

Standard Bulletin

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Setting the standard for
service and security

The Standard



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The club board, and the boards of its principal subsidiaries, met in San Francisco on 15 May. On the previous day, meetings of the board's three committees – Strategy, Nomination and Governance, and Audit and Risk – took place. We set out below the key highlights of the meetings.

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Discretionary claims

As is often the case, the board considered some claims that are covered only if the board exercises its discretion to reimburse them to the member. The individual claims arose from very different circumstances, but, in each case, the claims fell outside the core cover given by the club under the rules. In all of the cases, the board felt that the member had acted reasonably and that the liabilities were largely within the scope of club cover. It considered that two of the claims should be supported in full and approved reimbursement to the members concerned, while in one case, a reimbursement of 75% was made.

Investments

The board reviewed investment performance and strategy. While the 2013-14 year investment return was only 0.6%, below the benchmark of 4.6%, the first quarter of the current year has seen a strong recovery with an estimated return of approximately 2%.

Financial statements for the year ended 20 February 2014

The board reviewed and approved the club's year-end report and accounts and closed the 2011/12 policy year. The overall financial position of the club

remains very strong, with free reserves increasing by \$6m to a new record level of \$369m at 20 February 2014. The combined ratio for the past year was 101%, within the acceptable strategic range set by the board.

US COFRs

The board considered a paper which had been prepared for review by all International Group club boards setting out the arguments on both sides of the debate, and concluded that its view remained that clubs should guarantee US COFRs for shipowners. The board was pleased to note that the club's initiative in this area had led to the matter being reviewed by all other clubs, and that the existing providers had implemented measures to reduce the cost of COFR guarantees. It was, however, noted that the club's position was not supported by the majority of other clubs in the International Group. In the interest of maintaining unity among the clubs in the International Group, the club will not issue its own US COFR guarantees at this time. However, the board resolved that the club should continue to investigate ways to reduce costs for members in this area.

Strategy

While the club has grown significantly and steadily over the past 20 years, with free reserves now standing at a record level, the board is focused on ensuring the club's continuing future health in an increasingly competitive market. This involves enhancing the club's financial performance, ensuring that the club uses its capital as efficiently as possible and diversifying its risks.

In recent years the club has developed a number of additional covers, especially in the offshore energy sector, but also for shipowners in all sectors, utilising reinsurance from the Lloyd's and company markets. Over the last three years significant additional progress has been made in introducing club-insured or sponsored covers in partnership with Lloyd's and company market underwriters. These covers include Kidnap & Ransom, Directors & Officers, Intermediaries, Hull & Machinery and Traders. The club's additional and sponsored covers have made a strong contribution to the club's finances.

The board reviewed the strategic options to enable the club to further develop a diversified portfolio of products and the best structure for doing so. The managers were instructed to develop the club's plans and to ensure that, over the course of the year, members are made aware of the opportunities that exist for the club to cover more of their risks for them.

New directors

We are pleased to report that Andrew Broomhead of Pacific Basin Shipping Ltd., Nicolas Hadjioannou of Alassia Holdings Inc. and Marianne Sørensen of Maersk Drilling A/S were appointed to the board of The Standard Club Ltd.

Retirement of directors

John Reinhart and JN Das retired from the board. The chairman expressed appreciation for their service to and support of the club.



Pilots, conductors and first violinists



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- The master-pilot relationship is reliant on trust
- Bridge team management is the responsibility of the master
- Human factors of pilotage must be understood

When the pilot arrives on the bridge of a ship, it is like a new first violinist performing unrehearsed with an unknown orchestra but at a familiar venue. The conductor and the first violinist need to establish a good working relationship after little more than a handshake. Similarly, the bridge team must work closely with the pilot after the briefest of introductions.



This article discusses the integration of the pilot within the bridge team and the relationship between the master and the pilot.

There are many different leadership styles, and occasionally personality types can contrast. To add further complications, the pilot can have a different status depending on the country concerned. In some countries, the pilot is an adviser, in others he has charge of the ship. In most countries, the pilot must be given the conduct of the ship in order to do his job. All these issues can influence the bridge team.

Successfully working with the team

Regardless of leadership style, culture or status, the management of the bridge team remains the responsibility of the master. However, the pilot can influence how the bridge team interacts and operates through his own style. Simple strategies can be used at both management and operator level, such as consulting with the master about the passage plan or asking for guidance from the officer of the watch.

