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served upon the New York branch of a Cayman Islands bank was upheld, notwithstanding the defendant's bank account was located in the Cayman Islands branch, because "the Cayman Islands branch is a paper bank entirely controlled and managed by Danske Bank's New York operation". *Yayasan* involved a prejudgment attachment and branches, not separate corporate entities. Nevertheless, similar reasoning conceivably may be used to find a basis on which to exercise personal jurisdiction in a turnover proceeding against a foreign bank.

There are other post-judgment remedies available to judgment creditors in New York. Judgment creditors may serve a restraining notice upon potential garnishees, which restrains the recipient from disposing of any judgment debtor's assets that it may possess. Additionally, creditors may serve questionnaires, known as information subpoenas, upon potential garnishees. These devices do not require a prior showing that the garnishee possesses the judgment debtor's property. They are regularly used by collection lawyers on a 'mass-produced' basis. Given that these remedies, like a turnover proceeding, are directed against garnishees personally, we see no reason why such devices could not be used to find and restrain property located abroad, as long as the garnishee is subject to personal jurisdiction in New York.

Given New York's importance as a banking centre, creditors who hold an arbitration award or judgment issued in a foreign country should investigate the possibility of enforcing the claim in New York despite the demise of prejudgment attachments of dollar transfers under Rule B.

CROATIAN REGULATIONS

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The Croatian authorities have introduced revised Notice of Arrival reporting regulations for ships calling at Croatian ports. The regulations require all tankers of 150 gross tons or more and other ships of 300 gross tons or more to participate. In addition to other obligations regarding ISPS code compliance, ballast water management, waste management and dangerous goods reporting, the new regulations require confirmation of insurance cover for wreck removal.

Enquiries by the International Group suggest that the port authorities may be prepared to rely on evidence of entry in an International Group club to satisfy this obligation, but that is not officially confirmed. Members who encounter any difficulties with providing evidence of P&I cover to the satisfaction of the Croatian authorities should get in touch with their usual contact at the club.

PAY TO BE PAID

'Pay to be paid' is a fundamental principle of P&I cover. A member's cover is one of indemnity, that is, the member must actually pay a claim made against him by a third party before seeking reimbursement from the club.

Under English law, specifically the Third Party (Rights Against Insurers) Act 1930, a third party claimant could proceed directly against an insurer if the assured was insolvent. However, in stepping into the assured's shoes the claimant could not be in a better position than the assured under the insurance contract. The House of Lords clarified that contingent indemnity provisions (such as pay to be paid) would bind a claimant in such circumstances but observed that liability insurers should not rely upon such pay to be paid provisions when faced with claims for damages for death or personal injury. For many years it has been the practice of the club not to rely upon such arguments in dealing with the personal injury claims that our members face. The club amended its rules in February 2009 to expressly waive the pay to be paid provision in respect of crew claims.

Also, the clubs have sometimes agreed to accept direct action as a means of securing balanced and reasonable rights, defences and limitations for shipowners in the negotiation of several international conventions. Examples include the international regimes for pollution, both for tankers and for bunkers from other ships.

English insurance law has now been updated with the passing of the Third Party (Rights Against Insurers) Act 2010. The new Act streamlines claims by avoiding the need for duplicate proceedings, gives claimants new rights to obtain certain insurance information and removes specific policy defences (e.g. failure by an insolvent assured to provide information). Further, the Act states that the rights transferred from an insolvent assured to a claimant are not subject to any pay-to-be-paid requirements. However, the Act retains pay to be paid in the context of marine insurance other than in respect of claims for death or personal injury. Other policy defences (for example following non-payment of premium) and rights of set-off remain available to insurers.

English law now codifies the practice and procedure of the clubs in dealing with claims for death or personal injury following the insolvency of a member, whilst recognising and retaining pay to be paid for other risks.