ISSUE 3 | JULY 2020

The Marine Insurer

NAVIGATING NEWS & ANALYSIS IN THE MARINE MARKETS

P&I Clubs Special Edition

P&I Clubs: Rising to the challenges of a post-Covid world

- Crew changes: IMO ups pressure on governments
- Cyber: Implementing compliance for IMO 2021
- Remote working: How the industry is adapting to the new normal
- Cleaning up: Loss prevention lessons to be learned
- Sanctions: The pitfalls of compliance post lockdown

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2nd Annual

Energy Insurance London

14-16 October 2020

30+ SPEAKERS 7+ HOURS OF DISCUSSIONS

Launched successfully in 2019, **Energy Insurance London** attracted some 150 senior energy insurance executives from across the globe for a one-day event in London. Because of ongoing restrictions on face-to-face gatherings, this year's Energy Insurance London conference will focus on upstream oil & gas and be held online as a virtual event over three days from 14-16 October 2020.

We are currently in discussions with our Advisory Board to determine which topics will be addressed at the conference. Each day will comprise of 120 minutes of content (presentations, panel discussions, debates and roundtables) and will have various networking facilities, as well as a virtual exhibition.

While we're disappointed not to be able to discuss the industry's pressing issues face to face this year, we are confident that this format will provide you with lots of valuable, engaging content and actionable insights, as well as having a bit of fun along the way! We will be announcing the agenda in the coming weeks.

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Highlights

P& I CLUBS SPECIAL

IMO IN FOCUS

Comment

Focus on people as recovery gets underway

This issue of *The Marine Insurer* is dedicated to the P&I market, in many ways the cornerstone of the historic international marine insurance sector.

Understandably the content is highly focused on the impact of the COVID-19 pandemic that has swept across the world, brought the global economy to a virtual standstill and turned all our lives upside down.

As one of our excellent contributors pointed out in this issue had this pandemic occurred only 10 years ago it would have probably posed much more challenging questions for the P&I market and the wider risk and insurance community because it was not so well resourced or risk managed.

Of course, the pandemic is posing significant and difficult questions to the insurance community not least in the core area of business interruption and non-damage business interruption in particular. In May Lloyd's announced that the total market loss could well exceed $200bn split roughly equally between underwriting and investment losses.

There will be a number of high-profile claims from the pandemic to hit the shipowner community, not least in the cruise sector.

But the fact is that, overall, it looks like the sector is relatively isolated from a claims perspective and no big spike is really expected. Moreover, the sector is in far better shape than it was financially 10 years ago and is well equipped to cope with any nasty surprises from an underwriting and investment perspective.

The bottom line is that this crisis – as with previous historic events such as the credit crisis – is actually more about crisis management, business continuity and risk management than risk transfer. Yes, the financial impact of this pandemic is huge and there will sadly be many corporate casualties in coming months and much fiscal stress and strain at national, corporate and personal level.

Those that survive and even find opportunities will be those that were best prepared and organised, moved swiftly to enact focused crisis management and business continuity plans and made the best use of the amazing technology now available to offer customers as seamless a service as possible and even find ways to add value in adversity.

Looking ahead one of the biggest challenges facing the Clubs and the rest of the marine community will be maintaining the pace on the new remote basis and being ready to do so in the likely event of a second global lockdown.

Technology is vital in this survival and recovery period. But do not forget that the number one priority has to be the welfare and mental and physical health of your people. Without them there is no one to operate the technology and keep moving forward.

Adrian Ladbury, Editor, *The Marine Insurer*

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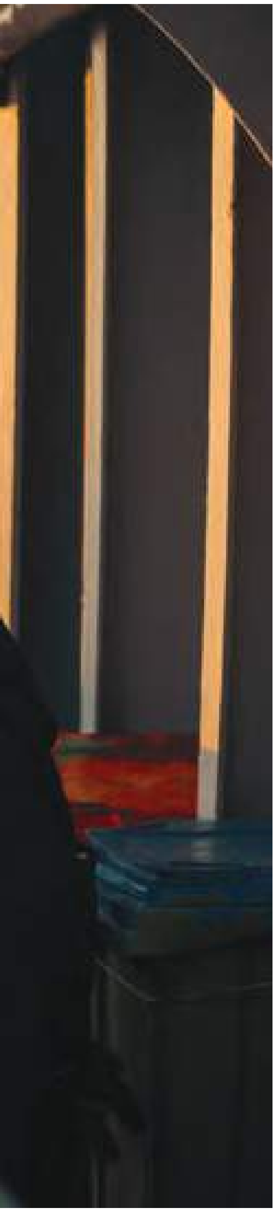
Time to free the unsung heroes

The IMO is upping the pressure on world governments to back its efforts to deal with the increasingly difficult problem of crew changes during the pandemic. Adrian Ladbury reports.

The outbreak of COVID-19 has compelled many parts of the world to enforce a public lockdown in a bid to flatten the transmission curve among the population. International borders have been closed and modes of transport internationally, nationally, and locally have been drastically reduced to impose physical and social isolation to contain the spread of the virus.

The International Maritime Organisation (IMO) describes seafarers as the unsung heroes of this pandemic. This is because the world relies on them to transport more than 80% of trade by volume, including vital food and medical goods, energy and raw materials, as well as manufactured goods across the globe. They have also been collateral victims of the crisis, as travel restrictions have left tens of thousands of them stranded on ships, or unable to join ships.

The difficulties surrounding repatriation and crew changes also have a major impact on the shipping industry and have been identified as a priority issue. The IMO and other organisations have urged governments to intervene. The matter has now even been taken up by the UN Secretary-General who expressed his concern about the growing humanitarian and safety crisis facing seafarers around the world, and called on all countries to formally designate seafarers and other marine personnel as “key workers” and ensure crew changeovers can safely take place.



"The difficulties surrounding repatriation and crew changes also have a major impact on the shipping industry and have been identified as a priority issue. The IMO and other organisations have urged governments to intervene."

The IMO says that it is encouraged by the progress made in many countries to designate seafarers as key workers and facilitate crew changes and repatriation. But the organisation remains very concerned about the many countries where restrictions are still in place for seafarers.

"We are on the verge of a humanitarian crisis and a real safety issue – we cannot expect seafarers currently on ships to stay at sea forever. Many have already been on tours of duty significantly longer than the 11 months agreed by ILO as the maximum length of seafarers' contracts. It is the responsibility of governments to ensure seafarers and ships can continue moving, to enable the world to overcome and recover from the pandemic and keep the global economy afloat," states the organisation.

In mid-July IMO Secretary-General Kitack Lim urged further Member States to sign up to pledges to ensure that the more than 200,000 seafarers can be repatriated after months on board ship beyond their original contracts. A similar number of seafarers are waiting to join ships and this has become a serious problem for the crews.

Mr Lim made the call in a circular letter that was issued to disseminate the pledges made by Governments in a joint statement issued following a United Kingdom convened summit on crew changes held in London on 9 July.

During the Summit, 13 Governments from across the world - Denmark, France, Germany, Greece, Indonesia, Netherlands, Norway, Philippines, Saudi Arabia, Singapore, United Arab Emirates, the UK and the US - agreed to a Joint statement of the international maritime virtual summit on crew changes. This pledged to "urgently resolve" the situation.

Pledges in the joint statement include: designating seafarers as key workers; accepting seafarers' ID documents as evidence of their key worker status; implementing the industry approved protocols for ensuring safe ship crew changeover; reviewing national quarantine restrictions; and increasing access, as soon as possible, to commercial flights to and from the principal countries of origin of seafarers.

Secretary-General Lim urged Member States to commit to the principles in the joint statement and to disseminate it widely to all parties concerned. He invited Member States wishing to sign the statement to contact the Government of the United Kingdom.

OPENING REMARKS

During his opening remarks at the summit Mr Lim highlighted the importance of implementing the Protocols designed to ensure safe crew changes and called for concrete action for seafarers.

"I have personally endorsed the crew change protocols developed by a broad cross-section of maritime industry organisations to ensure safe crew changes. The wide-ranging protocols contain recommendations to maritime administrations and other relevant national authorities, such as health, customs, immigration, border control, seaport and civil aviation authorities. They address the roles of shipping companies, agents and representatives, crewing agencies and the individual seafarers themselves, and also extend to seaports, airports and airlines involved in travel operations for ship crew changes," said Mr Lim.

"It is imperative that Governments implement these protocols. To ensure their implementation, cooperation and collaboration between the various government agencies involved is essential. It is time to act for seafarers. Safe ship operations and crew wellbeing should not be compromised. The humanitarian crisis seafarers face has implications for all of us, for the world economy and for the safety of life at sea and the environment," concluded the Secretary General.

View from the top: Kitack Lim

***Adrian Ladbury* interviews International Maritime Organisation Secretary-General Kitack Lim about the impact of the COVID-19 pandemic on the global shipping industry including safety and risk management and, most importantly, the plight of crews during the crisis.**

Adrian Ladbury (AL): What has been the main impact of the COVID-19 pandemic on the international maritime industry? What would you say are the three big risks that the industry has had to deal with above all?

Kitack Lim (KL): By far the biggest challenge at the moment is the crew change issue. Over 200,000 seafarers are still waiting to be repatriated after many months at sea, having stayed beyond their original contracts. Both their physical and mental health are being put to the test. This situation is not sustainable. Safe operation and safe navigation are being compromised.

Despite the challenges posed by COVID-19, it is thanks to the sacrifice of the world's seafarers that shipping has continued to move. Ships have continued to deliver vital supplies, medical equipment, raw materials and packaged goods.

Failing to protect and support seafarers is a huge risk. Besides this issue, I would highlight the need to ensure inspections and surveys can be carried out as soon as possible, to avoid risks of unsafe ships continuing to trade. A third risk is failure to carry our repairs and maintenance. All these are issues that the industry and Member States are working hard to address.

AL: What were the main challenges presented by the pandemic as the industry attempted to keep trade flowing and ensure minimal disruption to the global supply chain?

KL: The key challenge is ensuring shipping continues to deliver safely, protecting the people involved from infection. This is why IMO has circulated, since the beginning of the pandemic, guidance from the World Health Organization (WHO) on the measures to be put in place for health protection and for managing any suspected cases.

As well as health advice, together with our industry partners and colleagues in the WHO, and other UN agencies, like ICAO, ILO, UNCTAD, WTO, IMO has been developing and issuing practical advice and guidance on a variety of technical and operational matters to facilitate international trade, coordinate responses and facilitate crew changes.

AL: Why has it not been possible to work out and agree a system for repatriation of stranded crew members up till now? What have the main barriers been?

KL: Of course, we do have to recognise that some countries are in the midst of the pandemic and resources are directed at combating the virus. Their priorities are other areas and, in most cases, national health authorities are in charge, not maritime authorities. Thus, in many cases, the key is con-

vincing public health officials that seafarers must be treated differently, whilst still ensuring safety.

So sometimes it is about ensuring the different government agencies and departments are communicating and collaborating on this issue.

We will continue to push the message that seafarers are essential workers and need exemptions from unnecessary restrictions and bureaucratic red tape that inhibits crew changes.

I also acknowledge and applaud those countries which have been leading the way in designating seafarers as essential workers and facilitating crew changes. However, the numbers of crew changes are small, perhaps only a quarter of what is needed.

I have been meeting with countries on a bilateral basis to discuss this matter. So far, my Seafarer's Crisis Action Team and I have met with more than 20 countries' representatives virtually, including ministers. I believe these meeting have been helpful in pushing the issue.

"We will continue to push the message that seafarers are essential workers and need exemptions from unnecessary restrictions and bureaucratic red tape that inhibits crew changes."

Kitack Lim, IMO

At the same time, the IMO Seafarer Crisis Action Team has been meeting at least weekly. The team deals daily with individual cases and also examines larger policy issues. By directly intervening and bringing individual cases and policy matters to the attention of relevant national authorities, we have seen progress in changing policies and resolution in many individual cases.

AL: What are the crew change protocols now agreed? How will they facilitate safe crew changes and support the effort to return the global supply chain to 'normal'? What are the key elements? Who supports them and why?

KL: The crew change protocols have been developed by a broad cross-section of maritime industry organisations to ensure safe crew changes. The wide-ranging protocols contain recommendations to maritime administrations and other relevant national authorities, such as health, customs, immigration, border control, seaport and civil aviation authorities. They address the roles of shipping companies, agents and representatives, crewing agencies and the individual seafarers themselves, and also extend to seaports, airports and airlines involved in travel operations for ship crew changes.

A key element is ensuring infection control and safe crew changes. Another important element is ensuring key worker/essential worker designation for seafarers so that they are given the rights to transit countries.

Thirteen countries who attended the recent crew change summit (9 July), organised and hosted by the United Kingdom Government, pledged their support for these protocols. I have urged all IMO Member States who have not already done so to follow suit.

AL: How can these protocols be implemented? With so many government agencies and bodies involved it looks like these will only work if all governments and port authorities agree to them and enforce them. How will this happen?

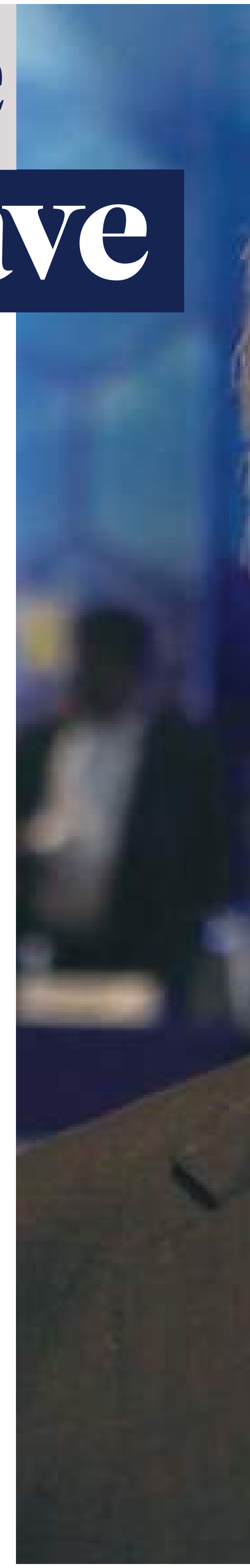
KL: We need all countries who are involved in crew changes in any way to implement the protocols. So, these would include countries of origin of seafarers, transit countries, sea ports and airports in relevant countries.

IMO is going to be following up with a series of regional, virtual webinars, which would be a platform for states to exchange views and share their best practices to manage the challenges faced by seafarers. It is time to act for seafarers. The humanitarian crisis seafarers face has implications for all of us, for the world economy and for the safety of life at sea and the environment.

AL: What practical measures can be taken such as the use of tracking systems to assure governments that the system does not pose a threat and can be managed well? What needs to be done to ensure that the same problem does not arise in the event of a second wave?

KL: The crew change protocols already mentioned as well as guidance from the WHO address infection control issues. We would advise companies and countries to follow the WHO guidance on these matters and on systems such as track and trace.

Riding the COVID wave



Nick Shaw, CEO of the International Group of P&I Clubs (IG), discusses the impact of the COVID-19 pandemic on the International Group and the sector in general with Adrian Ladbury. Clearly the pandemic has had a big impact on the way that the market works and has led to a rise in certain claims. But Mr Shaw is confident that the sector will cope and emerge from the crisis in good shape.

Adrian Ladbury (AL): How are the Clubs and market bodies such as the International Group (IG) working together to tackle the challenges for shipowners thrown up by this crisis?

Nick Shaw (NS): Communication and partnership on key issues facing shipowners is one of the reasons why the Clubs formed the IG in the first place. Following the advent of COVID-19 in early 2020 the Clubs pulled together quickly. At an IG meeting in early March a new COVID-19 working group was set up with all IG Clubs sharing information and strategies for dealing with the crisis. This helped shipowners to understand quickly which claims were covered and which were not. All the Clubs posted answers to FAQs to deal with common queries and this proved successful.

AL: How are the IG and the Clubs using the latest technology to help Members through the crisis?

NS: On the recommendation of and with help from the North the Group launched a new online digital dashboard with the technical service provider Geollect to help shipowners, charterers, operators and other parties in the maritime sector to track country and port specific advice. The dashboard gives up to date details of the measures being put in place in response to the pandemic. This facilitates the dissemination of port and country specific COVID-19 restrictions to anyone interested. The tool allows the industry to identify commercial risks and physical threats to shipping around the world. It sources data from all 13 IG Clubs and their wide network of IG correspondents, the International Maritime Organization (IMO), World Health Organization (WHO) and other leading sources.

AL: What are the main question areas for the shipowners as a result of COVID-19?

NS: Initially Clubs helped shipowners deal with passenger claims and the logistics of how to get sick crew off vessels and home. This was a big job as the world entered lockdown. Whilst all passengers are now home and many cruise vessels are laid up across the world there remain significant issues with carrying out crew changes and the quarantining of vessels around the world when COVID-19 cases are found on board.

AL: What impact has the crisis had upon claims? What are the main type of claims triggered?

