary disability benefits
- Permanent disability benefits
- Administrative and judicial review

- Created in 1983
- Largest provider of Longshore benefits in the U.S.
- Membership 252 in 33 States and 2 Territories
- Reported Payroll \$4.1bn
- Gross Calls \$234m
- Total Assets \$1.061bn
- 138,000 claims handled since inception

Why is this important to you?

- Jones Act - MEL
- Contingent or “soft” MEL
- State Act
- USLHWCA
 - plus extensions (DBA, NFIA , OCSLA)
- EL

- Jones Act – MEL
 - Crewmen or “true” seamen
 - Offshore drilling
- Contingent or “soft” MEL
 - transient exposure to on shore employees injured on vessels
 - non crewmen
- State Act
 - covered by individual State Act laws
 - on shore workers
- USLHWCA
 - all waterfront employees with ‘situs’ and ‘status’
 - plus extensions (DBA, NFIA, OCSLA)
- EL



Injury:

defined as **“an accidental injury or death arising out of and in the course of employment...”** Injury includes occupational disease or infection that **“arises naturally”** out of such employment or naturally or unavoidable results from such injury”

Status:

“means any person **engaged in maritime employment**, including any longshoreman or other person engaged in longshoring operations, and any harbor-worker including a ship repairman, shipbuilder and ship-breaker...”

Situs:

adjacent to or “upon the navigable waters of the United States (including any adjoining pier, wharf, dry dock, terminal, building way, marine railway, or other adjoining area customarily used by an employer in loading, unloading, repairing, dismantling, or building a vessel)”

- Longshore claim can serve as a lien on third party actions
- Settlement of third party claim by claimant w/out consent of Employer is a bar against future USL&H compensation

- §20 presumption
 - That the claim falls within the provisions of the Act
 - That sufficient notice was given to the employer
 - That the injury was not caused by the willful intent of the employee
 - That the injury was not solely caused by the intoxication of the claimant
- §20 presumption only rebutted with contrary evidence

- Employee entitled to “medical, surgical, and other attendance or treatment, nurse and hospital service, medicine, crutches, and apparatus, for such period as the nature of the injury or the process of recovery may require.”
- “The employee shall have the right to choose an attending physician ... to provide medical care under this Act ...”

- Compensation Rate (typically) - two-thirds of claimant's average weekly wage subject to maximum cap
- Temporary total – at compensation rate is paid until the claimant reaches maximum medical improvement
- Temporary partial – is calculated by subtracting a retained earning capacity from the AWW before multiplying by two thirds. TPD continues until MMI or for five years

- Permanent Partial Disability
 - Scheduled PPD – Scheduled awards are set by statute and equate usage of a body part to a certain number of weeks.
 - Unscheduled PPD (back, neck, shoulders, hips, psychiatric) – Pays compensation based on loss of wage earning capacity. Life time benefits calculated at (AWW- Retained Earning Capacity) * 2/3
- Permanent Total Disability – Life time benefits at compensation rate subject to annual cost of living adjustments

- District Director or Claims Examiner with OWCP (Office of Workers' Compensation Programs) of the USDOL (United States Department of Labor)
- Administrative Law Judge – de novo trial subject to Administrative Procedures Act
- Benefits Review Board – Appeal of right
- Federal Circuit Court of Appeals – Appeal of right
- United States Supreme Court – Discretionary appeal





Incident Investigation Training

LCDR Eric Rivera
Chief, Investigations Division
(718) 354-4240





Why does the US Coast Guard Investigate Marine Casualties?





PREVENTION of future accidents!

- **Determine associated causal factors**
- **Analyze trends and risks in the maritime industries**
- **Develop Safety Alerts and/or Safety Recommendations**





What Triggers an Investigation and How Will it be Conducted?





What is a Marine Casualty?

A marine casualty is any incident involving any vessel (except a public vessel) that occurs on the navigable waters of the United States and involving any U.S. vessel (except a public vessel), that results in:





Reportable Marine Casualties

- **Loss of Life**
- **Injury (beyond first aid)**
- **Grounding**
- **Bridge allision**
- **Main propulsion loss, primary steering problems**
- **Loss of any component that reduces vessel's maneuverability**
- **Occurrence affecting vessel's seaworthiness (fire, flooding, failure of lifesaving equipment)**
- **Property damage in excess of \$25,000**
- **Pollution or harm to the environment**

As Appropriate, Don't Forget:
CG 2692
CG 2692 A – Barge Addendum
CG 2692 B – Chemical Testing





