



STANDARD BULLETIN

SETTING THE STANDARD FOR SERVICE AND SECURITY

December 2011



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BOARD MEETING AND ANNUAL GENERAL MEETING, 4 NOVEMBER 2011

The club's board met in Buenos Aires on 4 November, and the AGM took place on the same day. We are pleased to report as follows:

DIRECTORS

We are delighted to report that Daniel Ofer of Zodiac Maritime Agencies and David Marock from the managers joined the board. Other directors who were re-elected at the AGM were Art Bensler, Matt Cox, Tony Mace, Ricardo Menendez, Sir John Swan, Constantinos Peraticos, SS Teo, William Thomson, Luigi D'Amato and Rob Clarke.

CLUB REORGANISATION

The members at the AGM approved the scheme to reorganise the club. This reorganisation has been explained in various previous *Standard Bulletins* during the year and has been formally notified to all policyholders and other stakeholders over recent weeks.

The key points are:

- the reorganisation will improve capital efficiency and reduce regulatory compliance costs
- there will be no change to the terms of any entries as a result of the transfer
- members currently insured by Standard Bermuda will have their entries transferred to Standard Europe
- it is hoped that the transfer will be approved by the court at the final hearing on 19 December
- members are entitled to register objections with the court
- if members have no objection, they need to take no action
- if approved, the transfer will take effect from 30 December

TONNAGE GROWTH

The club continues to grow organically, principally through members' new buildings and acquisitions, and currently stands at around 129m gross tons, up from 123m at the beginning of the club year.

SOLVENCY II

We are continuing to make progress with readiness for the introduction of the new Solvency II regime in Europe. The introduction of Solvency II for insurance companies has been delayed until January 2014, but our aim is to become fully compliant during 2012. The work programme continues to be intensive and considerable investment is being made in the infrastructure and resources necessary to achieve compliance.

FINANCE AND INVESTMENTS

The club's financial position remains strong, and we have made small positive gains on the investment portfolio during this club year. The investment portfolio has been de-risked against its benchmark during the year and this has stood it in good stead in a period of great volatility. The underwriting performance in the club year so far indicates that there may be an underwriting deficit by the club year end, although it remains early days to make an accurate forecast.

RENEWAL

The board considered the club's strategy for renewal. Claims continue to be subject to inflation and premium rates have been somewhat eroded through fleet renewal. Investment markets remain very uncertain. To ensure that the club remains financially healthy, the board, after careful analysis of the key financial indicators, decided that a general increase of 5% is needed. However, further adjustment may be necessary where rates are currently insufficient to cover the technical claims, reinsurance and other relevant costs. However, members are operating under very difficult trading conditions, and the premium due dates have been adjusted so that there will be no increase during 2012 in the cash requirements from members arising from the general increase.



2011 MEMBER AND BROKER SURVEY



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The club commissioned an independent research company to conduct a survey of all members and their brokers by email to determine whether the club is providing the service that the members and their brokers want, and to assist us in making any necessary changes to improve the level of service.

The survey covered the areas of claims, underwriting, communication and 'doing business with the club'. We are pleased to advise that the response rate was good with 45% of the members and 47% of the brokers responding.

Whilst we are pleased that the results of the survey indicate that members and their brokers are satisfied with the service they receive, we also learnt what aspects of the service are considered most important, and those areas of service where improvements can be made.

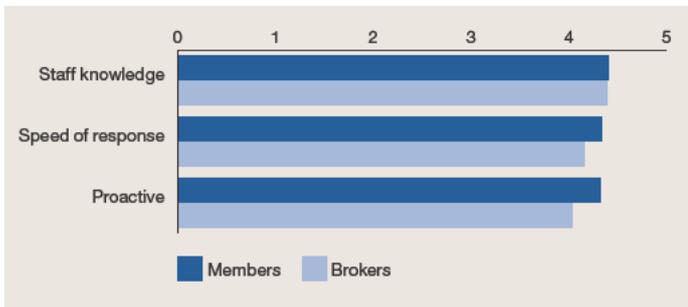
The areas of service that are considered most important are listed below in descending order:

1. speed of response on claims
2. proactive handling of claims
3. the underwriting renewal process
4. frequency of contact with members of the club's staff
5. knowledge level of the claims staff
6. accuracy of underwriting documentation
7. speed of underwriting documentation

Tables of the results for the claims, underwriting and communication sections are set out overleaf. Mean satisfaction scores were calculated out of 5 where the value 5 is allocated to 'Very satisfied' and 1 is allocated to 'Very dissatisfied'.