NS: There are a number of high-profile passenger claims against cruise operators. Whilst it is still too early to judge fully their impact none presently looks likely to breach the IG Pool deductible. Otherwise so far, the level of claims has been pretty consistent with previous years. With global shipping trade levels presently predicted by Clarksons to be about 5% down over the entirety of 2020, the actual claims could even come in less than average.

AL: What impact has the crisis had on the financial position of the clubs? What is the underwriting outlook and how will pricing and availability of cover be affected?

NS: All the Clubs have recently reported robust balance sheets and this was reflected in the premiums charged to shipowners at the last renewal. That said, the general reinsurance outlook will clearly be affected by the pandemic as the major reinsurers are reporting substantial COVID-19 claims not linked to P&I. Market reports refer to a general hardening of rates as a result. However, we would hope that, given the claims record of the IG, the Group and the P&I sector in general can defend its record. Having recently concluded a two-year deal on the main General Excess of Loss programme in February, the Group also has time to see how matters unfold and will not have to renegotiate until after the initial wave of the pandemic has run its course and the market has hopefully settled down.

"Upon lockdown in March we moved quickly to working on a remote basis and things have run on time and smoothly. It is different not being able to see people in person and having to rely on video technology but in terms of getting things done the IG work has proceeded pretty normally."

Nick Shaw,
The International Group

***AL:** What has been the practical impact of the pandemic at the IG and the way this part of the market operates? Has remote working worked?*

NS: Upon lockdown in March we moved quickly to working on a remote basis and things have run on time and smoothly. It is different not being able to see people in person and having to rely on video technology but in terms of getting things done the IG work has proceeded pretty normally. If this had happened 10 years ago, without the present technological advancements, things would have been a lot more challenging.

On the downside, getting the IG message out of London and Western Europe to Asia for example, where 40% of the world's shipowners are based, has proved a bigger challenge since COVID-19. Normally I would be there three to four times a year representing the Group at industry events, meeting shipowners and other government and non-government industry organisations but this has not been possible this year. Sometimes you do really need to be there physically to have an impact.

***AL:** What is happening with crew changes? The ITF has said "enough is enough" because of a lack of government response and told seafarers to go home. What impact will this have on global trade and what needs to be done to solve this problem? What role could and should P&I clubs play?*

NS: This is a complex question with no easy solution. The IG has worked with a number of other industry organisations to try to find a way forward with the ICS leading on the issue from the shipowners' side (as this is mainly an operational matter). The industry has sought to provide workable solutions to local governments to help effect crew changes safely and efficiently. This involves coordination with the airlines, in circumstances where many commercial routes are still grounded, and with local ports and governments that have differing rules and regulations and approaches. The situation is made more complex as local conditions can change overnight if there is a new outbreak of the disease. Governments are understandably nervous and planning is extremely difficult. Nevertheless we have seen a growing recognition amongst governments of the importance of this issue to continue to facilitate global trade. In the meantime the IG remains conscious of the developing human cost of seafarers being left on board vessels indefinitely.

New normal

2020 has already become a defining and life-changing year as we continue to make sense of, and navigate our way through, the 'new normal' thrust upon us by the pandemic. Prior to these unprecedented times, remote working would have been considered an 'alien world' for those operating in the insurance community, and yet here we are with those same people doing exactly that. Concirrus' Chief Operating Officer, Nick Roscoe (pic) speaks to Hannah Ray, Vice President of the Marine Hull Practice at Marsh JLT Specialty and Colin Gillespie, Director – Loss Prevention at North P&I Club about their experiences over the last several weeks and how their businesses have adapted to this new way of working.

Nick: Has the transition to remote working been difficult for you and your business?

Hannah: It's been interesting. Before we found ourselves in this situation, there would have been many people within the marine market who would have said the only way we can trade is through face to face interaction. And yet, when that choice is taken away from you, it's amazing how people naturally come together to tackle and embrace the challenge. Within the marine world, there really has been a sense of community with everyone making a real effort to ensure we can continue business as usual.

As with anything, I am sure there are still a few people within the market who don't want this to work or are sceptical about its long-term viability. There has been a belief that meeting at Lloyd's is the only way we can place business, but I can see the tide turning as we demonstrate that we can operate remotely very effectively. In fact, the market response times in many cases have been quicker and we're finding that communication with underwriters is often easier. That said, there have been some complex renewals that have been more challenging. It's those renewals that perhaps require a more in-depth, engaged, face to face meeting at the box.

You do miss the freedom and interaction of the office environment where you can stop and chat to someone and bounce around ideas. You need to be more disciplined working from home and make more of an effort to organise a call. It's been important for us to ensure that everyone is ok and not feeling overwhelmed or under pressure by the situation. No one should feel isolated or left out at work, regardless of where their workplace currently is.

Colin: We have adapted very quickly. It's business as usual for

> **“We have adapted very quickly. It’s business as usual for us and this has only been made possible through the hard work of our IT support team to enable a seamless transition to remote working.”**
>
> *Colin Gillespie*
> *North P&I Club*

us and this has only been made possible through the hard work of our IT support team to enable a seamless transition to remote working.

There has been a marked increase in the number of more ‘informal’ meetings or chats in an effort to check in on staff. We are running several new initiatives including exercise groups through various social media channels to minimise the impact this type of disruption can have on people’s mental health and wellbeing. I’m conscious that whilst we are running our formal meetings through Skype or Microsoft Teams with far greater efficiency, creative meetings have not been as effective. It is difficult to re-enact that same energy and freedom you experience in those creative/brainstorming sessions where you can have lots of different discussions and easily bounce ideas around. It’s just not the same within a remote environment.

Nick: Being a forward-thinking, tech savvy business, the concept of remote working was a simple and easy concept to get our heads around. Couple this with the increased productivity and efficiencies it brings, we feel confident in saying that we have adapted well. That said, we are a very sociable team and so, I think we’ve had to work even harder to fill the void as people are missing that personal interaction.

Nick: How has having access to digital technologies such as Concirrus’ Quest platform helped you navigate this crisis?

Hannah: I don’t think we would have lost business by not having the platform. What it has provided us with is an added edge, where we have been able to run special projects that support our clients in dealing with this prevailing situation.

For example, we have a client who didn’t have a layup provision within their fleet insurance policy. This meant that they couldn’t then get a return premium whilst the vessels weren’t moving but has now had to lay up their entire fleet of global trading vessels. What we have been able to do is use the Quest platform to identify the location of all their ships and show this information to the underwriters further demonstrating that the vessels haven’t moved for X number of days. Even though there isn’t a layup provision in the slip, by using the information from the Quest platform, we can help underwriters to visualise and appreciate the situation to enable them to make provisions within the policy to then provide a return premium to the client.

We also have the ability to use Concirrus to track war breaches. Moving forward, we anticipate this being a huge support for our clients as it means that we no longer need to rely on them to notify us. With the information from the platform, we can declare breaches to underwriters without the clients having to do anything.

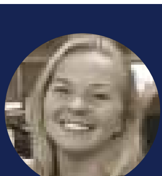
There is a huge piece of work currently taking place which will see us uploading all our global hull data to the platform. In times like these, underwriters want to base their decisions on facts, and this is what we can provide through the collaboration with Concirrus.

Colin: Our renewals happen on the 20 February and following that, we conduct our annual loss prevention benchmarking. Having access to the Quest platform this year has enabled us to reduce the loss prevention process from three weeks to just one, ensuring that we can continue ‘business as usual’ even before the current crisis began. Not having access to the platform and then being locked down and told to work from home would have most certainly resulted in a more onerous and laborious benchmarking process running into several difficult weeks. We are reaping those time benefits already and being an ‘always on’ process, helps us to assess risk throughout the year.

Nick: What fundamental changes will we see post-crisis?

Hannah: I think this crisis has brought into sharp focus the need to re-evaluate work life balance and there will be many businesses, including ours, that will now be considering the role of remote working. Digital strategies will become ever more prevalent and push us into a new future for insurance.

Nick: Crises such as these demand a response. Those that have chosen to stand still and let these circumstances engulf them will be the ones to suffer in the long-term. We may not be comfortable with the changes happening around us, but we cannot afford to let it define us – we have to demonstrate agility and empower our people to adapt to the ‘new normal’ – only then can we survive and thrive in the future. ⚓



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>
> *Hannah Ray,*
> *Marsh JLT Specialty*

Who can limit?

The Admiralty Court recently handed down its first-ever judgment on the question of who is able to limit their liabilities under the Limitation Convention 1976. This raises interesting questions about the definition of shipowners, salvors, managers and operators. John Passmore QC, barrister at Quadrant Chambers in London, reviews this important development.

In November 2016 a large dumb barge was moored off Dover. Storm Angus struck, with storm force winds up to force 9, and the barge dragged its anchor. RTE own the England-France electricity connection. They allege that the barge's anchor tripped an undersea cable causing €55m worth of damage. Parties interested in the barge claimed to be entitled to limit their liabilities (if any) to about £5.5m, based on tonnage.

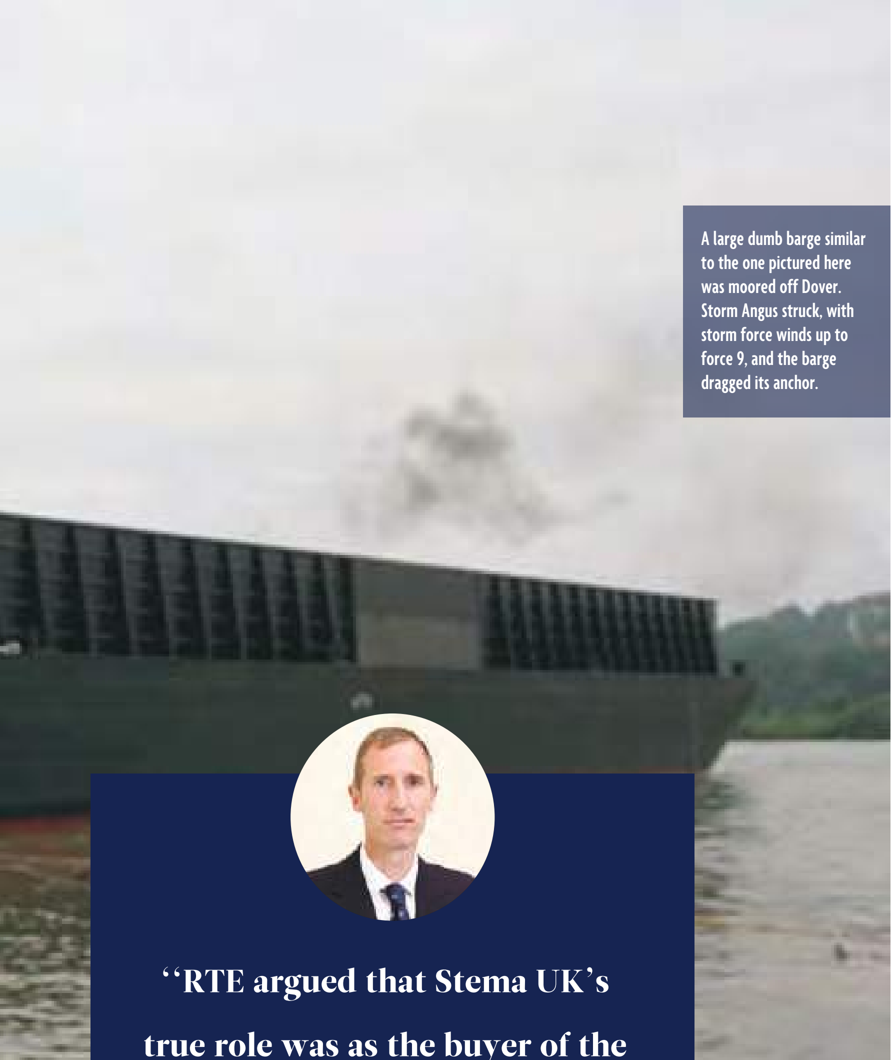
It was accepted by RTE that the owners and charterers of the barge can limit their liabilities. But they denied that a third entity, Stema UK, could limit its liability. They said that Stema UK merely provided some services to the barge, but was not "the operator" or "the manager". Teare J disagreed, and held that Stema UK was entitled to limit its alleged liability.

MERELY INCIDENTAL

RTE argued that Stema UK's true role was as the buyer of the cargo of rock armour carried by the barge, transhipped to a smaller barge off Dover, and delivered to the beach for use in the repair of a railway line. It was said that any actions which Stema UK took in relation to the barge were merely incidental to that role, and certainly did not make Stema UK the operator of the barge.

There was no doubt that the owners and/or charterers of the barge were also its operators and managers for the laden voyage from the Norway, where the cargo was quarried. However, Stema UK was involved in the anchoring off Dover. The managing director of Stema UK chose the anchorage area for Stema UK's operational convenience, and the area was approved by the Marine Management Organisation. When the barge arrived, under tow, a Stema UK barge master and crewman boarded the barge and dropped the anchor.

After anchoring, the nature and range of tasks required to operate the barge were rather limited compared with any regular, manned cargo vessel. The barge master and crewman prepared the barge for being left unmanned, such as by setting navigation lights, and ensuring that the emergency towing wire was out and ready for use. Whilst at anchor, during the transhipment of the cargo, the same personnel ballasted the



A large dumb barge similar to the one pictured here was moored off Dover. Storm Angus struck, with storm force winds up to force 9, and the barge dragged its anchor.

"RTE argued that Stema UK's true role was as the buyer of the cargo of rock armour carried by the barge, transhipped to a smaller barge off Dover, and delivered to the beach for use in the repair of a railway line."

John Passmore QC, Quadrant Chambers

barge and maintained its generators. A detailed check-list was followed.

PLACE OF SHELTER

Stema UK also monitored the position of the barge and monitored the weather. When the weather forecasts worsened, Stema UK worked with the owner and charterer in deciding whether to leave the barge where it was or tow it to a place of shelter.

There is no previous authority on the meaning of operator or manager in the 1976 Convention, or in the 1958 Limitation Convention. In the absence of authority, some textbooks rely upon an Australian Federal Court decision on the meaning of ship "operation" in the rather different context of section 10 of the Australian Navigation Act.

RTE relied on the travaux préparatoires of the 1976 Convention, the textbooks and the Australian case, and a range of industry dictionary definitions, to argue that engaging in some operating was not enough. It was said that being "the operator" required something more: Direct responsibility for the management and control of the ship as regards commercial, technical and crewing operations.

MEANING OF MANAGER

Teare J explained that the meaning of operator is closely related to the meaning of manager, and so it is difficult to discuss the meaning of one without having an understanding of the meaning of the other. The learned judge traced the extent of shipowners' and therefore managers' duties in older commentary and authorities, up to the introduction of the ISM Code, and into the BIMCO SHIPMAN ship management agreement. Managers may be responsible for all safety, manning, technical and commercial tasks relating to a ship, or only for some of them.

Teare J held that under the 1976 Limitation Convention, a "manager" is the person entrusted by the owner with sufficient of the tasks involved in ensuring that a vessel is safely operated, properly manned, properly maintained and profitably employed to justify describing that person as the manager of the ship. If a person is entrusted with just one limited task it may be inappropriate to describe that person as the manager of the ship.

Turning to the meaning of "operator", the learned judge decided that it includes the manager, and that in many cases involving conventional merchant ships there may be little scope for operator to have any wider meaning. However, Teare J noted that this case did not involve a conventional merchant ship. It involved a dumb barge, requiring far less by way of operation. In the case of a dumb barge, operator includes those who, with permission of the owner, send their employees on board with instructions to operate the ship's machinery in the ordinary course of the ship's business.

This is what Stema UK did. Even if some part of the operation of the barge remained with the charterer, Stema UK can therefore limit its alleged liability.

It remains to be seen where the line will be drawn in terms of how many of a vessel's management tasks must be undertaken by an entity entitled to limit as a "manager". There will also be further arguments about the extent to which an operator might be different from a manager.

John Passmore QC represented the limitation claimants, including the operator Stema UK. He worked with Alistair Johnston, Maria Borg Barthet, Danyel White, Debo Fletcher and Christopher Chane at Campbell Johnston Clark. John and CJC also worked with Stewart Buckingham QC in a related collision action against a cargo vessel called SAGA SKY. Chirag Karia QC represented RTE. Nigel Jacobs QC and Nichola Warrender represented the owners of SAGA SKY.

One obvious consequence of the virus has been the regrettable, but necessary, closure of the Lloyd's Underwriting Room. Suddenly, discussion of an insured's position could not be conducted quite so intimately.

"It's life Jim, but not as we know it"

Patrick Jordan (Head of Marine at Ed Broking) reviews the impact of the COVID-19 pandemic on the international marine insurance market and says that we all need to adapt and accept that the future will be different.

Pandemics have happened before. SARS, Ebola, Influenza, Cholera, The Black Death, to name a few. So you might think we've been here before and that COVID-19 would be unusual, but not exceptional. That, however, has not been true. The speed of the spread of infection, the benign way in which infection can occur, the medical resources now available to offer treatment, and the dramatic and, some might say, draconian methods employed to control it across the globe mark COVID-19 out as something not experienced in living memory.