Serious Marine Incident

- **One or more deaths**
- **An injury to a crewmember or passenger**
- **Property damage in excess of \$100,000**
- **Loss of any inspected vessel**
- **Loss of any vessel greater than 100 Gross Tons**
- **Discharge of oil in excess of 10,000 gallons**
- **Release of a Hazardous Substance in excess of Reportable Quantity**





Serious Marine Incident

The marine employer is responsible for chemical testing AND those directly involved will be asked to provide a 96 Hour Work/Rest history to the Investigating Officer





Notice of Marine Casualties

Immediately after the addressing of resultant safety concerns, the owner, agent, master, operator, or person in charge, shall notify the nearest Coast Guard Sector Office whenever a vessel is involved in a marine casualty

Sector New York Command Center – (718) 354-4353





Chemical Testing

- 46 CFR 4.06 mandates chemical testing for individuals directly involved in a serious marine incident
- Responsibility of the Marine Employer:
 - Ensure required alcohol testing within 2 hours
 - Ensure required drug testing within 32 hours
 - Document on Chemical testing report – CG-2692B





How to report?



OMB Control No. 2115-0003
RCS No. G-MOA

**DEPARTMENT OF TRANSPORTATION
U.S. COAST GUARD
CG-2692 (Rev. 9-2002)**

**REPORT OF MARINE ACCIDENT,
INJURY OR DEATH**

UNIT CASE NUMBER _____

SECTION I. GENERAL INFORMATION

1. Name of Vessel or Facility		2. Official No.		3. Nationality		4. Call Sign		5. USCG Certificate of Inspection issued at:			
6. Type (Towing, Freight, Fish, Drill, etc.)		7. Length		8. Gross Tons		9. Year Built		10. Propulsion (Steam, diesel, gas, turbine...)			
11. Hull Material (Steel, Wood...)		12. Draft (Ft. - In.) FWD AFT.		13. If Vessel Classed, By Whom (ABS, LLOYDS, DNV, BV, etc.)		14. Date (of occurrence)		15. TIME (Local)			
16. Location (See Instruction No. 10A)						17. Estimated Loss of Damage To:					
18. Name, Address & Telephone No. of Operating Co.						VESSEL _____					
						CARGO _____					
						OTHER _____					
19. Name of Master or Person in Charge			USCG License <input type="checkbox"/> YES <input type="checkbox"/> NO			20. Name of Pilot			USCG License State License <input type="checkbox"/> YES <input type="checkbox"/> NO		
19a. Street Address (City, State, Zip Code)			19b. Telephone Number			20a. Street Address (City, State, Zip Code)			20b. Telephone Number		
21. Casualty Elements (Check as many as needed and explain in Block 44.)											
NO. OF PERSONS ON BOARD _____		<input type="checkbox"/> FLOODING; SWAMPING WITHOUT SINKING		<input type="checkbox"/> FIREFIGHTING OR EMERGENCY EQUIPMENT FAILED OR INADEQUATE (Describe in Block 44.)							
<input type="checkbox"/> DEATH - HOW MANY? _____		<input type="checkbox"/> CAPSIZING (with or without sinking)		<input type="checkbox"/> LIFESAVING EQUIPMENT FAILED OR INADEQUATE (Describe in Block 44.)							
<input type="checkbox"/> MISSING - HOW MANY? _____		<input type="checkbox"/> FOUNDERING OR SINKING		<input type="checkbox"/> BLOW OUT (Petroleum exploration/production)							
<input type="checkbox"/> INJURED - HOW MANY? _____		<input type="checkbox"/> HEAVY WEATHER DAMAGE		<input type="checkbox"/> ALCOHOL INVOLVEMENT (Describe in Block 44.)							
<input type="checkbox"/> HAZARDOUS MATERIAL RELEASED OR INVOLVED (Identify Substance and amount in Block 44.)		<input type="checkbox"/> FIRE		<input type="checkbox"/> DRUG INVOLVEMENT (Describe in Block 44.)							
<input type="checkbox"/> OIL SPILL - ESTIMATE AMOUNT: _____		<input type="checkbox"/> EXPLOSION		<input type="checkbox"/> OTHER (Specify) _____							
<input type="checkbox"/> CARGO CONTAINER LOST/DAMAGED		<input type="checkbox"/> EXPLOSION									
<input type="checkbox"/> COLLISION (Identify other vessel or object in Block 44.)		<input type="checkbox"/> COMMERCIAL DIVING CASUALTY									
<input type="checkbox"/> GROUNDING <input type="checkbox"/> WAKE DAMAGE		<input type="checkbox"/> ICE DAMAGE									
		<input type="checkbox"/> DAMAGE TO AIDS TO NAVIGATION									
		<input type="checkbox"/> STEERING FAILURE									
		<input type="checkbox"/> MACHINERY OR EQUIPMENT FAILURE									
		<input type="checkbox"/> ELECTRICAL FAILURE									
		<input type="checkbox"/> STRUCTURAL FAILURE									
22. Conditions											
A. Sea or River Conditions (wave height, river stage, etc.)		B. WEATHER <input type="checkbox"/> CLEAR <input type="checkbox"/> RAIN <input type="checkbox"/> SNOW <input type="checkbox"/> FOG <input type="checkbox"/> OTHER (Specify) _____		C. TIME <input type="checkbox"/> DAYLIGHT <input type="checkbox"/> TWILIGHT <input type="checkbox"/> NIGHT		D. VISIBILITY <input type="checkbox"/> GOOD <input type="checkbox"/> FAIR <input type="checkbox"/> POOR		E. DISTANCE (miles of visibility) _____		F. AIR TEMPERATURE (F) _____	
								G. WIND SPEED & DIRECTION _____		H. CURRENT SPEED & DIRECTION _____	
23. Navigation Information											
<input type="checkbox"/> MOORED, DOCKED OR FIXED			SPEED AND COURSE _____			24. Last Port Where Bound		24a. Time and Date of Departure			
<input type="checkbox"/> ANCHORED <input type="checkbox"/> UNDERWAY OR DRIFTING											
25. Towing Information											
FOR TOWING ONLY	25a. NUMBER OF VESSELS TOWED		Empty		Loaded		Total		25b. TOTAL H.P. OF TOWING UNITS		
									25c. MAXIMUM SIZE OF TOW (Length Width)		
									25d. (Describe in Block 44.)		
									<input type="checkbox"/> PUSHING AHEAD <input type="checkbox"/> TOWING ASTERN <input type="checkbox"/> TOWING ALONGSIDE <input type="checkbox"/> MORE THAN ONE TOW-BOAT ON TOW		
SECTION II. BARGE INFORMATION											
26. Name		26a. Official Number		26b. Type		26c. Length		26d. Gross Tons		26e. USCG Certificate of Inspection issued at	
26f. Year Built		26g. <input type="checkbox"/> SINGLE SHN <input type="checkbox"/> DOUBLE		26h. Draft FWD AFT		26i. Operating Company					
26j. Damage Amount BARGE _____ CARGO _____ OTHER _____				26k. Describe Damage to Barge							