CLAIMS

The question: 'Thinking about the claims handling process, please indicate how satisfied you are with the following aspects of the Standard Club's service'.



Overall, members and brokers are satisfied with the claims handling process. However, brokers are less satisfied than members, particularly with regard to the speed of response and proactivity of staff in protecting client interests.

UNDERWRITING

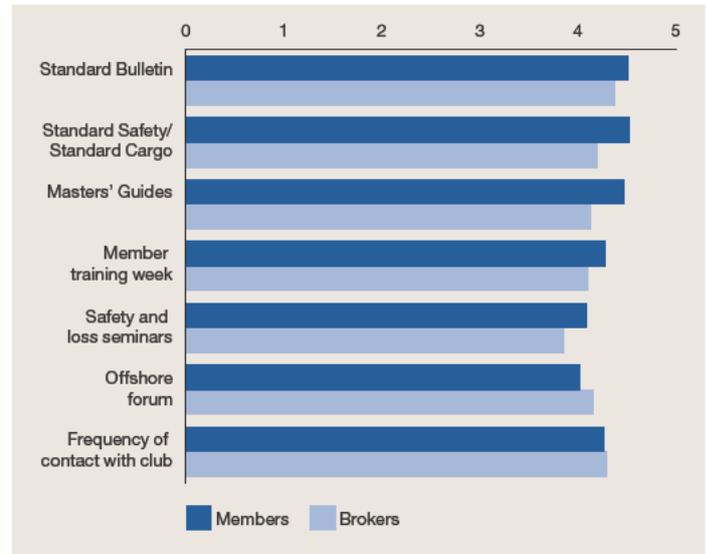
The question: 'Thinking about the underwriting service you receive from the Standard Club, please indicate how satisfied you are with the following aspects of the club's service'.



Overall, members were satisfied; the mean score was never below 4.2 on any aspect of the underwriting process. Brokers were also generally satisfied, however, a small percentage were dissatisfied with the speed of document production.

COMMUNICATION

The question: 'For the following questions we would like you to think about all the communication you have with the Standard Club throughout the year. Please indicate how satisfied you are with the following aspects of the club's service'.



Both members and brokers are very satisfied with the Standard Club's publications, specifically with the *Standard Bulletin*. Although mean scores remained above 4, members are consistently more satisfied than brokers.

DOING BUSINESS WITH THE CLUB

Members gave an overall satisfaction rating of 96%, and brokers gave a rating of 95%, when asked about 'doing business with the club'. Areas of particular satisfaction were:

- rigorous inspection of members' ships
- applying high standards to all members
- flexibility of approach
- quality of members entered in the club
- welcoming atmosphere

THE FUTURE

For the future, and to continue to enhance service, we need to ensure that:

- we continue to respond to claims quickly and proactively
- underwriting documentation is issued promptly and accurately
- we concentrate on maintaining relationships within the claims area
- we continue to enhance knowledge and expertise

In addition to the set questions, respondents were given the opportunity to give additional comments for all the sections. 28% of respondents made additional comments and these provide a further insight into the members' and brokers' needs.

We would like to thank all those who took part in the survey and for all the valuable comments that have been made. We will continue to strive to provide the service required by members and their brokers.

OIL MAJOR VETTING AND 'APPROVALS'



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Since the *Erika* casualty in 1999, there has been a change in the way the oil majors vet and approve ships which are nominated to lift oil cargoes. However, this change has not necessarily been reflected in the terms of the charterparties negotiated between owners, oil majors and other charterers. The recently reported case of *Transpetrol Maritime Services Limited v SJB (Marine Energy) (the Rowan)*, highlights some of the difficulties owners may face when they warrant that their ship is 'approved' by the oil majors.