If 'living memory' is the gauge, then COVID-19 has, by default, brought us something never before experienced, since 'living memory' pretty much encapsulates the history of air travel, and certainly includes everything digital. No pandemic has previously occurred where global society has been so interconnected.

The pace of life, both personal and professional, has accelerated in the last few generations. As recently as the early 1990s, communication remained largely by post, with Telex being used for messages of greater importance. Then email arrived and, short of ESP, we seem now to have most forms of immediate communication on handheld devices. Ours is therefore a world where international communication happens in the blink of an eye, and answers are expected within a heartbeat.

> **"COVID-19 arrived as a hardening marine market was properly bedding in. Hardly ideal timing for all concerned, although is there such a thing for a virus? Either way, the market has hardened further and indicators suggest it still has some way to go."**
>
> ***Patrick Jordan, Ed Broking***

FRONT DOOR

Into which COVID-19 stepped. Initially thought of as a problem for the Chinese, within three months of making the news most of Europe was locked down, jobs (actually, entire industries) were furloughed. The word "liberty" came to mean more than just free speech. It meant being able to step out of your front door.

Now, in late June 2020, the UK is starting to see restrictions lifted in meaningful ways. The hospitality industry will soon be functioning again we are told, and that seems to have become the waypoint for many on the journey back towards some form of "normality". No one can yet say with authority what the new existence will look like, but it won't be entirely the same as the past. It can't be. Certain things have happened which prevent the past resurfacing as if from some sleep. We in the marine insurance world have seen changes. Perhaps fewer than some, but we've not been untouched.

One obvious consequence of the virus has been the regrettable, but necessary, closure of the Lloyd's Underwriting Room. Suddenly, discussion of an insured's position could not be conducted quite so intimately. Telephone, email and video conferences have become the norm for such discussions. These are all are fine tools, but, have taken some getting used to in place of the huddled conversations occurring at the box or over a coffee or lunch tucked away in a corner.

No matter how it takes place, conversation is what truly connects an underwriter with a broker and the insured, and is a crucial foundation stone in the altar of the Holy Grail of complex insurance – RELATIONSHIP.

With the Room closed, the market has been more disparate. To the extent it was there before, the 'hive' mentality hasn't been sustained. It's also been difficult to replicate the vibe, or flow, that develops when such conversations generate good momentum, and which can somehow be carried (often non-verbally) from one in-person discussion to another. Instead, a different dynamic has emerged as each conversation somehow has pressed "reset" as the phone is answered.

That said, remote working has succeeded, and the platforms in place to support it have generally stood the test. The natural conclusion is that remote working will be more prevalent than before especially if, as is currently indicated, the Room will re-open to less than 50% of previous personnel capacity.

HARDENING MARKET

COVID-19 arrived as a hardening marine market was properly bedding in. Hardly ideal timing for all concerned – although is there such a thing for a virus? Either way, the market has hardened further and the indicators suggest it still has some way to go.

Shipowners have their own challenges. COVID-19 hasn't been too much of a hull & machinery problem (other than the impact on yard maintenance, potential Loss of Hire, and surveys) but the liability market has had to respond. The Clubs in particular have reacted well, as would be expected of insurers that traditionally have the closest relationship with their insureds. Rules clarifications have been willingly offered to help members act prudently, and where extensions to cover have been available the Clubs have not been slow to offer them. The IG Clubs have crewmember well-being firmly on their agenda, which is how it should be.

It is startling to think that some crew still remain aboard ship. Crew rotation has of course been very difficult and the required funds and also open ports have been hard to come by. The COVID-19 impact has produced estimates of as many as 150,000 crew members forced to overstay their rotation. Some insurers (with the IG at the vanguard) have helpfully sought to offer cohesion to have crews rotated. Concerns for mental health and crew well-being have been widespread and is an area where clubs have stepped forward to offer support. The effect of the pandemic on crew well-being may well be felt beyond the end of the crisis as seafarers may be reluctant to return to rotation amid concerns of a possible second wave of the virus.

Shipping has some storms to weather. International trade is reduced and will take some time to regenerate. Meanwhile it seems likely that non-profitable tonnage will be examined more closely than usual and scrapping even younger ships may occur.

Costs will hit everyone hard. Shipowners will seek mitigation from insurers. At precisely the same time, insurers will themselves be struggling with similar macro-issues, and in a hard market. The outcome can't be guessed with accuracy, but intense discussions will be had, that much is sure.

As to the future, well who knows? It will be at least a little different, which is not necessarily a bad thing. Change is always happening. To misquote the title, "It's marine insurance, but not as we knew it". ⚓

North brings humanity to cyber compliance

***Colin Gillespie*, Director (Loss Prevention), North P&I Club argues that implementing the systematic cyber resilience needed to meet the demands of the IMO 2021 guidelines, demands a behavioural shift at the human level.**

There are generally two types of responses that shipowners and operators can make to cyber threats: Technical responses that deal with equipment and systems and procedural responses that focus on how systems are used and how humans interact with them.

Technical steps can deliver quick wins. Corporate policies on cyber security can be consistent, clear and thoroughly rehearsed, but they can also be undermined by failing to address behavioural change.

Implementing new procedural controls involves changes in practices and attitudes and raised awareness and training. All of these take time and, to a certain extent, rely on willingness to change.

CYBER RISK

IMO resolution (MSC.428(98)), requires safety management systems to include cyber risk management. The new provisions will apply no later than a ship's first annual Document of Compliance verification after 1 January 2021.

To comply shipowners and ships need to have their IT, operating technology systems, and crew risk-assessed to demonstrate preparedness against cyberattacks, and the actions to be taken should systems be compromised.

That guidelines are still being tweaked in the run up to 'IMO 2021' demonstrates that cyber security is an issue that is best dealt with continuously and 'in the round'.

BIMCO will soon publish amended 'Guidelines on Cyber Security onboard Ship', for example, with updates on topics as disparate as crew training, risk assessment procedures in the SMS, essential cyber risks to be included in any ship security plan, and satellite systems vulnerabilities.

2021 is only a few short months away and the proactive ship owner or manager can be usefully getting on with their cyber compliance self-assessment.

"Implementing new procedural controls involves changes in practices and attitudes and raised awareness and training. All of these take time and, to a certain extent, rely on willingness to change."

Colin Gillespie, North P&I Club

SELF-ASSESSMENT STANDARD

Early this year, in a joint initiative with HudsonCyber, North invited Members to access the HACyberLogix cyber risk management platform free of charge on a time limited basis. The system aligns with many industry guidelines, including IMO's own cybersecurity guidelines for 2021 compliance, as given in MSC-FAL.1/Circ.3.It also supports virtualised collaboration in supporting an enterprise cybersecurity program (perfect for operating in a pandemic environment).

The HACyberLogix assessment tool is a three-tier cyber risk management tool, consisting of 12 self-assessment domains. These assess how the company gathers information on cyber security capabilities in order to identify and manage vulnerabilities. Each domain is designed to cover a different aspect of the organisation's cyber security effectiveness.

The model analyses and benchmarks the results to determine an organisation's 'cyber capability' in a confidential report that includes prioritised recommendations that are designed to improve cyber risk management.

These recommendations effectively serve as a roadmap for the organisation to implement and sustain a cyber security program that aligns with the management of change disciplines inherent in a member's SMS.

Naturally, the strengths and weakness that individual North P&I Club Members establish when their cyber risk management comes under scrutiny remain confidential. What can be disclosed is that almost 40 North Members have completed 'Level 1' HACyberLogix cyber risk management assessment.

A series of webinars have generated positive comments on the virtual nature of the platform, its accessibility on demand and its ability to handle multiple users. As the HACyberLogix methodology covers all aspects of a member's organization, and thus drives cross-functional collaboration, it serves as a catalyst for driving cultural change at the human level.

Completing Level 1 puts users at a point where they understand their cyber resilience and can progress to include cyber risk management in their SMS. Levels 2 and 3 of the Cyberlogix package cater for more detailed and thorough assessments.

It is an approach that chimes with SCORA (Safety Culture Organisational Assessment), a tool for senior officers and shore-based managers developed by North's loss prevention team and Green-Jakobsen and launched to some acclaim in 2019. SCORA reports on an organisation's 'safety capacity' by scoring safety leadership, health and well-being, learning and development, reporting culture and risk management.

CYBER CULTURAL SHIFT

North's view is that employing the 'right crew' is central to cyber resilience. The Club sees awareness campaigns allied with regular testing on cyber security basics as a way to kick-start behavioural change .

Clearly, in the face of ever-developing threats, instilling vigilance is critical if cyber resilience is to be implemented ashore and at sea. Here, the right tools can make cyber security best practice part of everyday business awareness.

Putting people at the heart of cyber security resilience is key to protecting your company.

LNG growth needs to be risk managed

Suumit Madhu, Senior Underwriter at West of England P&I, is a recognised expert in the field of LNG shipping. In this article, he explains four key risk management areas that will continue to evolve in this increasingly important market.

The LNG shipping market is evolving, be it by technological advances in the cargo containment systems, or the differing propulsion technologies that offers participants of the trade multiple fuel options, or the varying contractual charter party terms or indeed operational practices on board and ashore.

These changes are intended to reduce loss, increase flexibility and efficiency, meet international regulations and improve the bottom line. There are arguably four main areas that will evolve and this need to be focused upon.

SHIP DESIGN

The first areas are ship design, cargo containment and propulsion systems. Traditional long-term charters with established players in the LNG industry, where the risk of loss and allocation of responsibility for liability is clearly defined, continue to dominate the market. This, along with large conventional steam turbine driven vessels with either moss or membrane cargo containment systems, constitute a large percentage of the LNG shipping tonnage.

We have however observed a rise in the number of short to medium term charters in the last 5 years. Equally, the number of vessels with different propulsion solutions for LNG carriers, ranging from dual fuel diesel electric propulsion, tri-fuel diesel electric propulsion, combined gas turbine electric and steam system, and hybrid propulsion based on steam turbine and gas engine, are also on the rise and constitute a significant percentage of the global LNG fleet.

Propulsion systems significantly influence the ship's capital cost as well as emission regulation compliance and navigational safety. A propulsion system which is technically sound and operable by the ship's staff along with being economically viable is an important consideration for LNG shipowners.

When adopting new technologies, it is essential that they are properly examined, crew appropriately trained and any contractual arrangements creatively analysed, and carefully considered, so that Members have certainty of cover.

LNG AS FUEL

LNG is increasingly being used as fuel on vessels other than LNG carriers. The search for 'green' fuel, as well as develop-

> **"LNG is increasingly being used as fuel on vessels other than LNG carriers. The search for 'green' fuel, as well as developments in engine and LNG storage technology, have helped the industry develop quickly in recent years."**
>
> *Suumit Madhu, West of England P&I*

ments in engine and LNG storage technology, have helped the industry develop quickly in recent years.

But the LNG bunkering industry is still in its nascent stages and there are questions that a ship owner or charterer may want to consider when negotiating a contract for the supply of LNG as fuel.

BIMCO is developing a standard form contract for the purchase of LNG, but most of the current suppliers are oil majors or large operators. It remains to be seen whether a BIMCO form (as opposed to the supplier's terms) will become acceptable.

DNV GL has also created Fuel Boss, which is a fully digital tool for LNG fuel suppliers and shipowners that allows them to plan, execute and communicate about LNG bunkering operations. The platform provides suppliers with a tool to manage the operation of their entire LNG contract portfolio, and shipowners with one common interface for their LNG bunkering operations across different suppliers.

Even in the conventional fuel market, only the largest of buyers use their own standard terms. When drafting contracts, an owner or charterer may be particularly interested in scheduling and responsibility for delays, quantity/composition (i.e. quality) and the operational aspects of the bunkering operation.

SMALL SCALE LNG SHIPS

As already noted, the transportation of LNG has traditionally been undertaken by big LNG carriers and these vessels have transported LNG across oceans for over five decades.

It has traditionally been the case that once the cargo is discharged at the discharge port, the LNG is then re-distributed via pipelines to the final users. Over the last few years, we have observed changes in this pattern of LNG transportation and distribution. LNG parcels are now transported on board small LNG carriers that are able to reach the end customer.

The size of these vessels varies between 1000 m3 to 45,000 m3 and these vessels are able to carry a multitude of gaseous cargoes including LNG. There are obvious advantages in doing so especially where the building of pipelines is difficult or not economically viable because of the topography, geopolitical problems or the inability of existing terminals to expand and increase capacity to meet the growing demand for LNG.

Small scale LNG ships also help with meeting the increasing demand for LNG where traditionally no LNG infrastructure existed. Building several satellite terminals closer to the end customer serviced by small LNG ships that are able to safely navigate rivers and inland waterways is proving to be a quicker solution with greater flexibility. This greatly reduces the total LNG inventory required in the system.

With a rise in LNG as a source of fuel for ships, we also foresee a rise in small-scale LNG tonnage to bunker ships that use LNG as fuel. It is important that insurance arrangements for small scale LNG tonnage meets the demands of the trade they are involved in, and where necessary, are bespoke to that trade.

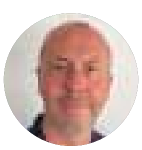
FLOATING STORAGE

The floating storage and regasification unit (FSRU) market is one of the fastest growing segments in the LNG industry. One of the primary reasons for the increase in FSRUs are the policies adopted by various governments to reduce green-house gas emissions and adopt cleaner fuels, with a view to dampening the impact of climate change.

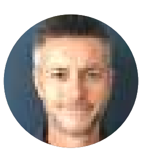
FSRUs can be built and made operational relatively quickly when compared to land-based terminals that take years to build, commission, and operate, thereby assisting governments to reduce green-house gas emissions sooner whilst the building of traditional land based infrastructure is being considered. FSRUs also offer commercial flexibility and scheduling as well as lower costs. As a result many view them as a perfect solution because of their regasification capabilities and the fact that they can be deployed anywhere.

However, inventory management on board the FSRU is, important. Responsibility for risk of loss of cargo and title to the cargo are important considerations as the cargo passes from the LNG tanker to the FSRU and from the FSRU to the shore facility.

Living in the shadow of the Clubs



***David Tiney* (left) and *John Hearn* (below) of London-based underwriting agency Coastal Marine Services provide an insight to Fixed Premium P&I. They explain that there are other P&I avenues beyond the Clubs and now may be the time to explore options.**



Over the years we've heard Fixed Premium P&I (FP) referred to as many things, mostly unkind. "The little brother you can't get shot of", "an ich that you can't scratch" and our personal favourite, "small fry P&I".

We can't remember who these terms are attributable to but they've stuck in the memory and in some respects sums up how FP has been perceived over the years. Thankfully times have changed but there's still much to do in the struggle to give FP the recognition it deserves.

For as long as we can remember the Clubs have held court where P&I is concerned and they've done a tremendous job insuring ships of all shapes and sizes. Collectively they cover over 90% of the worlds ocean going fleet, which is not to be sniffed at.

A relative newcomer by comparison to the Clubs, FP gate crashed the party around 30 years ago. From very humble beginnings it created a niche that proved so successful, many Clubs have now sought to establish their own FP facilities.

At the time of writing, we suspect that in excess of 40,000 vessels are insured for P&I risks on a FP basis, yet rarely is this subject highlighted. Many brokers produce annual P&I reports, but very few feel that FP warrants a mention, notwithstanding a gross written premium running in to $100's of millions each year. Likewise, the trade press usually overlooks the role that FP plays in the industry and we're thankful to The Marine Insurer for identifying its importance and giving it a voice.

WHAT'S ON OFFER?

But why is FP always in the shadow of the Clubs? Let's take a close look at what's on offer.

In fact, FP is not too dissimilar to the Clubs, particularly when it comes to diversification.

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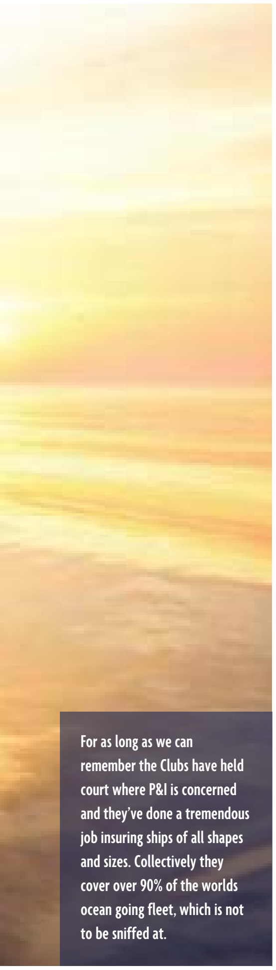

For as long as we can remember the Clubs have held court where P&I is concerned and they've done a tremendous job insuring ships of all shapes and sizes. Collectively they cover over 90% of the worlds ocean going fleet, which is not to be sniffed at.