Avoiding incidents

Most acts of pilotage are routine and, in the majority of cases, the pilot can operate even without integration within the team. However, if an incident does occur, any error by the pilot will be rapidly exposed. It is therefore important that the bridge team work with the pilot to ensure there is no complacency and to avoid the chain of events that may cause an incident.

To ensure that an avoidable incident does not occur, the pilot must

consider a number of 'sins', or key human factors, as identified by Dr. Katherine Devitt¹:

- Failure to consider language and culture
- Failure to consider fatigue
- Failure to establish trust and rapport
- Failure to communicate effectively
- Failure to monitor and be prepared to challenge.

While these factors are equally important, the fundamental requirement is to ensure that there is open communication to establish a shared passage plan. If the pilot does not invite the master to discuss his proposed plan, the master must ask. If the master and pilot are not reading the same music score, there will be no effective monitoring, which may lead to late interventions or a failure to intervene at all. And if there are no interventions, there is no 'second check' to stop the error chain.

This 'checklist' of human factors should be incorporated into training, and the master-pilot exchange documentation and briefings. Bridge teams should be assessed to verify that what is supposed to happen does happen; like the orchestra, the performance has to be perfect every time.

¹ Dr. Katherine Devitt BA MSc PhD.
The Nautical Institute, Seaways
September 2013.

Cargo values



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In today's market, investigating a cargo's value can be just as important as investigating liability.



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The market value is to be assessed at the time and place of due delivery and not at the time when the goods were lost or damaged or bought

Over recent years, commodity markets have seen exceptional volatility, affecting many of the cargoes shipped by sea. Grains, oilseeds, sugar, metals, chemicals, fertilisers, oil and petrochemicals have all seen turbulence and unpredictability, with prices often fluctuating widely, even over a short period of time.

Volatility in price means that some investigation is necessary to ensure a cargo is valued at the right time, in the right place and in the right currency, so that no overpayment occurs.

Legal issues in valuation of a cargo in the case of damage/non-delivery and late delivery

- I. Non-delivery and delivery of goods in a damaged condition are usually treated in broadly the same way, except in certain situations.

In the case of non-delivery, damages are assessed by reference to the market value of the goods at the time and place at which they should have been delivered (often referred to as the 'sound arrived value') less the cost of getting the goods to the place of delivery. In the case of damaged goods, the measure of damages is the amount by which the market value of the goods has been diminished by the damage, i.e. it is the sound arrived value of the goods less the actual value of the goods.

- II. As regards late delivery, the measure is the difference between the market value of the goods at the time and place they should have been delivered and their market value at the time they were in fact delivered.
- III. An 'available market'. The claimant should in theory be asked to go out into the market and buy equivalent goods at the relevant time (see above). If the claimant can do this, the court will award damages by reference to the price at which he can buy those goods. Thus, in the case of late delivery for example, the claimant will need to determine what the price of the goods in the available market would have been on the date of due delivery and at the date of actual delivery. If there was an available market for the goods on both these dates, the market prices on those dates will form the basis for calculating the damages claimed.

What prices are relevant in determining the market value?

- It is important to bear in mind that the relevant price is the price at which substitute goods could be bought, not the price at which they could be sold, because this is what the claimant must pay to provide himself with the substitute goods.
- The price at which a third party has agreed to buy the goods from the claimant is not relevant (although it

Worked example

A cargo of Vietnamese white long grain rice, 5% broken, packed in 50 kg bags. Published prices suggest that a cargo purchased and invoiced in late March 2013 would have cost around \$400 pmt fob. Assuming the cargo was shipped in June 2013 and arrived in early July 2013, the same cargo could then have been purchased for around \$365 pmt fob. Using the original invoice to value the cargo would result in an unnecessary overpayment

might be evidence of the market value of the goods). This is because the value of the goods is to be assessed independently of any circumstances peculiar to the claimant.

- Where there is no available market at the time and place of due delivery, it is permissible to take the claimant's cost price (i.e. the market price at the place where the goods were delivered to the carrier) and add the cost of carriage and an allowance for reasonable profit.
- Where damaged goods are resold, the resale price will usually be strong evidence of the market price of the damaged goods.

Claims for consequential losses

The following general rules usually apply (subject to the actual knowledge of the carrier at the time of contracting).

- I. Lost profits on resale are usually not recoverable.
- II. Lost user profits are also not usually recoverable. User profits are the profits the claimant would have been able to make using the goods; for example, the claimant cannot claim for lost profits he would have made with the machinery that was not delivered.