PREVIOUS EDITION IS OBSOLETE

Reset

- 2692
- 2692A
- Barge Addendum
- 2692B
- Drug and Alcohol Addendum

Within 5 days!





What you can expect from Investigators

- **Coordination between USCG Vessel Inspectors, Pollution Responders &/or other key personnel**
- **Determination of additional individuals directly involved in the casualty &/or any potential witnesses**
- **Collection of witness statements**
- **Collection of photographic & documentary evidence of the scene**





What you can expect from Investigators

- **Examination of charts, logbooks, manuals, credentials, repair records, operating procedures, etc.**
- **Verification of compliance of reportable marine casualties and chemical testing requirements as appropriate**
- **Professional courtesy and respect from all USCG personnel**





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Domestic Vessels

Environmental

Incident Management and Preparedness

Investigations

Maritime Domain Awareness (MDA) & Information Sharing (IS)

Maritime Security

Merchant Mariners

Outer Continental Shelf

Port State Control

Ports and Waterways

Regulations/Administrative Adjudications

VRP Status Board

Vessel Standards

News

CG News

REAR ADMIRAL RICHARD E. BENNIS AWARD FOR EXCELLENCE IN MARITIME SECURITY

This bi-annual award serves to highlight and recognize outstanding achievements and contributions of the maritime community with regards to implementation of Maritime Transportation Security Act (MTSA) requirements and other maritime security best practices in safeguarding our nation's maritime transportation system. Our intent is to recognize and encourage organizations demonstrating a true comprehensive culture of security. In addition, the award serves as a tool to encourage organizations to assess their overall security program to identify strengths and weaknesses, seek creative solutions for addressing known risks, build a system of continuous improvement, and share best practices that would benefit similar organizations. [more...](#)

Cargo Security Symposium Report

Report of the Cargo Security Symposium: Results of the Plenary and Breakout Session Discussions [more...](#)

Quadrennial Homeland Security Review

Maritime Partner and Stakeholder Opportunity to Help Shape Our Nation's Homeland Security Policies and Priorities [more...](#)

The New CG Sector Commands

CG Sector Command Information

Sector Directory

Link to WWW.USCG.Mil Telephone Directory for USCG Sectors and Headquarters. [more...](#)