Ironically, FP, has led the way in this respect. Many FP providers have for years, offered additional products such as hull and machinery, marine trades and cargo liability to complement their P&I offering. Now the Clubs, or at least some of them, have decided to get in on the act with varying degrees of success.

Being veterans of the industry for over 30 years it seems strange to see the Clubs embracing commercial products, eroding a mutual ethos stretching back centuries. It will be interesting to see who benefits the most. The Club members or the Club managers!

The terms and conditions offered by FP facilities are very similar to the cover offered by the Clubs, with limits of up to $1bn available in some circumstances. The similarity continues in terms of a shared philosophy towards service and resource such as a correspondents network, but the FP financial structure is very different to a mutual club.

Capacity is usually provided by Lloyd's of London and insurance companies, all "A" rated, meaning that the financial security is as favourable, and in some cases, better than some of the Clubs.

Unlike the Clubs, FP underwriters write for profit and if they don't make money for their capacity providers, they run the risk of losing their backing, the insurers who pay the claims.

Whereas the Clubs are able to supplement underwriting results with positive investment returns, not so the FP industry. For us there are no means of retaining client's other than good service at a fair price. No release calls to make them think twice about leaving and no supplementary calls to fall back on should we need more money to balance the books. In a nutshell, if you don't like the service or you consider we're charging you too much, you are free to leave at the expiration of your policy, no strings attached.

As FP underwriter we're often told that we've failed to win business because we ask too many questions when assessing a risk. Maybe the above serves as mitigation!

Traditionally, FP providers cater for ships up to 10,000 gross tons and it's here that their expertise mainly lies. Owners and operators of vessels up to this size may not want to share the liabilities of bigger ship owners/operators within the mutual framework, which is why FP is so important to the shipping industry as an outlet.

HUNGER FOR FP

The Clubs continue to insure thousands of vessels falling into this category and the prospect of potentially losing some of this business to the FP market may well have led to the advent of the Clubs own FP facilities. It remains to be seen whether these are a means by which to retain mutual clients or, whether they will stand up in their own right. What is clear however, is that the hunger for FP continues to grow.

This may never be truer than now. Depending on which sector ship owners have operated, the last 10 years, following the financial crisis of 2008, has seen may owners bankrupted, trade dry up and vessel values plummet. Just when we thought that the shipping industry had turned a corner, wham! A pandemic of global proportion hits and the world economy crumbles again. When February comes around in 2021 many ship owners will still be feeling the financial effects of Covid-19 and in all likelihood so will the Clubs.

A number of Clubs posted negative results last year and if investments aren't there to prop up losses, they may well ask their members to pay more money, following the theme of the 2020 renewal. Release calls are usually a good indicator of the Clubs financial health. They have been reduced over the last few years, which is a positive, and it will be interesting to see if they start to creep up.

FP isn't for everyone and, as described above, it mostly caters for vessels up to 10,000 gross tons. But, if you are a ship owner with a vessel below 10,000 gross tons and you face the prospect of higher insurance costs at a time when you can least afford it, you might want to look over the shoulder of your Club and see whose living in its shadow.

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Sanctions compliance: The new norm in shipping

Daniel A. Tadros, Chief Legal Officer of Shipowners Claims Bureau, Managers of American Steamship Owners Mutual Protection & Indemnity Association, reviews the latest developments in the critical area of sanctions and compliance, that all shipowners need to be aware of as they emerge from lockdown and try to return to business as normal.

Recent advisories and pronouncements by the US demonstrate the US government's commitment to prevent sanctions evasion, smuggling, criminal activity and facilitation of terrorist activities with a focus on Iran, North Korea, Cuba and Syria. However, the US is now also using sanctions as a means to force changes in the regime of Venezuela.

Ultimately, and as a result of the use of sanctions by the US as a weapon to effect global political change, the need for the maritime community to assess their sanctions risks and to implement compliance controls, has become of paramount importance.

GLOBAL MARITIME ADVISORY

On May 14, 2020, the US issued a comprehensive Global Maritime Advisory that set forth new guidelines for the maritime industry. Although not legally binding, the Advisory outlines the expectations of measures that the industry should be taking to ensure that shipowners, marine insurers, flag states and classification societies, among others, collectively adhere to sanctions laws.

The feeling in Washington under the current administration has been that the shipping industry lags behind best compliance practices, like those in place in the banking industry, but yet, shipping accounts for a very large percentage of the world's trade.

The Advisory no doubt was the product of the US government's desire to improve the maritime industry's compliance practices while targeting "bad actors" who consistently ignore sanctions legislation.[1]

The end result is that the maritime industry has no choice but to put in place comprehensive compliance programs.

COMPLIANCE PROGRAMMES

As a result of the scrutiny now placed on the industry, owners, operators, charterers, flag states, insurers, and others, must have internal policies and procedures that are robust and not merely for show.

The first step in any compliance program, is the recognition of what sanctions laws apply to a company and the trade of its vessels. Knowing whether US, EU, United Nations, or UK sanctions apply, and being aware of the parameters of the applicable sanctions, dictating how a marine operator conducts its business.[2]

The next step in a compliance program is the due diligence investigation. Such an investigation can be summarized as: Know your Customer (KYC) and Know your Customer's Customer (KYCC). Knowing one's customer and knowing one's customer's customer involves seeking answers to the following non-exhaustive list of questions:

On May 14, 2020, the US issued a comprehensive Global Maritime Advisory that set forth new guidelines for the maritime industry.

> Name of vessel, IMO number and flag;
> Has there been a recent change in ownership and what are the details of such change in ownership;
> What countries are involved in the trade;
> What is the origin and destination of the cargo;
> What is the nature and type of cargo;
> What is the identity and domicile of the cargo shippers and receivers;
> What is the identity and domicile of the charters and of the sub-charterers;
> What is the purpose for which the cargo will be used; and,
> What is the identity and domicile of banks in connection with potential bank guarantees and letters of credit.

Having answers to these questions, allows a marine industry operator to check against applicable sanctions requirements to determine whether the trade is permissible. Moreover, part of a due diligence investigation should be the cross-checking of information with other sources.

Although a company may certainly rely on its internal investigation, it can go a step further by cross-checking with its P&I Club and outside legal counsel well versed in sanctions laws and regulations. The combination of such actions evidences a good faith effort by a company to perform its due diligence and should be sufficient to fend off any threat of non-compliance by government entities.

One scenario that requires special attention is that involving a trade that may be permissible under EU, UK, or UN laws, but elements of the trade implicate US prohibitions applicable to US banks, use of US currency, or cover by US based marine insurers ("secondary sanctions" in the sanctions vernacular). Under such a scenario, a marine operator will have to consider the risk associated with performing the trade and balance that risk against the possibility of losing access to US based financial and insurance sectors. Ultimately, when not sure whether a potential transaction gives rise to sanctions related concerns, consult legal counsel.

WEAPON OF CHOICE

The evolution of foreign policy in today's world has made economic sanctions the weapon of choice for the US Government. To be fair, the US Government has engaged in extensive industry outreach as part of its aim to improve compliance programs in the maritime industry. However, marine operators should recognise that behind the outreach lies an established and tried enforcement machine with numerous diplomatic weapons with far reaching impact. Commercial entities involved in shipping, an industry under the spotlight, should have in place robust compliance policies, procedures and programs. KYC and KYCC should be a part of every shipping operator's compliance program. ⚓

"The feeling in Washington under the current administration has been that the shipping industry lags behind best compliance practices, like those in place in the banking industry, but yet, shipping accounts for a very large percentage of the world's trade."

Daniel A. Tadros, Shipowners Claims Bureau

[1] The expectation that non-US nationals adhere to US foreign policy in some instances is sometimes at odds with the foreign policies of other countries, including the European Union and the United Kingdom. However, the US Departments of State, Treasury and Justice take the position that a non-US entity or person is free to engage with a US sanctioned country or subject but it cannot expect at the same time to do business with US companies or persons. Ultimately, that may mean no access to US financial services and dollar transactions. The US Government knows that losing access to US markets far outweighs any short-term gain derived from doing business with sanctioned entities and is using it to its advantage to effect the desired geopolitical change.

[2] United States sanctions programs are readily available to the public on the Department of Treasury's website.

The most tangible of all visible mysteries

***Peter Stålberg,* Senior Technical Advisor, The Swedish Club, explains how best to deal with infrequent, but potentially catastrophic engine room fires.**

Engine rooms on ships have all the ingredients for a fire – oxygen, heat and flammable fluids under pressure. It is a surprising fact, however, that when compared with all hull and machinery (H&M) claims the frequency of engine room fires occurring is low. What may not be so surprising is the fact that statistics published by The Swedish Club show the average cost to be $1.85m compared with $320,000 for other H&M claims.

Peter Stålberg, Senior Technical Advisor at The Swedish Club, says that the dominating causes of many engine room fires are the same - lube-oil and fuel-oil mist spraying onto hot surfaces and then igniting.

"The SOLAS requirements concerning oil piping in engine rooms are clear. All types of oil pipes must be screened and protected so that any eventual leak will not spray onto a hot surface. Any surface with a temperature above 220°C must be thermally insulated," says Mr Stålberg.

All vessels today are required to have double containment piping (jacketing) for high pressure oil piping. Any leakage inside the containment will be directed to a small collecting tank thus giving the operator early warning of a problem. Any other fuel piping should be screened.

At new build the insulation of the exhaust pipe system is normally in good condition. "Over time, however, when overhauling engine room machinery and removing/refitting exhaust pipes, the insulation will deteriorate," explains Mr Stålberg. "An exhaust pipe system insulated to 95% is not good enough – it must be 100% intact – always."

What differs across claims is not generally the root cause of the incident, but the way that the crew has dealt with the problem. "Preventing an engine room fire is the priority, but the time and effectiveness of the response is almost as important. Although a crew has taken all reasonable precautions, an engine room fire can still occur without warning," he said.

"In one case I have been involved with, even though the exhaust gas pipes on the vessel were insulated with thick blankets of insulation and covered with metal sheets, spraying oil from the sheared main engine exhaust valve found its way to the hot exhaust gas pipe under the insulation, through the crevices and ignited. Quick action by the crew controlled the fire and minimised the damage," explained Mr Stålberg.

"A swift and effective response within a few minutes may limit the damage to soot washing and less than $200,000 in cost. Yet I have seen cases where delaying the response or failing to operate the fire extinguishing system properly, has allowed the fire to intensify and spread, causing severe damage and cost in excess of $3m," he continued.

"What differs across claims is not generally the root cause of the incident, but the way that the crew has dealt with the problem. Preventing an engine room fire is the priority, but the time and effectiveness of the response is almost as important."

Peter Stalberg, The Swedish Club

A SWIFT RESPONSE

Of course, the earlier an engine room fire is noticed the easier it is to deal with, explains Mr Stålberg. "The obvious first danger signal is an alarm going off, yet we frequently hear 'that alarm was always going off', and it being cancelled. Indeed, in one particular case the Master admitted that the alarm had been going off all evening due to fuel leakage. A few hours after the first alarm, the connection burst, there was a huge spray of fuel, and the fire broke out. The crew had the possibility to avert a fire, if they had responded properly to the alarm, and yet they ignored it," he added.

Mr Stålberg admits that there are a lot of alarms that can go off for various reasons, to help the engineer protect a ship's technical equipment. "It can be difficult for operators to sort them all out, but the alarm system must be in order and the crew must understand what the different alarms are for," he said.

AN EFFECTIVE RESPONSE

By the time a fire is noticed it isn't always possible to extinguish it using portable fire extinguishers. It is essential therefore that the crew are not only aware of the procedures for correctly setting off the engine room's CO_2 fire extinguishing system, but are capable of following these procedures under pressure. The fuel oil quick closing shut off valves must be activated, the fire dampers closed and the engine room ventilation fans stopped.

"I have seen an incident where the quick-closing valves were shut correctly but the skylight and all ventilation flaps were left open when the CO_2 was released, leading to a high risk of the CO_2 being ventilated out," explains Mr Stålberg. "In another case the first engineer missed opening one of the valves and no CO_2 was released, leading to only seven CO_2 bottles from a total of thirteen being released into the engine room," he continued.

Mr Stålberg explains that this highlights a problem in the way in which fire drills are carried out. "We find that many fire drills are carried out on deck, when it would be more realistic and relevant to stage nine out of ten fire drills in the engine room, because that is where fires generally start," he says.

It is also vital that the system is in very good condition. If all of the CO_2 is not released the fire will not be completely extinguished and the fire will not die out immediately, and begin burning again.

TRAINING, TRAINING, TRAINING

Mr Stålberg is very clear. "Training is the mother of all knowledge. Fires may happen with very low frequency when compared with other types of damage, but the consequences can be severe. It's important to remember that even if you follow all the rules and regulations, you can still have fires – you can't foresee everything. The crew's response time is really critical. Delay the response by 10 minutes and the repairs costs can be tenfold. Even if you run a tight ship, a fire may occur – and you must be prepared," he concluded.

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Navigating existing and emerging risk

Torunn Biller White, Chief Risk Officer at Gard, explains how the risk management system works at Gard, and how risk management is not just about saying no but also critically helps identify opportunities.

I joined Gard in 2016 from the finance sector, where I have been a risk analyst for several banks and financial institutions and most recently as the leader for Enterprise Risk Management/Security in SPK, the Norwegian Public Service Pension Fund. My role is to map the risks that Gard faces which are known and emerging and the risk management function ensures that all financial and non-financial risks are identified, assessed, managed, monitored and reported.

Financial risks arise through uncertainty of claims, changes to the financial markets or default by our counterparties. We use Gard's own risk and capital model to compute the capital requirements for the group and all insurance entities. We now have approval from Finanstilsynet (the Financial and Supervisory Authority of Norway) to use our internal model for calculating regulatory capital for insurance risk and market risk. This was a major recognition of the internal model team and a great achievement for Gard.

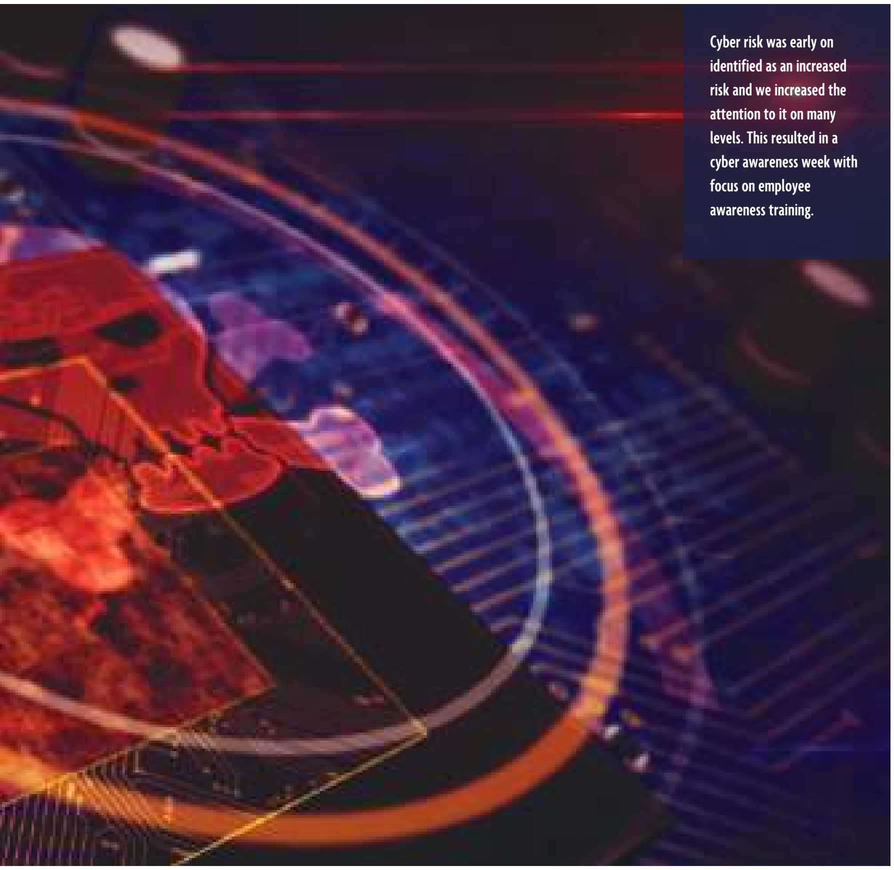
As a global business, we are exposed to different regulations all over the world with which we must comply. Our compliance team puts a lot of effort into ensuring that we manage compliance risk through regular risk assessments, in-house training and communication with Gard employees and board members. My team also has a responsibility for information security and is central in establishing an information security management system in Gard.

EMERGING RISKS

In terms of emerging risks, we take responsibility for identifying areas of concern and communicating this to the senior management and the board. Every year we try to identify emerging risks. In 2019 our ceo identified geopolitical trends, risks and opportunities as a corporate initiative to help us approach complex issues that are affecting the group in a variety of ways, either because we need to prepare ourselves for the risks or be able to seize opportunities that may arise in the medium or short term.