Recovering expenses

The claimant may be entitled to recover the expenses made necessary by the breach. Thus in the case of both non-delivery/damaged delivery and delayed delivery, the claimant may be put to the expense of buying goods that are the nearest substitute, although at a higher price because there is no available market for the actual damaged/non-delivered goods.

Currency

A final important point to bear in mind is the currency of the claimant's loss. Damages are expressed in the currency in which the loss was suffered by the claimant. The claimant takes the risks (and benefits) of currency

fluctuations between the date of breach and the date of judgement (see the *Texaco Melbourne [1994] 1 Lloyd's Reps 437HL*). In another case, involving the loss of deck cargo, the claimant was an Italian company suing the carrier. The claimant had purchased the replacement cargo in Italian lire but was entitled to damages expressed in US dollars because the claimant was part of a US group of companies whose involvement in the transaction that led to the shipment was pursuant to a contract whose currency was in US dollars.

The cost of not checking cargo values

Finding the cargo's value presents many commercial challenges. Knowing the correct date and location at which a valuation is required are both essential elements. Having a full specification of what was agreed to be bought and sold is another. Bills of lading descriptions are rarely, if ever, sufficient to properly identify the cargo. Without a full invoice description, a fair degree of speculation is inevitable.

Top tips for valuing cargo

To gather cargo pricing information, consider data from different sources, including:

- Specialist databases
- Trade press
- Digital media
- Newsletters
- If possible, engaging with traders and brokers.

Together, these sources should reveal enough information to decide whether the claimants have overvalued the cargo. In the event of the need to challenge the claimant's valuation in the courts, one then looks to establish 'evidence' of value. This invariably means looking for an expert witness, probably a trader, broker or market analyst.



Focus on: safety and loss prevention



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In its continuing commitment to safety at sea and the prevention of accidents, casualties and pollution, the club issues a variety of publications on safety-related subjects, which are available on the club's [website](#)

The club provides safety and loss prevention training to members through regional and member-specific seminars, using case studies to illustrate what went wrong and what could have been done to avoid the incident. The loss prevention programme focuses on best practices to avert claims that are generally described as avoidable and that often result from crew error.

The club can also participate in members' own training programmes. Yves Vandeborn, Director of Loss Prevention, recently visited Pacific Basin in Dalian to speak about frequent claim causations.

Bulk carrier hatch cover maintenance

Hatch covers leak for a variety of reasons, but mainly because of poor maintenance or failure to operate them properly. Leaking or badly maintained hatch covers will lead to cargo wetness claims, but this can also lead to flooding of the cargo hold, with a subsequent loss of stability and possible foundering of the ship. It is crucial for the safety of the ship and

The Standard Club is committed to assisting members in reducing the incidence of accidents and claims. This is achieved through a programme of ship condition surveys, management risk reviews, publications, presentations and training focused on topical subjects.

safe carriage of the cargo to properly maintain and operate the ship's hatch covers. The club recommends an emphasis on proactive maintenance and frequent crew training.

The Standard Club has published a Master's Guide to Hatch Cover Maintenance, which is available on the club's [website](#).

Navigation and the human element

The importance of the human element in shipping has been emphasised for many years, and the Standard Club has supported various initiatives such as the Human Element book and accompanying DVD in collaboration with the Maritime and Coastguard Agency. The club has recently been focusing on navigation

and the importance of the human element in collision avoidance. Poor bridge team management and insufficient training are often cited as the cause of incidents. Proper training and management are crucial avoidance measures.

For further information on these issues or to enquire about having a member of the Loss Prevention team visit your offices, please speak to your usual club contact.



Staff spotlight



Claire Wheeler
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What was your first job in the industry?

My first role in the Standard Club was working in the Reinsurance Department, who are responsible for placing and administering reinsurance contracts with the market and handling declarations and recoveries. I have also worked in the Mediterranean and Offshore syndicates in various underwriting roles.

What is it you find interesting about P&I?

I enjoy working closely with members and providing a service to help with their operations rather than being involved in writing commoditised insurance products.

What is your current job?

As Underwriting Operations Director I support areas of the business in relation to underwriting, including providing support to all syndicates, training, dealing with procedural and compliance issues and involvement in various underwriting related projects.

What is the most important thing a club can do for its members?

The managers of a P&I club play a significant role in helping their members with anything from cover issues to handling a claim. It is therefore important for the Club to provide its members with a fast, efficient and friendly service and to be pro-active in assisting the member with any problems they encounter.

What is the highlight of your P&I career?

Working with the club has given me many opportunities to meet members and I have been lucky enough to visit some of our members ships which has given me an excellent insight in to their day to day operations

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**Charles
Taylor**