VETTING IN PRACTICE

Each time a ship is nominated to a charterer and considered to lift cargo at a terminal which requires the consent of an oil major, the charterer will refer the nomination to the oil major vetting department.

The oil major will then 'vet' the ship. This may involve the oil major inspecting the ship. If so, the inspector will usually complete a Vessel Inspection Questionnaire which is uploaded into the Ship Inspection Report programme (SIRE) System. If no inspection is required, the oil major may review previous SIRE reports. Owners must also provide and maintain a Vessel Particulars Questionnaire.



The vetting criteria varies amongst the oil majors, but typically, in order to be considered acceptable to an oil major, a ship must satisfy the following criteria:

1. there must be an up-to-date (no more than six months old) SIRE report evidencing minimal defects with the ship and its on-board systems and maintenance;
2. the ship must have a good safety record;
3. the 'crew matrix' and shore-based management systems must be adequate; and
4. any other ships within the same managed fleet should have a good safety record.

The system is largely automated, in much the same way as 'credit scoring', although the actual decision to accept or reject a ship is usually made by an individual. Owners will be aware that oil majors do not automatically give reasons when they reject a ship, and on occasions where two different oil majors vet a ship simultaneously, owners may receive two different decisions.

THE DIFFERENCE BETWEEN VETTING AND 'APPROVAL'

Before the *Erika* casualty in 1999, oil majors would often state that they had approved a ship for a fixed period. Now, 'approval' is usually only given for a particular voyage. Following a positive vetting, an oil major may simply write to the owner stating that no further information is required and the oil major will not re-inspect the ship for a certain period. However, no blanket approval lasting for a fixed period of time is given.

Confusion often arises, therefore, when ships are marketed as having 'oil major approvals' which are stated to be valid for a certain period. In such cases, owners and brokers are often referring to the period of validity of a SIRE inspection carried out by the oil major in question. In reality, an owner cannot be certain that the ship is acceptable because, as well as looking at the ship itself, an oil major will consider the cargo, and the load and discharge ports on a case by case basis. Each oil major will give different weight to the various criteria. The same ship may even be accepted by one oil major and rejected by another on the basis of the same SIRE report. The problems that can arise for owners, who may have warranted that the ship will be or has certain approvals, are illustrated by the recent decision in the *Rowan*.

THE CHARTERPARTY TERMS

In 2007, SJB chartered the *Rowan* from owners for a voyage from the Black Sea to the US Gulf. The ship loaded cargo in Odessa and Batumi, and charterers exercised their option to discharge and reload at Antwerp.

The charterparty was evidenced by a recap which read:

- "Vessel Info...TBOOK WOG VSL is approved by: BP/ LITASCO/ STATOIL – EXXON VIA SIRE
- Terms: VITOL VOYAGE CHARTERING TERMS
- CLAUSE 18....TBOOK VSL APPROVED BY: BP/EXXON/ LUKOIL/MOH"

Clause 18 of the VITOL terms reads:

'Owner warrants that the vessel is approved by the following companies and will remain so throughout the duration of this charterparty (owner(s) to advise, including inspection dates and expiry dates).'

The ship was inspected in Antwerp by Shell and the classification society. Various defects were revealed and conditions of class were imposed, although it was agreed by class that the ship could sail to her discharge port. The ship was rejected by Shell.

The charterer claimed that they could have sold the cargo to Shell for \$3.25m, subject to successful vetting, but, as a result of the owner's breach of the charterparty warranty, the charterer actually realised just under \$2m for the cargo.

The issues in dispute were: what was the scope of the owner's obligations; did the owner ever have the necessary oil major 'approval' as warranted by the charterparty; and, if so, was that approval lost following the events at Antwerp?