As a result, we identified about 40 different scenarios across four axes (environmental, geopolitical, socio-economic, and technology) and asked the board and Gard managers to rank them. We then put together working groups from different functions and locations that were asked to recommend some further actions. Some recommendations are for immediate implementation, while others are subject to "triggers" to account for future developments. These triggers are monitored by my team.

We have, so far, been through the top three topics that were identified last autumn. The top ranked project is looking into the direct and indirect effects of spoofing attacks, ransomware, and attacks on the operational technology onboard ships. Next is the project which focuses on the impact on Gard as the world transitions towards more renewables. Finally, we have a project that looks at the political situation in the world and the



Cyber risk was early on identified as an increased risk and we increased the attention to it on many levels. This resulted in a cyber awareness week with focus on employee awareness training.

consequences for sanction regimes, trade patterns and local versus regional partnerships.

There are more projects in the pipeline. We will look at international laws of shipping, and at storms and hurricanes because of climate change. A benefit of approaching these complex issues is that we develop a methodology for longer term thinking about risk. For example – energy transition is a process that will take years, even decades. It is essential to be prepared and we need to start now to build competence to face the future.

Ironically, we had identified a pandemic scenario but it did not make it to the scenarios on the shortlist! However, we very early on picked up that something big was about to happen - first in Hong Kong and later in Singapore where we have offices. We understood quite quickly that this could affect Gard's many operations, so I put together a task force on business operations.

PANDEMIC TASKFORCE

The task force consists of members from claims, underwriting, loss prevention, investments, HR, and communications. The group meets regularly, shares information and solves cross-functional issues as they arise. We drew a risk map, which we have used as our reference in the subsequent meetings. The risk map has of course changed over time as the situation developed.

Our CFO created a similar task force for finance and other task forces were created across our other business areas, such as communications and human resources. Frequent information to our employees has been particularly important over this period.

The COVID-19 crisis accelerated the shift to digital communication as all Gard employees transitioned to working from home, in a matter of days. The whole company was forced to work in new ways and responded impressively to new tools and ways of communicating. I feel that the frequent virtual meetings and conversations across the globe brought us closer together. We have had board meetings using Microsoft Teams, and we have had our first ever virtual meeting with the Norwegian Financial Authorities from our own separate living rooms.

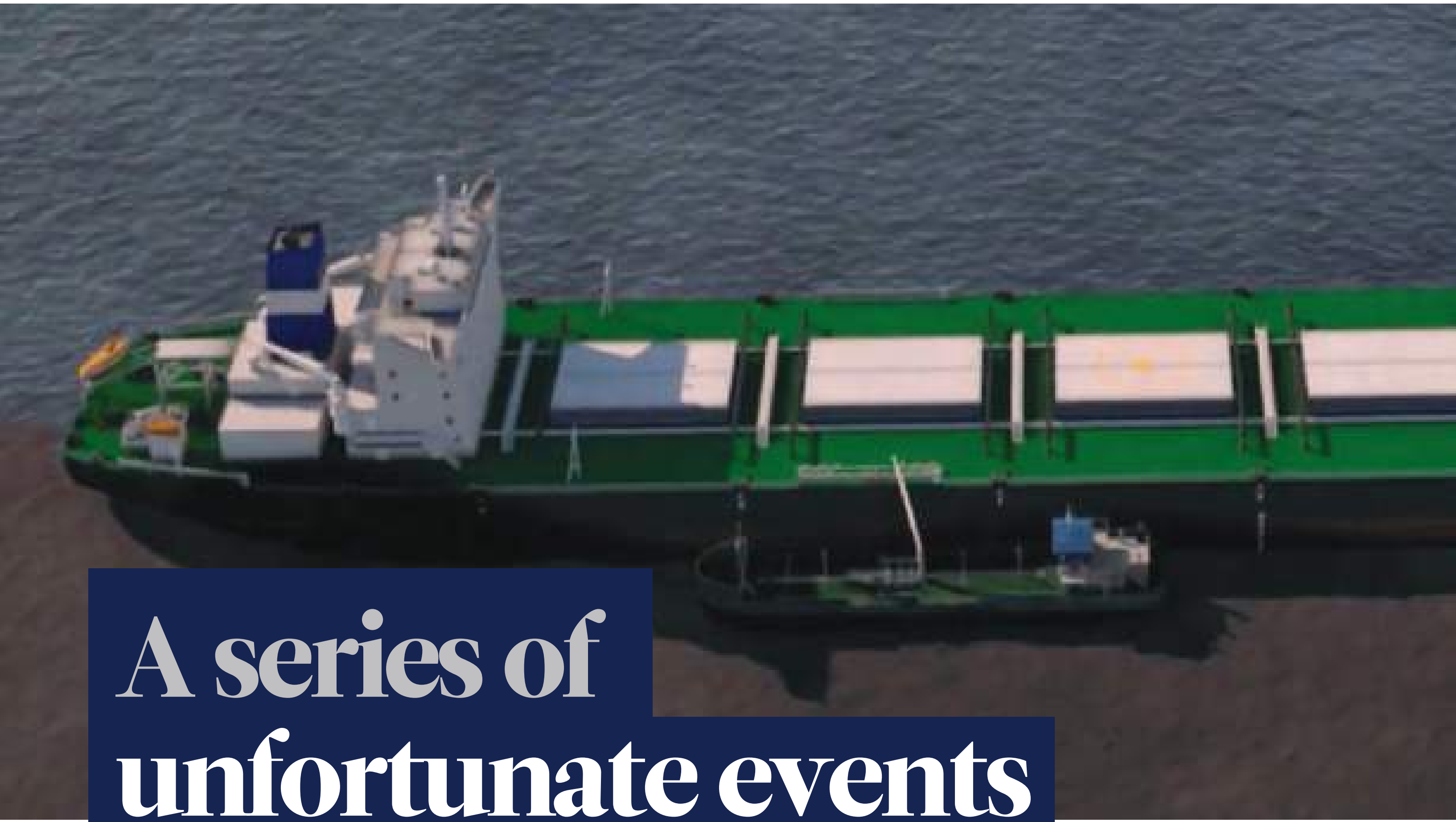
Now we are facing the opposite transition, as many of our colleagues move back into their offices. It must be done in a controlled and safe manner, in line with local government's recommendations.

Our internal risk picture changed substantially over this period. We were made aware of a general uptick in cyber-attacks taking advantage of the pandemic. Cyber risk was early on identified as an increased risk and we increased the attention to it on many levels. This resulted in a cyber awareness week with focus on employee awareness training.

Risk management is not always about saying "no", it is about navigating through new and uncertain territories to make sense of an increasingly complex world. Our job is to look ahead, always keep focus on how known and emerging risks can affect us as a company as well as our members and customers. When we can anticipate risks, we can also look for solutions including new products and services. After all, for an insurer, where there is risk, there is also opportunity. ⚓

"We have, so far, been through the top three topics that were identified last autumn. The top ranked project is looking into the direct and indirect effects of spoofing attacks, ransomware, and attacks on the operational technology onboard ships."

Torunn Biller White, Gard



A series of unfortunate events

Carl Durow, ***Loss Prevention Manager, London P&I Club uses the example of a recent large bunker spill showing how all in the market must be prepared to learn even the simplest lessons to constantly improve and prevent and manage risk ever more effectively.***

Loss prevention is at the heart of most P&I Clubs and these activities are vital in aiding members and assureds to operate safely and to implement best practice. Each Club has its own loss prevention activities which constantly evolve, to ensure that the message and knowledge is communicated in a format that is immediately understandable for staff at all levels.

An example from the London P&I Club is a bunker operations/spill animation video that was recently produced to reach working mariners across the globe. Uniquely, this video is based on a real incident involving a vessel that was entered with The London Club and shows how a series of inter-related incidents resulted in a large bunker spill and a multi-million-dollar claim. These unprecedented and unfortunate chain of events offered an opportunity to share some key learning points to reduce the chances of such an event occurring again.

THE CHAIN OF EVENTS

The vessel – a bulk carrier – was anchored inside port limits awaiting a bunker delivery. The chief engineer generally takes charge but, in this instance, the chief engineer had elected to go ashore and delegated the task to the fourth engineer.

The fourth engineer was considerably less experienced than the chief, but instead of re-checking the bunkering procedures and completing the relevant checklists, he opted to run the bunker operation from memory. When the bunker barge arrived alongside and hoses were being connected, the fourth engineer was asked by the watchman if the scupper plugs were needed. The fourth engineer answered no as none of the tanks were being topped off.

An example from the London P&I Club is a bunker operations/spill animation video that was recently produced to reach working mariners across the globe. CLICK HERE TO VIEW

The fuel being delivered was intended for the No.1 Centre bunker tank. The watchman was told to open the correct valve on the manifold but unfortunately the markings on the valves were worn down and faded and so he simply guessed which was the correct valve. He was wrong. Accidentally, he routed the fuel to the No. 2 Centre bunker instead and the bunker barge was asked to start pumping.

Adding more misery to this sorry tale, the fourth engineer allowed himself to become distracted and called home on his mobile phone. In order to get a better reception he wandered away from the ship's side and left his hand-held VHF behind. As bunker tank No. 2 Centre began to fill with fuel – and it was already almost full – it started to overflow through the vent. Fuel flooded the upper deck and poured over the side – through the unplugged scuppers - into the sea.

The spill was eventually spotted by the barge crew who were unable to contact the fourth engineer by VHF and so took the decision to stop pumping. Unfortunately, this all took place after 26,000 litres had already been spilled overboard.

THE OUTCOME

Unsurprisingly the ensuing clean-up operation was expensive. The entire operation took around two weeks but fortunately almost all the oil was recovered. Clean-up costs reached $6.5m and a fine of $750,000 was also issued by the local port authority. Sadly, the ship's crew made another ill-advised decision and tried to falsify the SMS documents relating to the bunkering operation. They completed the pre-bunkering checklist retrospectively.

LESSONS LEARNT

The London P&I Club is highlighting this specific case as it demonstrates how a chain of errors, some large and some not so large, can result in a significant and expensive incident. The case also offers a series of important learning points to help prevent similar spills reoccurring and to mitigate risk. Lessons learnt include:

> Ensure that staff given responsibility for bunkering operations have sufficient experience and knowledge;
> Follow prescribed SMS bunkering procedures;
> Hold a toolbox meeting with all staff to discuss the plan and the operation itself;
> Agree an emergency signal and procedure with the bunker barge in advance;
> Clearly mark all valves with the spaces they serve;
> Don't allow distractions such as cell-phones while on duty; and, Don't falsify documents after an incident.

Many of these points seem quite simple, but it is often the simple lessons that get overlooked. Thankfully the crew did not face criminal charges for document fraud. The vessel's owners were also fortunate that the clean-up operation was so successful. But this incident damaged both their pocket and their reputation. ⚓

"The London P&I Club is highlighting this specific case as it demonstrates how a chain of errors, some large and some not so large, can result in a significant and expensive incident. The case also offers a series of important learning points to help prevent similar spills reoccurring."

Carl Durow, London P&I Club

Supporting Members in an increasingly complex world

Operating a ship can now seem as much of an exercise in navigating the law, as it is in navigating the sea. A vessel can remedy errors of navigation by placing itself back on the desired course, but a single overlooked word in a contract or even a brief omission in regulatory compliance can have irreversible effects. Alexander McCooke, Claims Syndicate Manager – Offshore, The Shipowners' Club looks at some of the ways that P&I Clubs are able to assist Members with the increasing legal complexity of the maritime world.

The most direct way that Clubs assist their Members with legal matters sits at the core of what the Club does – protection. In carrying on their business, Members may face claims from a wide range of parties, as well as being the subject of investigations, fines or official orders from local authorities.

They might need to enter Lloyds Open Forum contracts and be asked for 'SOCPIC security' or declare General Average and be unable to recover cargo interests' proportion. They might have engaged in towage in an unfamiliar jurisdiction and be unsure about the efficacy of their agreement in the local courts.

In all these cases and more, the Club and its claims team will be there to assist Members with advice on their position and to help them defend and settle any claims which are made against them. To help with this the Club also maintains close links with a range of correspondents, law firms and technical experts worldwide, who it can rely on for expert local knowledge and support.

For those Members who take legal costs cover with the Club, an even wider range of assistance can be provided in any legal dispute Members might face.

STANDARD FORM CONTRACTS

When standard form industry contracts are being reviewed, the International Group (IG) clubs are always eager to assist with the process. This allows them to distil years of knowledge from a wide range of disputes, queries and claims into updated versions of the contracts commonly used.

I currently have the privilege of sitting on the Bimco revision committee tasked with updating the Bargehire form. Another IG Club is assisting with the revision of the Towcon/Towhire forms. The representatives on the committee bring valuable knowledge to the table and we are endeavouring to make the form as concise, clear and effective as possible.

It is important that charterparties such as Bargehire do what they say they do. The legal content and formulation needs to be sufficient to give proper effect to the parties' intentions. But it is important that the form does not become overly legalistic. It should be something which is readily usable by all classes of barge owner and charterer.

CONTRACT REVIEW

When Members enter contracts, whether on a standard form or otherwise, the Club will be able to review these agreements and share the benefit of its expertise on the subject.

We see thousands of charterparties, contracts of carriage and other legal agreements that shipowners and charterers must sign. As a result, the Club staff in underwriting and claims accrue a wide knowledge of contract terms, common amendments and trends, across vessel types and jurisdictions.

In particular, the Club will be able to consider the scope of potential liabilities arising from the contracts presented so that additional cover is recommended if needed. Especially where contracts have been heavily amended, or are part of an extensive chain, the flow of liability and indemnity can be complex. In these cases, the perspective of someone with years of specialist knowledge and experience of related disputes, is a valuable resource.

Sometimes Members seek assistance with operational legal work, for example in preparing contracts or in complying with regulations. Shipowners also has an ability to assist them here through CTRL Marine Solutions Ltd. CTRL is a law firm, wholly owned by the Club, established to offer discounted technical and legal advice to our Members. CTRL also presents a cost-effective law firm option for claims involving English Law.

"The most direct way that Clubs assist their Members with legal matters sits at the core of what the Club does – protection. In carrying on their business, Members may face claims from a wide range of parties."

Alexander McCooke, The Shipowners' Club

INDUSTRY UPDATES

Although claims and contract review are responsive in nature, Clubs are also great exponents of issuing pro-active advice and guidance to Members. When new rules, regulations or conventions arise, we do whatever we can to draw Members' attention to the subject. We endeavour to help Members interpret how it will affect them, and what they can do to comply where necessary.

In our publications page, Members will find guides to maritime law in multiple jurisdictions worldwide, along with legal analysis by our LCC team and Q&As explaining Club cover and the MLC or coronavirus.

The IG, and its Members clubs, do much important work to lobby for positive change in conventions and other laws affecting ship owners and their insurance worldwide. I have seen this Collectively Stronger approach by the IG in action thorough the work of a range of IG subcommittees, and most recently by attending the Legal, Insurance and Documentary Committee of the UK Chamber of Shipping, in which a number of IG Clubs actively participate.

As a Club we are represented across a wide spectrum of IG subcommittees and working groups. Where armed guards are required, there is a committee advising on how best to contract them and guiding Members on how to avoid uninsured risks.

When Members face historic occupational disease claims, we have representatives ensuring that Clubs work together to avoid gaps in cover. Where cargo claims arise under the NYPE or Asbatime forms, costly disputes can be avoided thanks to the work of club delegates who negotiated a mechanism for the automatic determination of such claims. Other colleagues are working for Members' interests on panels focusing on compulsory insurance requirements, bill of lading issues, pollution liability, salvage claim processes and sanctions matters.

The IG has also spent over a decade creating comprehensive textbooks and an examination course (the P&I Qualification) which details the risks and liabilities vessel interests face in the modern world, and explains how they can best be handled and insured. Our former Chief Executive, Charles Hume, was instrumental in creating the course, and the programme has built a huge alumni network among Club staff. In May 2020 we had our first Members of clubs take the exams. What was created to enable us to better serve and assist them can now be a valuable direct training and reference resource.

Diversity provides platform for success

P&I Clubs can no longer rely on a single product to deliver sustainable success particularly in an era when investment returns are so uncertain. Ståle Hansen, president and CEO of Skuld argues that diversification is the only way ahead.

Diversification is essential for the future of the P&I sector. If Clubs are to continue to serve their Members well, to remain financially robust, and to provide mutual liability coverage at consistently competitive premium rates, we must all seek reliable secondary income streams through product diversification, extended geographical reach, and extension of the expertise we consider core. We can achieve these goals by leveraging our key competences against existing and emerging opportunities.

Commercial insurers of all types have weathered a challenging time. During the past decade, P&I premium rates have fallen by as much as 45%, driven down by competition and the improved quality of Members' operations and risk management, which has reduced claims. But the decline in prices has been greater than the improvement in industry loss records. Rates have fallen below the level where it is possible for a monoline P&I insurer to achieve a sustainably balanced underwriting result.