CG Sector Commands

The CG is reorganizing all field units into Sector Commands by merging traditional Groups, Marine Safety Offices (MSO) and Vessel Traffic Service (VTS) under one operational commander. [more...](#)

Sector Map

National Marsec Level

Security Levels

National MARSEC Level



NTAS



All COTP MARSEC Levels

Alerts and Notices

General Operations

- [Bow riding in heavy weather.](#)
- [Distracted Operations](#)
- [Recommendation for recreational diving operations.](#)

[more...](#)

Most Current

- [Bridge Resource Management in Pilotage Waters](#)
- [Confined Space Entry Dangers](#)
- [PARASAIL SAFETY ALERT - 2013](#)

[more...](#)

Port Security Advisory

- [Port Security Advisory - Libya \(01-11\)](#)
- [Port Security Advisory \(PSA\) 2-12](#)
- [Port Security Advisory - Piracy \(08-09\)](#)

[more...](#)

Featured Homeport Links

- [Counter Piracy](#)
- [IPS Program](#)
- [Japan Radiation Incident](#)
- [MTSA](#)
- [Marine Event Permit](#)
- [Marine Safety Center](#)
- [Seafarers Access](#)
- [TWIC](#)
- [US Inspected Vessels](#)
- [Vessel Traffic Services](#)

Coast Guard Quick Links

- [CGMIX / PSIX \(MISLE data\)](#)
- [Coast Guard Auxiliary](#)
- [Mariner Credentialing](#)
- [Navigation Center](#)
- [Ship Arrivals](#)
- [U.S. Coast Guard](#)
- [Vessel Documentation](#)

Homeland Security



- [CFATS](#)





Homeport: Investigations - Windows Internet Explorer provided by U. S. Coast Guard

https://homeport.uscg.mil/mycg/portal/ep/browse.do?channelId=-18374&channelPage=%2Fep%2Fchannel%2Fdefault.jsp&pageTypeId=13489&BV_SessionID=@@@@05


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UNITED STATES COAST GUARD

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Investigations

- Safety Alert**
Most Current
- Safety Alerts**
General Operations, Cargo Operations, Engineering, Navigation Equipment, Safety Equipment
- Lessons Learned**
General Operations, Cargo Operations, Engineering, Navigation Equipment, Safety Equipment
- Maritime Customer Survey Results**
- Casualty Reporting Forms**
 - Reporting Form 2692
 - Reporting form 2692a
 - Reporting Form 2692b
- Marine Casualty Reports**
 - F/V LADY MARY Marine Casualty Report
 - Investigation into the Fire on the CARNIVAL SPLENDOR on November 8, 2010
 - Report of Investigation for the TIED HIGH parasailing accident
 - Eagle Otome Allision / Collision Report
 - Sinking of the Mexican passenger vessel ERIK.
[more...](#)
- Safety Reports**
 - A Review of Lost Fishing Vessels & Crew Fatalities, 1992 - 2010
 - API - Technical Considerations of Fuel Switching Practices
 - Parasailing Casualties
 - Report of the Coast Guard-AWO Bridge Allision Work Group.
 - Report of the Fishing Vessel Casualty Task Force (1999)
[more...](#)
- Contact Information**
 - Contact Information


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- Finding Investigations Information
- Civil Penalties and Fines
- Drug and Alcohol Program
- Marine Casualty/Pollution Investigations

Safety Alerts

General Operations

- Bow riding in heavy weather.
- Charter Vessel Drug Testing Requirements
- Commercial Diving Safety
- Danger Aloft
- Distracted Operations
- more...

Cargo Operations

- Electronically-controlled cargo pump engine components
- Explosive Safety Guide
- Overloaded Lifting gear on fishing vessels.

Engineering

- Air Receivers and Relief Valves
- Boiler Casing Failure
- Compact Fluorescent Lights
- Electric Shock Hazards
- Fuel Switching Information
- more...

Navigation Equipment

- AIS text messaging concerns.
- Automatic Identification System (AIS) Devices
- Automatic Identification System - Timing Problem
- Caution to AIS users.
- Dangers Associated with Automatic Channel Switching
- more...

Safety Equipment

- COUNTERFEIT EMERGENCY ESCAPE BREATHING DEVICES (EEBDs)
- Counterfeit Fire Extinguishers
- Emergency Escape Hood Recall
- EPIRB and PLB Registration
- Hammar Manual Remote Release System Pneumatic Pump Units

Featured Homeport Links

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- TWIC
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In Conclusion

- The ultimate goal of the USCG following a marine casualty is PREVENTION!
- Through the notification process we will determine the level of investigative effort that is required and if preventive measures can/should be implemented.





Questions?



Regulatory status

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