THE OWNER'S WARRANTY

The owner said that the recap replaced the standard Vitol wording so that clause 18 provided solely what was written in the recap itself, and therefore the effect was an indication, without contractual commitment, that the listed approvals were in place at the outset of the charter.

The charterer argued that clause 18 stood but was merely qualified by 'TBOOK' (to best of owners' knowledge) in the recap. The additions were just that and not a replacement for clause 18.

Mr Justice Mackie agreed with the charterer. If clause 18 was meant to be deleted, this should have been made clear. Similarly, if 'WOG' (without guarantee) was to qualify clause 18, this should have been made clear. Therefore, charterer's construction of clause 18 was correct. The owners also argued that it was commercially unworkable to apply the phrase 'TBOOK' to a continuing warranty and therefore the correct construction must be that 'TBOOK' replaced the VITOL wording. The judge did not accept this argument either and remarked "one is also cautious about accepting arguments that a particular argument fails because it is commercially unrealistic. People daily make what are in retrospect bad bargains...".

The effect was that the owner had warranted, to the best of their knowledge and belief, the ship was approved by the oil majors specified, and would remain so throughout the charterparty.

MEANING OF 'APPROVAL'

The court then had to decide whether the ship was 'approved' at all, and if that approval was lost during the duration of the charterparty.

The owner relied on letters from the named majors, in terms similar to that provided by Lukoil at the outset of the charterparty:

'We have now received sufficient information ... and will not normally require re-inspecting the vessel for a 12 month period from the date of the inspection.

Please note, however, that this letter does not constitute a blanket approval of the vessel for LUKOIL-LITASCO business or for visits to Lukoil terminals or facilities. The vessel will be screened by us on each occasion it is tended for Lukoil/Litasco business or intends to visit one of our terminals or facilities.'

The charterer said that these letters showed that the owner had obtained no approvals at all. However, the judge accepted the evidence of the owner's expert witness that, in 2007, owners and operators collected such letters to help with marketing their ships and that these letters were usually known as 'approval letters' despite the conditional language in which they were expressed. The judge concluded that, in 2007, 'approved' was used by the market to mean 'acceptable to' the oil majors who might or might not then decide to accept the ship for use for particular business.

Therefore, the word 'approved' refers to such letters, notwithstanding the potential risk for confusion. Indeed, it would have been impossible for the owner to obtain anything stronger from the oil majors, as blanket or period approvals were no longer given. The ship therefore was approved at the outset of the charterparty.

However, the judge preferred the evidence of the charterer's expert as to when oil major approval could be lost. The owner's and charterer's experts agreed that approval could be lost when an oil major rejected a ship, but the charterer's expert said that approval could also be lost automatically as and when a ship fell into a condition that would lead to a fresh application for approval to fail. The judge found that the approval letters must be in place throughout the charter and, at any time when cargo is offered, the ship must not be in a state which to the knowledge of the owner, would remove the comfort of the warranted words to the potential purchaser of the cargo. It would be a breach of owner's warranty if an event occurred which, to the knowledge of owner, would cause the issuer of the letter to withdraw it if the event was known to the issuer. It was evident from the SIRE inspections in Antwerp that no oil major would have issued a letter in terms recognisable as an approval letter once the outcome of the SIRE inspections was known, and therefore the assurance provided by the approval letters was of no further value.

Therefore, even though Shell was not one of the oil majors named in the charterparty, the judge found that the rejection by Shell meant that approval was lost in Antwerp. Thus owners were in breach of their warranty that, to the best of their knowledge and belief, the ship would remain approved throughout the duration of the charterparty.

LESSONS FOR OWNERS

The decision in the *Rowan* has raised concern amongst owners, not least because owners would not necessarily know whether a particular deficiency would result in lost approval until an inspection of the ship took place. Owners cannot always gauge how important to an oil major any particular deficiency is.