In the past many Clubs survived on investment returns, but the financial crisis of 2008 has made that fall-back a steep upwards climb. We do not expect to be able to rely on investment returns to smooth the inevitable cyclical swings in rates while providing Members with premiums set at economic levels. This is especially true now, as we enter a new financial-markets cycle during which, we believe, almost every asset class has passed its peak value.

Clubs cannot levy premiums at the significantly higher levels required to make good the shortfall and achieve a stable operating performance. Therefore, they must seek alternative sources of income to maintain the enormous benefits of mutuality and risk pooling through the International Group.

EXPANDED RANGE

Diversification is the solution. Skuld has achieved 16 consecutive years of positive operating results because we expanded the range of products and services we offer to create new income.

For most of its recent history, Skuld was a Club for tanker and bulker owners. But ship types have evolved, and our appetite has expanded with those changes, as a cornerstone of our diversification strategy. During the initial years of the 2000s, for example, we added charterers P&I services to our stable. Later in that same decade we successfully fully entered the offshore sector, where we today provide coverage for the far more sophisticated vessels and rigs which now operate in the energy industry.

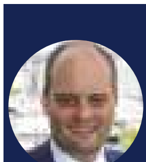
Outside of mutual coverage, we have successfully expanded into hull and machinery classes, as well as in the fixed P&I market for smaller sized vessels and for superyachts. More recently we established a bespoke cruise team which is beginning to accept members in the cruise liner segment, and will ensure we are well positioned to benefit from anticipated consolidation of the sector. Not every effort has been a success

Later in that same decade we successfully fully entered the offshore sector, outside of mutual coverage, we have successfully expanded into hull and machinery classes, as well as in the fixed P&I market for smaller sized vessels and for superyachts and now into the cruise liner segment.

– our venture into the high-cost Lloyd's market, for example, was unfortunately timed – but Skuld Members now enjoy a significant contribution to the Club's performance from commercial, rather than mutual, insurance activities.

More importantly for the future, perhaps, we have expanded our horizons through the lens of sustainability. Ocean industries are changing as the world makes the transition to a zero-carbon future. We have become leaders in the insurance of offshore aquaculture operations, which we expect to be an increasingly important global food source. We have entered the market of offshore windfarms and electric ferries, too, and we are determined to protect the growth of the future offshore renewable industries.

We identified these industries as ones which present risks we understand, and which can benefit from our core competences. We need to be involved in these sectors to cement Skuld's relevance through and after the transition. That has required us to be dynamic and innovative, expanding beyond the obvious marine and hull related covers into sectors which we believe are sustainable for the very long term.



"Diversification is the solution. Skuld has achieved 16 consecutive years of positive operating results because we expanded the range of products and services we offer to create new income."

Stale Hansen, Skuld

P&I Clubs were traditionally established to serve local shipowners, a heritage often reflected in their names. That has long been only a historical phenomenon for most Clubs, but the current environment demands further geographical diversification. Skuld has a strong worldwide presence and membership, but we continue to seek opportunities to extend our reach to new territories.

Most recently, we have begun to establish a presence in Japan through the appointment of an experienced senior local P&I underwriter, who is now obtaining the necessary regulatory approvals for a Skuld presence there. We continue to believe that our Club's membership should be limited not by the location of their headquarters, but by the quality of their tonnage. Such expansion diversifies not only our income, but also our risk pool.

SHAVED POINTS

The most important asset in a P&I Club is the people involved. So, another form of diversification we have embraced is the extension of our core competences. While we pursue such extensions only with extreme caution, doing so successfully can yield enormous benefits. For example, we have been successful in building our own legal services team. Like all insurers, we had spent large sums on third-party legal counsel. By identifying legal skills as a core competence, and bringing those services in-house, we have shaved points from our claims expense ratio, which has been instrumental in our sustained positive operating performance.

P&I alone is too volatile to be sustainable in the emerging economic environment without driving up premiums – the only traditional source of operating income – to levels which disadvantage Club Members, especially during challenging times for the shipping industry. The strength of the mutual P&I sector therefore depends on well-considered diversification which makes the best use of each club's key strengths. All should consider a broader offering of products and services which are undertaken for their profitability.

Every Club should find ways to balance its operating performance without simply making higher calls. We should do so largely on commercial, rather than mutual, terms, in ways which will contribute positively to our sector's overall performance. We will ease the transition to sustainable P&I pricing by embracing such income streams prudently and cautiously in areas which extend the use of our existing core skills. To succeed often, we will sometimes stumble, and occasionally fall, but the imperative for action is clear. Diversification is essential to the maintenance of the multiple benefits of mutuality in the marine insurance sector, and the best assurance for providing our Members and clients with the first-class service and competence they can rely on. ⚓

Pandemic means sharper focus needed on crew physical and mental health

Captain Yves Vandenborn, Director of Loss Prevention at Standard Club explains that seafarer wellbeing has been a focal topic for its loss prevention team for several years. This article highlights the risks to seafarer's well-being during this pandemic and shares supportive advice to help seafarers alleviate these risks for themselves and their crew.

The outbreak of COVID-19 has compelled many parts of the world to enforce a public lockdown in a bid to flatten the transmission curve among the population. International borders have been closed and modes of transport internationally, nationally, and locally have been drastically reduced to impose physical and social isolation to contain the spread of the virus.

Although understandable and absolutely necessary to protect public health, these heightened entry/exit requirements and absence of international movement have derailed crew changes and therefore affected the many seafarers waiting to board and disembark from ships worldwide.

Seafarers face heightened anxiety and stress levels as they are unable to join ship and remain in lockdown at their homes. No work means no income and this directly threatens the family's, and even the extended families' financial income and stability if the seafarer is the sole breadwinner, which is often the case.

NO BLANKETS

Many of these seafarers also come from countries which do not have a wholesome social security blanket that can assist the needy in difficult times. Very quickly, financial hardship leads to physical and mental difficulty because of the unmanageable pressure falling on these individuals.

Fortunately, many international industry bodies such as The Mission to Seafarers, International Seafarers' Welfare and Assistance Network (ISWAN), Sailors' Society and other such organisations are focusing on initiatives and offering outreach services that support seafarers in distress, as well as their families during this difficult time.

In addition to this support, companies within the shipping industry can take this opportunity to work out financial arrangements with their seafarers who are unable to join

ship and look at ways to aid their struggle, such as advancing salaries to them to tide them over during these trying times. This would hold the company in good stead as it is the most practical way for them to show solidarity and at the same time build loyalty and a bond with their seafarers.

Those who are unable to sign off and thus remain on board, face prolonged contracts and a whole host of accompanying problems of their own. Their physical wellbeing being one area which may be negatively impacted. The club has seen an increase in lifestyle related personal illness claims in recent years. Such claims identify issues such as increased blood pressure, diabetes, obesity or liver problems. The increase in this type of illness claims are often a result of unhealthy food choices and excessive in-take of carbs.

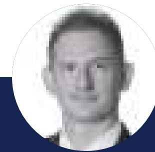
HEALTHY COOKING

Simple changes to the way that food is prepared, using healthier cooking methods such as steaming or baking instead of frying, and less use of salt, sugar and oil would be beneficial. A balanced and nutritious meal will be meaningful and comforting and will provide the seafarer with the fuel they need to be at their best.

Seafarers must also be reminded that ultimately their health is in their own hands. It is imperative to spare time and effort to help themselves feel better in body and in mind. This could begin with simple short daily exercises that they can do with the use of readily available equipment such as using water bottles to replace dumbbells, towels to assist in stretching and the like.

Group sports such as ping pong or basketball, where available, not only increase physical wellbeing, but also promote social wellbeing. Meditating and reading self-help books or any books for that matter can provide some peace and quiet for a healthier state of mind. If there are no avenues for seafarers on board to take a break or derive relief from the steady accumulation of mental and physical stress during this pandemic, it will have a knock-on effect on ship operations, such as a loss of efficiency, a lack of concentration, and a higher risk of accidents occurring.

In addition to a bad diet, the rise in lifestyle related personal illness claims can also be corroborated with the increased availability of Wi-Fi in recent years, directly responsible for the rise in the use of personal devices for entertainment. This advance in technology coupled with poor diet choice has seen many seafarers slip into a sedentary, reclusive lifestyle on board ships.



"Seafarers face heightened anxiety and stress levels as they are unable to join ship and remain in lockdown at their homes. No work means no income and this directly threatens the family's, and even the extended families' financial income."

Captain Yves Vandenborn, Standard Club

COVID-19 has exacerbated these problems because seafarers are now troubled about socialising with fellow crew through fear of contracting the virus, not helped by access to inflammatory and often false news items online. This has led to seafarers isolating themselves in their cabins even further. This level of social detachment has the potential to deteriorate the mental wellbeing of any individual, especially in these tense circumstances.

LISTENING EAR

It is our recommendation that, should good safety precautions be observed and maintained in terms of hosting official visitors from shore, followed by the necessary cleaning and disinfecting after leaving port, seafarers should not refrain from socialising on board, unless someone is showing symptoms. After all, offering a listening ear and having a fellow seafarer to confide in, provides a great source of relief in difficult times like these.

It could also be helpful for ship managers to assist in the alleviation of anxieties of those on board during this period by providing enhanced internet access on board, to allow seafarers to remain in touch with their families at home. This is something seafarers are struggling with today more than ever.

It is vitally important for ship managers to maintain an open dialogue with crew (both on board and ashore), to keep them informed about the latest status of the pandemic worldwide, and matters involving crew changes. This is particularly important to correct any false stories and provide crew with comfort and a sense of trust that they are able to communicate correct information to their loved ones.

No one knows when the battle with COVID-19 will end, but, governments, corporations and international organisations are working together tirelessly to ensure that no one, including seafarers, is excluded from the global response. A testament to this would be the growing numbers of successful crew changes. P&I Clubs are here to support our Members as all of us are dealing with the same issues. Working together will make us stronger. Soon enough a new normal will prevail and we can look back at this and be proud of our resilience that enabled us to withstand these challenges.

This is the time for action

The insurance sector needs to wake up fast to the changing needs and desires of customers. Effective use of technology is the answer. Ronny Reppe, CEO Noria Insurance Software, explains why and how.

As we have entered the 2020s, most agree that the insurance industry will face rapid change in the coming years. During the next five to seven years, we will witness completely new demands emerging from the market, triggered by technological changes and new business trends driven forward by digital disruptors and early adopters.

The changing environment of the insurance industry will ultimately require incumbents to provide their consumers with more value for money.

To get there, insurers should focus their efforts on two significant areas: First, to increase their operational efficiency, and, second, to simplify and improve their customer experience. The insurance players that make the most optimal technological choices and best adapt to the new market conditions will be the industry winners.

MANUAL TO DIGITAL

Powered by increasing customer expectations and new technologies such as automation, machine learning, analytics and IoT, the insurance industry will undergo a transformative process that will evolve the industry from manual to digital operations.

The industry is on the brink of disruption, being one of the most susceptible industries to future disruption, according to a recent survey by Accenture. This found that carriers that are slow to respond to the changing market conditions could suffer significant market share erosion.

The already ongoing disruption of other industries suggests that this claim is valid. Take the telecommunications industry as an example. During the last few years, conventional telecom players have faced declining revenues as so-called over-the-top service providers (OTTs) have entered the stage to deliver services that reduce the demand for traditional voice and messaging business.

These digital disruptors, such as Apple's FaceTime, Google Hangouts, Skype and WhatsApp, use existing telecom infrastructure to deliver the same services that used to be under the domain of incumbent telecom companies. Built on innovative business models, these OTTs threaten to provide services at a lower price than traditional telecom providers. Telecom providers, then, may end up playing the role as an infrastructure provider while other companies take on more customer-facing roles.

The telecom industry is not alone. Other sectors, such as media and banking, face similar challenges, and it is not unlikely that analogous situations will emerge in the insurance industry.

Signals are already emerging, indicating that digital MGAs will leverage existing "infrastructure", in the sense of insurance systems, administrative capabilities and risk financing, to build novel digital services. Incumbents, then, can be relegated to infrastructure providers while digital MGAs create a new layer between them and their existing customers.

THREE BIG TRENDS

Three significant business trends are today emerging in the insurance industry – insurance ecosystems, on-demand insurance and dynamic pricing of risks – indicating radical change over the next few years. Embracing these trends is critical to stay competitive as an insurer during the 2020s and beyond.

Ecosystems refer to a general business trend that is emerging across a wide variety of industries, where organisations group together in networks to create novel and value-adding solutions for customers and consumers. These networks often involve players from different sectors, whose products and services in some way or another complement each other.

Within the insurance sphere, forward-looking insurers are already creating or joining ecosystems with players in other industries to provide better services for existing and potential customers.

Take the insurance company Progressive as an example. It has partnered up with the fleet management company Zubie

> **"In 2017, on-demand insurance represented below one per cent of the global insurance market. Since then, the trend has gained significant traction and is expected to grow by nearly 30% by 2026."**
>
> *Ronny Reppe, Noria*

and the mobile telematics company TrueMotion to gain access to valuable sensor data that can be used to develop new hybrid insurance models.

The idea of partnerships runs throughout the insurance ecosystem trend. Insurers do not need to move sell products or services that fall outside the insurance industry boundaries. They can instead partner with players that sell other products to create an ecosystem of relevant products sold as a totality.

Another Accenture survey shows that four out of five insurance executives acknowledge that ecosystems are an important part of their strategy. However, currently, only five per cent of insurers can be defined as ecosystem masters.

ON-DEMAND INSURANCE

Another significant trend is the on-demand economy, where companies provide consumers with immediate access to goods and services through digital marketplaces and innovative use of technology.

Within the industry, a handful of challenger insurance companies allows their customers to purchase insurance when and where they need it through mobile apps. One of the most well-known examples is the San Francisco-based InsurTech Trov. As one of the first companies to offer on-demand insurance solutions, they allow their users to buy insurance for personal belongings, home and travel insurance and car insurance via a mobile app. Their customers can purchase the insurance on an as-needed basis, which means that they only pay for insurance when the insured object is in use.

In 2017, on-demand insurance represented below one per cent of the global insurance market. Since then, the trend has gained significant traction and is expected to grow by nearly 30% by 2026.

DYNAMIC RISK PRICING

The traditional pricing strategy in the insurance industry is changing. Insurers are departing from a one-size-fits-all approach to embracing a pricing strategy that differentiates the insurance price according to the specific situation and to the particular risks involved.

This trend is called dynamic pricing, which involves using algorithms that change the price of insurance based on various potential factors and data from a range of sources. Dynamic pricing enables insurers to estimate risk more accurately and provides customers with different prices based on their risk level. In other words, dynamic pricing generates price quotes that are tailored to a specific sale.

The international InsurTech Loadsure is a shining example of how the three trends we see emerging in the insurance industry can be leveraged to take the lead on digital insurance operations. The company offers insurance solutions aimed at the freight spot market, where millions of loads are transported without sufficient coverage every day – a huge liability for shippers, brokers and carriers.

Wanting to improve the situation, Loadsure partnered up with leading digital transportation management platforms to offer a full-service freight insurance solution at the click of a button (insurance ecosystem). This solution enables customers to purchase all-risk coverage directly from the digital marketplaces used within the freight and logistics industry (on-demand insurance). Furthermore, the solution collects data on everything from damage history to weather predictions during the freight period to automatically change the insurance price according to the risks involved (dynamic pricing).

The consultancy firm McKinsey has identified four concrete stages of disruption, as seen from the perspective of incumbents. During the early stages, incumbents barely feel any impact on their core businesses except in the periphery. But signals arise that indicates demand begins to "purify" – in other words, that customers address their previously unmet needs and desires. During the second stage, a clear trend has emerged. New technological and economic drivers have been validated, and incumbents must commit to new initiatives to stay relevant. Then, in stage three, a new model has proved superior to the old, and the industry is increasingly moving towards it before the industry fundamentally changes in the last stage.

I believe that the insurance industry is currently moving closer and closer to the second stage of digital disruption, as the three business trends are gaining more and more traction. Those who would like to stay at the forefront and quickly adapt to the changing industry dynamics should investigate and identify how these trends can become a vital part of their strategy during the 2020s. ⚓

Steady as she goes for P&I sector

Logistically the COVID-19 pandemic has had a huge impact on the global shipping industry. There will be claims caused by the pandemic that will hit the P&I market. But it remains relatively isolated from major claims and so the Clubs will find it difficult to seek general increases in future renewals argues Mark Cracknell of Marsh JLT Specialty.

Shipowners need not fear a severe backlash and a hardening P&I market as result of the impact of the COVID-19 pandemic because the Clubs will not face huge claims from the virus and have plenty of capital in reserve, according to Mark Cracknell, Managing Director Marine & Cargo Practice at Marsh JLT Specialty.

The broker told *The Marine Insurer* that the Clubs will face some pandemic-related claims from various sources, not just the cruise-line industry which has attracted much of the related publicity.

Mr Cracknell pointed out that the Clubs have managed their finances well in recent times and all have more than adequate reserves to withstand any spike in claims, even were there to be one, which he feels is unlikely.

Some Club underwriters may point to recent combined ratios of up to 120% or higher as they attempt to push through increased rates in future. But, Mr Cracknell stressed that the Clubs do tend to reserve very conservatively and these ratios will inevitably decline as claims levels filter through on a lower than forecast basis over time.

Pressure from the reinsurance market and from the International Group of P&I Clubs (IG) reinsurance programme will not be felt because the programme was renewed on expiring rate in December and fixed for two years on the back of a decent loss record in recent times.

The IG reported that the General Excess of Loss and Collective Overspill Programme (GXL programme) loss experience on the policy years 2012/13 to 2019/20 (year to date) remains "acceptable" to reinsurers.

It added that the Group's reinsurance captive Hydra continues to give positive results through its loss retention strategy and further there has been "considerable appetite" in the market to write multi-year private placements at "competitive" pricing.

SIGNIFICANT CLAIMS

There will be some significant claims to hit the P&I market of course.

The Diamond Princess was hit by the virus back in February and there were more than 700 people infected for example. Suits have been filed in the US and this could lead to losses of up to $30m experts agree.

But there will be some debate about whether the virus really represents bodily injury and thus the negligence of the shipowner remains in doubt. Even if the claims are ultimately agreed it is unlikely that they will trigger the IG reinsurance programme, most agree.

The job of the broker at a time such as this is to use their data, tools and skills to present the real picture during negotiations with underwriters in future renewals.

The fact that the boards of the Clubs comprise shipowners themselves will ultimately help ensure that any underwriting reaction to the pandemic within the sector will be muted and manageable, added Mr Cracknell.

COMBINED RATIOS

"Most Clubs are reporting that claims are not rising but there were some combined ratios for the 2019/2020 policy year of more than 120%. Generally, combined ratios have to be taken with a pinch of salt because they are mostly forecasts of claims and are usually very conservative. Capital strength is the best measure and the majority of Clubs meet S&P AAA capital requirements and so no-one is particularly concerned," said Mr Cracknell.

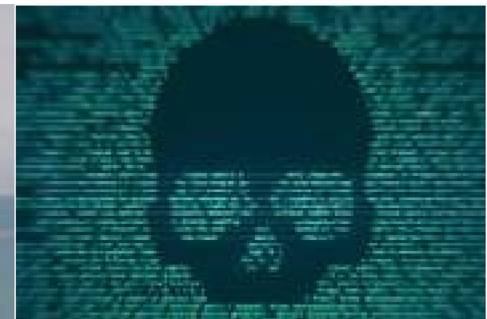
"We use tools to analyse what is a fair P&I premium in what is now a much more transparent world. We know the cost of doing business and we have the Marsh JLT Specialty Rating Engine which provides that assessment. The big question is do they really need to keep building up capital? We accept that this is a mutual system and shipowners do need to pay their way but it has to be fair. In the past the Clubs held all the cards but now it is different," he continued.

Looking ahead Mr Cracknell said that it is probable that some Clubs may seek general increases because of the impact of the pandemic but that will be difficult to justify in his view.

"I expect some of the Clubs will build cases for general increases for the next renewal but that will be challenging because a lot of their Members are facing challenging conditions and the idea that wealthy insurers will need more income will not sit well. People are already saying that premiums are not keeping pace with claims but the P&I Clubs are in no way financially challenged. In many ways this market is insulated from the impact of COVID-19. The Clubs are responding to some COVID-19 claims but it is by no means similar to the threat posed to insurers by business interruption (BI) claims from the retail sector," concluded Mr Cracknell on a positive note for the shipowner community.

"Most Clubs are reporting that claims are not rising but there were some combined ratios for the 2019/2020 policy year of more than 120%. Generally, combined ratios have to be taken with a pinch of salt because they are mostly forecasts of claims and are usually very conservative."

Mark Cracknell, Marsh JLT Specialty



Cyber and COVID-19, have now been added to the other Five Cs of seaworthiness: Condition; Certification; Compliance; Crew; and, Conduct.

Marine Surveying and Claims: The Seven Cs

Jim Clark (left) and David Cox (below) of Matthews Daniel, the loss adjusting, marine warranty and risk services company, point out that the five Cs of seaworthiness has now become the Seven Cs with the addition of cyber and COVID-19. They warn, however, that the core five should not be overlooked because of the seemingly all-consuming nature of cyber and COVID-19.

The 'Seven Seas' is an ancient phrase which has come to mean all of the world's oceans. It existed in many cultures before the extent of the oceans were known, and indeed the reference to seven is likely not literal. Seven Seas is alliterative, and conveys a sense of far-flung travel, a degree of romance, and once one has 'sailed the Seven Seas' an air of experience and expertise.

Many of our surveyors have indeed sailed the Seven Seas. But in their day-to-day work they have traditionally had to think more of Five Cs of seaworthiness as a rule of thumb: Condition; Certification; Compliance; Crew; Conduct. Now, with cyber and COVID-19, Seven Cs are again on their minds.

The basic premise of seaworthiness, that a marine asset is reasonably fit to encounter the ordinary perils of the sea for the intended voyage, is applicable to all aspects of our surveying work, whether it be risk assessment or casualty response. The Five Cs is a mantra that works across this surveying spectrum.

Whilst COVID-19 and cyber are rightly at the forefront of the maritime industry's mind at present, it is important that we do not lose sight of the core Five Cs. Indeed, the COVID-

19 pandemic has shone a light on the importance, and relative invisibility, of the crew; the million-plus seafarers many of whom are effectively being held hostage by COVID-19 related restrictions.

Meanwhile cyber risks have led to various industry responses, with the IMO 2021 cyber resolution to name but one, requiring further certification and compliance. If we are to focus on these two recent additions to the Five Cs we will only ever be telling part of the story. Instead we must consider them in the context of the original five.

SLOW PERCEPTION

Within the insurance market there is perhaps a perception that the shipping industry has been slow, relative to other industries, in addressing exposure to cyber-related crime. This may partly be because of a lack of high-profile cyber incidents that have caused physical damage to date.

It is, however, more likely that the numerous pressing matters that the shipping industry has had to navigate in recent years – from freight rates, oil prices and mis-declared dangerous cargoes to ballast water conventions and Sulphur Cap Regulations, and now the COVID-19 pandemic providing another more 'visible' and immediate challenge – have led to on-board cyber risks being relegated to the bottom of the potential list of exposures for some stakeholders.

The weakest part of any security regime is the human element. It therefore takes no leap of faith to believe that a large percentage of all cyber incidents are, whether accidentally or deliberately, caused by people, by crew. Certification and the technical monitoring of a breach will not prevent a ship-based cyber incident. Compliance with the ship's cyber management plan, and proper conduct or safe operation, will be key.

> **"The weakest part of any security regime is the human element. It therefore takes no leap of faith to believe that a large percentage of all cyber incidents are, whether accidentally or deliberately, caused by people, by crew. Certification and the technical monitoring of a breach will not prevent a ship-based cyber incident."**

The attention on crews resulting from the COVID-19 pandemic has gone beyond looking at safe operational manning, certification, experience, training and induction, and has highlighted the importance of fitness for duty and wellbeing. The maintenance of a healthy state of mind and ability to cope with the challenges posed by the need to remain free from the effects of long-term fatigue when assignments are extended way beyond original expectations is a significant challenge for individuals and the industry alike.

SOFTER ELEMENTS

Surveying and seaworthiness have traditionally focused on condition, with certification supporting and verifying that condition at a point in time. Compliance with that certification became a focus, particularly after the introduction of safe systems of work and the ISM Code in 1998. The conduct of the vessel, that is safe operation and passage planning, has recently been in the news, with the Court of Appeal upholding the decision of the Admiralty Judge in the case of the CMA CGM LIBRA.

However, it is gaining an understanding of the crew, and the softer elements, that build up to generate an understanding of the culture, often the primary driver behind safety at sea and ultimately seaworthiness, which renders a surveyor much more valuable than any internet search.

At one extreme a survey is to determine 'yes' or 'no' to a set list of questions. At the other extreme it is to derive a 'sense' of the whole situation; information which may later become important but which, at the time, was simply of passing interest. At this end of the survey spectrum, experience and expertise are key, and the surveyor will be the holder of significantly more information about the surveyed vessel or unit than could ever be registered on paper.

There is a repository for every survey that has been conducted, for all the experience they have gained with all five senses, sight, hearing, smell, touch, and even taste, employed when gaining an understanding and a sense of a vessel. Five senses used to analyse a vessel's Five Cs of seaworthiness.

With ease of travel and communication making the world feel ever smaller, the first half of 2020 has seen a rapid reversal, with the distant ports of the Seven Seas suddenly feeling much further away. As the cloud of COVID-19 looks to finally clear towards the end of 2020 and into 2021, and with the world slowly reopening, it will be important to remind ourselves that the effect on vessels' crews will potentially have a much longer tail.

The importance of understanding the crew, the people who essentially execute the conduct of the vessel, will be more relevant than ever. This will be a challenge for an industry as it seeks to respond to casualties and implement loss prevention strategies once this current pandemic is over.

It will be vital to ensure that the basics of seaworthiness, these Five Cs, and crew in particular, remain front and centre. When the future of travel may seem problematic or politically incorrect, we should not forget that often the only way to get that picture of the crew, and ultimately the conduct of a vessel, is to have a surveyor draw on many years of experience and judgement to build a picture and a story that a remote or desktop survey can never provide. ⚓

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Marine Claims Dublin

8-10 September 2020

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Cannon Events are delighted to carry on the 15 year legacy of the annual marine claims conference in Dublin.

Tuesday 8th September

14.00
Opening Keynote Address: One Step Back, Two Steps Forward – Marine Insurance 2020
Presenter: ***Jenna Hales****, Marine & Energy Claims Manager, Hiscox*

14:30
Panel Discussion: How Might Covid-19 Affect our Approach to Handling Claims?
Speakers: ***David Cox****, Chief Executive Officer, MatthewsDaniel,* ***Jeremy Maynard****, Vice President – Global Marine, Marsh JLT Specialty,* ***Malcolm Chartwell****, Director and Master Mariner Attorney, South Africa, Norton Rose Fulbright*

15:15
Networking Session

15:45
Panel Discussion: Over-Valuation: Pros, Cons and Potential Pitfalls from the Perspective of the Hull Underwriter, the Broker and the Lawyer
Speakers: ***Peter Mellett****, Chief Executive Officer, Bankserve Insurance Services* ***Joe O'Keefe****, Partner, Stephenson Harwood*

16:30
Keynote Address: Container Shipping
Presenter: ***Greg Knowler****, Senior Journalist Maritime & Trade, IHS Markit*

17:00
'Drinks' and Networking – End of Day One

Wednesday 9th September

14.00
Panel Discussion: Dispute Avoidance
Moderator: ***Jonathan Evans****, Partner, Kennedys*
Speakers: ***Michiel Starsmans****, Legal Director, Splietoff Group,* ***Chris Beesley****, Executive Chairman, C Solutions Consultants (S) Pte Ltd Legal and Claims Consultants*

14:45
Discussion: Salvage During Restrictions (12-24 Month Review)
Speakers: ***Wilco Alberda****, Commercial & Claims Manager, Smit Salvage,* ***Capt. Saumitr Sen****, Associate Director, Hull Claims Management Service, WK Webster,* ***Alistair Johnston****, Partner, Campbell Johnston Clark,* ***Daniel Dettor****, General Manager (Europe), Resolve Marine Group*

15:30
Networking Session

16:00
Discussion: How Might Geopolitics Affect Claims?
Speakers: Paul Cunningham, Marine & Energy Claims Manager, Talbot, ***Patrick Foss****, Partner, Kennedys*

16:30
Discussion: Training in a Virtual Environment
Speakers: ***Stephen Harris****, Senior Vice President, Marsh JLT Specialty,* ***Annie Stow****, Professional Development Director, Standard Club*

17:00
'Drinks' and Networking – End of Day Two

Thursday 10th September

14.00
Presentation: Aggregation: What are the Scenarios with High-Value Vessels Laying Up in One Location?
Presenter: ***Ray Luukas****, Chief Technical Officer, Marine Engineer, Brookes Bell*

14:25
Zoom Chat: Is the Marine Insurance Sector Adequately Equipped to Deal with Claims and Writing New Business When Restrictions are in Place?

14:50
Presentations: Offloading Oil: Do Damages to Ships During STS Transfer Operations Constitute 'Collision' Claims?
Presenter: ***Sora Jeon****, Partner, Tatham Macinnes*

15:20
Networking Session

15:40
Presentations: Liabilities Arising from Covid-19
Presenters: ***Simon Jackson****, Partner, Clyde & Co,* ***Ivan Rodriguez****, Partner, Phelps Dunbar LLC*

16:10
Panel Discussion: The Future of Claims
Speakers: ***Amy Dallaway****, Senior Marine Claims Adjuster, MS Amlin,* ***Deji Sasegbon****, Associate Director, Marine Liabilities & Cargo, Charles Taylor Adjusting,* ***Kingsly Kwalar Kongnyuh****, Chief Executive Officer, Optimiz,* ***Francesco Zolezzi****, Claims Manager, Cambiaso Risso Group*

16:55
Closing Remarks
Speaker: ***Daniel Creasey****, Managing Director, Cannon Publishing*

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Safe-Berth Clauses as an Absolute Warranty

A recent US Supreme Court decision has significant implications for owners, time charterers, and voyage charterers that will all still enjoy their freedom to contract and can choose to negotiate the limit of this duty as they see fit. Jason Waguespack (left) and Frederick Swaim (below left) of US law firm Galloway explain the implications of Citgo Asphalt Refining Co. et al. v. Frescati Shipping Co., Ltd.

The US Supreme Court recently found in a 7-2 decision that the safe-berth clause at issue in the long-litigated ATHOS I oil spill constituted an absolute warranty in which the charterer promised the owner that the discharge port would be safe. The opinion affirmed the decision of the Third Circuit Court of Appeals and resolved the long-standing circuit court split between the Second Circuit, which has also read such clauses to impose a warranty, and the Fifth Circuit, which has interpreted these types of clauses as only imposing upon charterers a duty of due diligence to select to a safe berth.

SAFE BERTHS

Safe-berth or safe-port clauses have long been included in maritime contracts between shipowners and charterers for the hire of a ship. At their heart, these clauses speak to the charterer's contractual duty to select safe berths as they direct the movement of the ship for various purposes. In laymen's terms, when the charterer contracts to direct the movement of a ship it does not own, the charterer assumes certain risks and provides some level of assurance to the ship-owner that it will only take its ship to safe ports.

The question stems from the scope of this duty: Does a safe-berth clause provide an absolute warranty that the berth nominated by the charterer will be completely safe, or does it instead only impose upon the charterer a duty of due diligence to select a safe berth?

The Supreme Court recently addressed this question and squarely answered, as a matter of contract interpretation, that the safe-berth clause is a warranty.

The Supreme Court, however, limited its analysis to a strict interpretation of a specific contract. Perhaps the most important takeaway is that its recent decision is only meant to define the legal framework against which future charter parties will be negotiated. There is nothing in the Court's holding that would prevent charterers from negotiating more lenient safe-berth terms in future contracts. Going forward, owners, time charterers, and voyage charterers will all be free to contract to limit this duty depending on their respective appetites for risk, their bargaining power, and where the market sets the cost of a pure promise of safety.

OIL SPILL

The case arises out of a charter party between CITGO Asphalt Refining Company (CARCO), who sub-chartered the oil tanker M/T ATHOS I from the tanker operator, Star Tankers, which had in turn chartered the tanker from the owner, Frescati Shipping Company (Frescati). In 2004, the tanker was en route to its discharge berth in New Jersey when it collided with a nine-ton anchor abandoned on the bed of the Delaware River. The anchor punctured the tanker's hull, causing 264,000 gallons of heavy crude oil to spill into the river.

Under the Oil Pollution Act, Frescati and the United States covered the costs of the cleanup. They then both sued CARCO to recover the costs, alleging that CARCO had breached the safe-berth clause found in its charter party.

The charter party was based on the standard industry ASBATANKVOY form, which included a provision wherein the charterer, in this case CARCO, was responsible for designating a safe berth at which the tanker would discharge its cargo.

This provision, commonly known as a "safe-berth clause," read that: "[T]he vessel shall load and discharge at any safe place or wharf, . . . which shall be designated and procured by the Charterer, provided the Vessel can proceed thereto, lie at, and depart therefrom always safely afloat, any lighterage being at the expense, risk and peril of the Charterer."

The lawsuit eventually made its way to the Supreme Court, which granted certiorari to answer the question of whether the safe-berth clause is a warranty of safety, imposing liability for an unsafe berth regardless of CARCO's diligence in selecting the berth. It held that it is.