Problems for owners are particularly acute when they have given an onerous warranty, such as that contained in clause 18 of the VITOL terms. Owners may run into problems when they rely on previously negotiated charterparty clauses which may not reflect the current practice of the oil majors. For example, problems may arise when 'oil major approval' is required without taking into account that period approval is now not generally given; the clause may not take into account that inspection by an oil major depends on the willingness of the oil major, the schedule of the ship and the location and availability of inspectors; or the clause may be unclear as to whether the charterer is entitled to terminate if the ship is rejected by an oil major and/or how that right is to be exercised. These clauses will be strictly construed by the English courts and judges are unlikely to find that a warranty was not given by owners because in retrospect it turned out to be a bad bargain.

In conclusion, it is extremely difficult for owners to say that a ship is or will be approved or acceptable to the oil majors, and recent case law indicates that such approval may be lost more easily than owners realise.

EVENTS

MEMBER TRAINING WEEK

7 to 9 June 2011, London

The club's fifth member training week was held in London in June 2011. The mix between presentations and workshops allowed participants to share their individual experiences and learn from others in the industry. The speakers were drawn from the club managers, together with shipping industry experts and lawyers based in the UK. Topics covered included the shipping market, sanctions, wreck removal, cargo claims, piracy, pollution claims, personal injury claims, collision claims and managing a major casualty.

STANDARD OFFSHORE FORUM

20 October 2011, London

The club's annual Offshore Forum offered a unique opportunity for shipowners involved in the offshore oil and gas industry to meet and discuss current industry issues with oil companies and contractors in an informal environment. This was the club's 11th offshore forum. Expert speakers held a review of the offshore market and the offshore insurance market and also looked at the implications of consequential loss.

STANDARD CLUB HUMAN ELEMENT SEMINARS

Hamburg 5 July 2011,

Athens 22 September 2011,

Singapore 3 November 2011 and

Seoul 8 November 2011

The aim of the Human Element Seminars was to act as a 'catalyst of awareness' for senior managers to identify and manage the serious risks inherent in the human element in their organisations. The seminars offered an insight into how to reduce attritional incidents and claims that can mount up in the course of running a complex business, and equally offer an approach to reducing the risk of the 'big one' – the kind of catastrophe that has far-reaching implications.

By attending the seminars, participants became aware of how their organisation could:

- produce a 'just culture'
- enhance training programmes
- reduce the number of attritional incidents, which erode efficiency and reputation
- prevent the disaster that could become the 'big one'
- improve the bottom line.

Four seminars were held during 2011. Approximately 40 to 50 ship owner members attended each event. Although the seminars were held in different geographical locations, many members found they were facing the same issues whilst running their organisations, such as the threat of piracy, and recruiting and retaining qualified crew.



CLUB NEWS

STANDARD CLUB KNOWLEDGE CENTRE

We publish additional articles on our website on many issues including piracy in the Gulf of Aden and Nigeria, to current sanctions in Syria and Libya. Use the following link to view the most recent news updates <http://www.standard-club.com/KnowledgeCentre>

STANDARD CLUB JOINS TWITTER

The Standard Club has set up a Twitter account to keep members and our business partners up to date with developments at the club. It will be used to highlight topical issues such as piracy, sanctions and or regional port difficulties. In addition, the club will also be 're-tweeting' other articles that could be of interest to members. You can follow the Standard Club at #standardpandi

NEW YORK OFFICE MOVE

Our New York office will move on 16 December. The new details are listed below. The office telephone numbers and cellphone numbers for the team remain the same.

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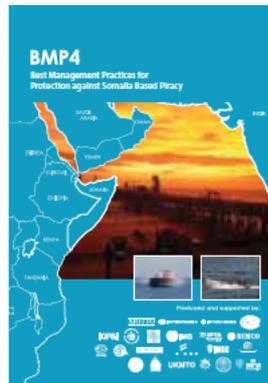
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PUBLICATIONS



Standard Safety November 2011

- Managing contractors
- Safety alerts
- Surveyors notes
- Regulation update



BMP 4: Best Management Practices for Protection against Somalia Based Piracy



Standard Cargo, Seedcakes Edition October 2011

- What is seedcake
- Duties of the cargo officer
- P&I cover
- Carriage in containers

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