CONTRACT INTERPRETATION

The Supreme Court analysed the issue as a straightforward contract interpretation. Relying on well-established rules of contract interpretation, the Supreme Court explained that statements of fact contained in a charter party that relate to some material matter are called warranties. It did not matter that the safe-berth clause at issue did not expressly invoke the term "warranty." What mattered instead was that the clause contained a statement of fact regarding the safe condition of the berth nominated by the charterer, which, to the Court, was of course material. The clause required CARCO to designate a "safe" berth. That meant a berth "free from harm or risk."

There may well be legitimate reasons to not impose a strict, absolute warranty on charterers. For instance, and as advocated by Gilmore and Black's leading treatise on admiralty, vessel owners and their masters are often in a better position than charterers to assess the risks present in any given berth or port. Yet the Supreme Court, while neither dismissing, nor endorsing any policy considerations, simply did not find it necessary to take them into account in this specific case of a breach of contract. "Our analysis starts and ends with the language of the safe-berth clause," the Supreme Court explained. "We . . . take the safe-berth clause at face value. It requires the charterer to select a safe berth, and that requirement here amounts to a warranty of safety."

"Safe-berth or safe-port clauses have long been included in maritime contracts between shipowners and charterers for the hire of a ship. At their heart, these clauses speak to the charterer's contractual duty to select safe berths as they direct the movement of the ship for various purposes."

Yet it is important to note that the decision was limited to the strict interpretation of a specific contact. The Supreme Court was quick to remind that its decision only serves "to provide a legal backdrop against which future charter parties will be negotiated." Going forward, charterers are free to contract around an absolute warranty of a safe berth by including express language that limits their duty to select a safe berth "so far as the foregoing conditions can be attained by the exercise of due diligence."

FREE FROM HARM

With guidance from the Supreme Court, other courts will now interpret unqualified safe-berth clauses to impose an absolute duty on charterers to select a berth "free from harm or risk." This will not change much at all for the numerous cases that are brought within the Second Circuit's jurisdiction or the many claims that are resolved by the Society of Maritime Arbitrators. But this case specifically rejects the Fifth Circuit's approach to safe-berth cases. All parties should carefully review their charter parties currently in effect and examine the safe-berth clauses to see if they provide any qualifications or limitations, or if they instead follow the unqualified ASBATANKVOY form. If the latter, charterers are now on notice and should know that they carry all of the risk in selecting berths. Going forward, owners, time charterers, and voyage charterers will all still enjoy their freedom to contract and can choose to negotiate the limit of this duty as they see fit. ⚓

Alive at work

Getting to grips with the human side of innovation

The marine sector is emerging out of lockdown amid massive changes in working practices, disruption to the maritime trade and the safety of seamen and women. There has naturally been a heightened emphasis on digitalisation to help revolutionise the sector, enable it to respond to the demands of the modern age and be safer and more resilient. However, participants would do well to take a step back occasionally and consider some of the human behavioural implications of the changes facing the industry and how they might better understand those. Madeline Bailey, founder of independent consultancy Ballantyne, explores some ideas from her work with Prof. Dan Cable, Professor of Organisational Psychology at London Business School and his research in behavioural science.

Leaders will often ask how they can help their people to effectively respond to change, when in fact, human beings are uniquely receptive to change. We are the only species that can imagine future worlds and innovate.

For example, as a species, human beings were not meant to fly. All other animals without wings simply walk around. Yet it is intriguing that humans want to fly higher and faster than any bird. Of course, some of the changes we make are not effective. So, we have this enormous ability to make an impact, but, we have to be wary about how we use it.

All parties in the marine sector are constantly looking how to create value. The COVID-19 pandemic continues to bring challenges to the sector and will undoubtedly have a lasting impact.

In the midst of all of this companies are having to find new and more innovative ways to create value, to make an impact, increase customer 'share of wallet' and stay relevant.

It seems that to stay relevant an organisation has to be not only innovative but also be prepared to destablise itself. That is not normal for many people in our industry. It is not the way we cut our teeth. However, to stay relevant requires a process of continuous change. Here are a few ideas to help you get there.

EMBRACE THE 'HEDONIC TREADMILL'

The idea of 'hedonic treadmill' refers to the unique capacity of human beings to accept something extraordinary caused by innovation and to quickly view it as the norm.

Imagine explaining to someone in the 1900's how they would be able to travel from Singapore to London - a journey that would have taken months back then - and get there overnight, travelling in a metal tube that flies so high we cannot breathe the air. They would not have believed it was possible. Now, it is the norm.

Human beings are creatures of demand — we always desire the next best thing. It is important for companies to understand this. If they want to remain relevant, they will have to innovate. The very best companies base their entire business model around continuous disruption, constantly scanning the environment to seek to take advantage of opportunities. They want to find faster, better, cheaper and more customer centric ways to fan their customers' hedonic treadmills.

There is no question that technology is rapidly evolving and reshaping the marine insurance landscape. Many partnerships are now being developed within the marine market to help to provide more personal, granular and differentiated services to the customers of the sector.

UNDERSTAND THE BIOLOGICAL BASIS

Being able to differentiate exceptionally doesn't just happen. It happens because you are built for it. But, it seems that investing in and developing innovative strategies, creativity and playfulness – uniquely human traits – are vital for companies that want to be agile and innovative. This is something that many leaders lose sight of. They only want the innovation that works.

Yet we can all identify with those companies that have the agility, the adaptability, the creativity and the innovation, to constantly respond to what their customers want. They somehow feel different on the inside. It is not even as if this is a 'nice to have' any more.

In his book 'Alive at Work', Prof. Cable explains that many management practices - that emanate from the industrial revolution when it was important to ensure people did as they were told – are not designed to foster innovation. These practices light up the part of the brain called the 'fear system'. This part of the brain narrows perception and encourages submission.

Prof. Cable says that all is not lost. Behavioural science has also shown that when you light up the part of the brain called the 'seeking system', biologically, it creates a natural impulse to explore, learn and extract meaning from circumstances. This is the ideal environment for innovation.

FOSTER THE POWER OF PURPOSE

Finding personal purpose is one way to light up the seeking system. The actual concept of having a purpose in life dates back to the ancient Greeks. Contemporary thinking stems from the writings of Viktor Frankl, a physician, who found that having something to live for, helped him to survive three years in Auschwitz.

"Human beings are creatures of demand — we always desire the next best thing. It is important for companies to understand this. If they want to remain relevant, they will have to innovate."

Madeline Bailey Ballantyne

More recent studies have shown that purpose is energising. Prof. Cable explains that having personal purpose lights up the seeking system and gives a jolt of dopamine. This biologically makes people more receptive to their environment, more intrinsically motivated and resilient.

We also know now that living a life with meaning is life giving. There are a number of studies that not only confirm this but also go into the genetics – helping humans to fight illness, and, turn on our resistance to disease.

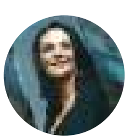
Yet for many companies helping their people find purpose can be very hard in part because of the misalignment of the corporate purpose with out of date management practices at the human level. Prof. Cable suggests that it is possible, by understanding the seeking system, to deploy some simple strategies that help people to be their best at work.

He explains there are two main components of developing strategies on personal purpose. The first is to help your people experience the impact of their work on others, and, the second is to help people develop stories of their own why for work. Helping people to do this is uniquely personal. It must be found by the individual and cannot be given or told. It must be believed by the individual rather than broadcast.

Those that can do something meaningful for people instead of focusing solely on outputs alone, will be the ones who are able to constantly evolve rather than be disrupted. Be clear about why your organisation exists, what problems you are here to solve and who you want to be for each human being you touch. ⚓

> The title of this article is inspired from Prof. Dan Cable's best-selling book "Alive at Work – the neuroscience of helping your people love what they do" published by Harvard Press, 2018.

Avoiding underwriting illegal activity at sea



Sanctions-breaching is on the rise – Dr. Sarah Bourke (pic) and Capt. Gabriel Zevri of Skytek look at how satellite technology and analytics can protect insurers from undue risk.

Data from outer space provides the key to problems on the seas below. From underwriting to compliance to risk, Irish space company Skytek's award-winning Marine Aggregate Tool technology is designed help the insurance and reinsurance sectors answer the hardest questions they face.

Vessels are "going dark" in global hotspots, turning off transponders in an attempt to evade sanctions and embargoes.

Capt. Gabriel Zevri, a longtime master mariner now marine manager at software solutions developer Skytek, says relying on vessels to self-report and cross referencing with actuarial information will give a severely limited and delayed picture. And that is the best case scenario.

"There is a lot going on at sea, and if people don't want it to be seen, they will work hard to try and hide it," says Capt. Zevri.

One recent report from the Associated Press newswire, published on 13 July this near noted that, while sanctions had seen port calls in Venezuela plummet by 46%, the Gulf of Venezuela and Venezeulan Carribean sea were not short of marine traffic. Indeed, 214 vessels that visited Venezuela in the year after sanctions were imposed had not been there in the previous 12 months, accounting for a full 33% of Venezualan marine traffic. Of these, 103 were tankers, owned by 41 companies. The US has already sanctioned 50 vessels for illegal oil trading with the country.

ILLICIT TRADING

The US is now probing Mexican and European companies allegedly involved in illicit trading, reported Reuters.

Venezuela is far from the only black spot: Iran has been selling oil via ship-to-ship transfers, and the captain of one ship, the Dominica-registered MT Gulf Sky, claims to have been hijacked near the Strait of Hormuz after disappearing, transponder off, from its UAE anchorage. The Gulf Sky had been at the centre of US allegations of sanctions evasion.

There are also growing concerns around maritime traffic to and from North Korea and Syria.

Clearly, the risks to the insurance industry are enormous. In May 2020 the US government published an advisory that specified the risk to insurance companies. It singled out practices such as "going dark" by shutting off AIS transponders or "spoofing" the signal by pretending to be another vessel. It also noted voyage irregularities, ship-to-ship transfers, byzantine changes in ownership and other methods of evading sanctions.

The advisory, published jointly by the Department of State, Department of the Treasury's Office of Foreign Assets Control (OFAC) and Coast Guard, raised the alert for the "trade in crude oil, refined petroleum, petrochemicals, steel, iron, aluminum, copper, sand, and coal". It listed stakeholders as "ship owners, managers, operators, brokers, ship chandlers, flag registries, port operators, shipping companies, freight forwarders, classification service providers, commodity traders, insurance companies, and financial institutions."

The US is now suggesting the industry needs to work smarter—and work together: AIS should be monitored more closely and ships should be followed throughout their entire ownership lifespan, while P&I Clubs should notify others of suspicious activity.

British security think-tank the Royal United Services Institute (RUSI), meanwhile, warned in its 2018 paper "Underwriting Proliferation: Sanctions Evasion, Proliferation on Finance and the Insurance Industry" that the complicated nature of information exchange in the sector, which is often reliant on clients' information being passed down from other parties, resulted in less than ideal compliance. It went on to argue that insurers and reinsurers should take a more active approach to apply supply chain due diligence.

"Today, the high seas are more risky than ever. Insurers and reinsurers need to protect themselves not only from extreme weather and poorly-maintained vessels, but active illegal activity."

Capt Gabriel Zevri, Skytec

But how can the industry do that, when information is scarce, scattered, often out of date, and in the worst case scenario, actively being tampered with?

Skytek and global professional services provider Aon think the answer is visibility: Both literally and in terms of historical behaviour.

Skytek's React software suite provides virtually live satellite data on vessels' locations, including noting—and alerting for—periods of dark activity. When combined with comprehensive data on ships' histories, both in terms of voyages and ownership, as well as maintenance records and port data, Skytek React allows underwriters to take a close look at any vessel or company before taking on risk.

The stakes are high and illicit activity, while often off the grid, is no longer flying under the political radar. For example, in 2019 the UN heard that "insurance companies continue to unwittingly facilitate payments and provide coverage for vessels involved in ever-larger, multimillion-dollar, illegal ship-to-ship transfers of petroleum products, as well as an increasing number of ship-to-ship coal transfers and attempted trans-shipments".

ILLEGAL ACTIVITY

Skytek's Capt. Zevri, said: "Today, the high seas are more risky than ever. Insurers and reinsurers need to protect themselves not only from extreme weather and poorly-maintained vessels, but active illegal activity."

Indeed, as the winds of geopolitics shift—consider how rapidly the Iran deal broke down, or the on-again, off-again US rapprochement with North Korea—insurers and reinsurers find themselves playing cat and mouse, but blindfolded.

Technology can provide the necessary vision—and allow the sector to put clear blue water between itself and risky operators.

"By aggregating historical data with current activity Skytek React allows insurers and reinsurers to see the true picture of what is happening both at sea and on land," said Capt. Zevri.

Predictive analytics in particular can be used to understand which vessels and owners are riskiest. Alerts for dark activity immediately flag suspect activity that could break the terms of cover as well as risky behaviour such as loitering in storm zones.

According to Capt. Zevri, as both the geopolitical and technological landscapes shift—last year the US asked insurers to take an active role in stamping out high risk activity—the best possible strategy is to shine a light on who is doing what, where and when. "Really, operating in the dark can now be a thing of the past," he said. ⚓

COVID-19 accelerates shift to remote working

Tim Crossley – Business Development Director at Sapiens, the software solutions provider to the insurance sector, argues that the shift to remote working caused by the pandemic offers the opportunity for the insurance sector to move onto a new level of relations with customers and efficiency.

Forget B2B! Ditch WFH! Welcome to the H2H or Human to Human era! Recent events give us the perfect opportunity to build much stronger more trusted relationships with customers and business partners. Are we going to seize this opportunity to use technology to make work more personal in the 'next normal' or will we revert to the traditional work/life segmentation?

A recent McKinsey survey suggested that we "have vaulted five years forward in consumer and business digital adoption in a matter of around eight weeks" and the digital outreach that many of us have experienced with doctors and teachers confirms this. Surely no one now doubts that digital engagement will be the main form of customer interaction as it currently is with our friends and families, and appropriate automation will support a more personalised yet more productive dialogue?

SECURITY BREACH

I received a notification of an 'important letter' from my US equity broker last week. I was asked to log on to their website to retrieve the letter. Of course the first thing I had to do was remember the password as I am not a 'day trader' in any way shape or form!

After a bit of huffing and puffing (including setting up the new two factor authentication secure access they have instituted during COVID-19) I got there and opened the letter with a mixture of dread and anticipation. Ironically the letter informed me of a security breach. What shocked me was that the breach originated from the closure and decommissioning of some data centres in 2016 and therefore might have happened soon after.

Now this is a multi-billion dollar turnover bank I am talking about. Guys, shouldn't you be informing me more promptly than four years later? 'We sincerely regret any inconvenience or concern this matter may causes you' doesn't cut it for me. Free access to the Experian IdentityWorks service was offered but is truly 'shutting the stable door after the horse has bolted'.

What does this have to do with marine insurers and their use of technology? Very simply, we are seeing unprecedented acceleration away from on-premise systems and into the Cloud, away from centralised administration and towards permanent remote working, away from manual and towards automated, and away from a front office/back office mind-

We are seeing unprecedented acceleration away from on-premise systems and into the Cloud, away from centralised administration and towards permanent remote working.

set and to a 'next normal' of digitally enabled H2H collaboration. All of these revolutionary shifts then bring appropriate systemic controls and cyber security right up front and centre, in line with my personal experience.

These shifts also provide a tremendous opportunity to release us from the humdrum and procedural, giving us time to really listen to and understand the needs of our customers and business partners. Many see technology as a threat to their livelihood; surely instead we should harness it as a way to confirm our hunches and inform our gut feelings.

As one CEO of a large tech company recently stated: "We are witnessing what will surely be remembered as a historic deployment of remote work and digital access to services across every domain."

OPPORTUNITY

For Sapiens COVID-19 has provided an opportunity for us to differentiate from our competitors in the provision of software and services to the insurance industry. We shifted 3,200 people to remote working within a week of lockdown. We were able to do this because we have always worked directly but remotely, leveraging nearshore and offshore capabilities whilst keeping our Core R&D capabilities in Tel Aviv. Of course this ability to work effectively remotely is only of value if our customers can take advantage though - and they can! I continue to be amazed by the ambition of our customers and their drive to maintain momentum and even accelerate away from the pack in these challenging times.

Five brand new projects since COVID-19 hit. Two Blueprints started and f inished with zero onsite. We even took a Tier 1 global insurer onto the UK comparison websites starting in February and finishing in June, again with zero onsite. Together with our customers we have adapted to the new way of working very nicely. This is the future for the marine insurance market. It is time to start exploring the options. ⚓

"For Sapiens COVID-19 has provided an opportunity for us to differentiate from our competitors in the provision of software and services to the insurance industry. We shifted 3,200 people to remote working within a week of lockdown."

Tim Crossley, Sapiens

The full marine cyber solution

Robert Dorey, CEO of Astaara Company Ltd explains how its solution can plug the gaps in cyber risk management and coverage that have become such a concern for the shipping community.

In the last five years brokers, shipowners, oil companies, logistics providers, drillers, cargo owners, and ports and terminal operators have all asked what can you offer on cyber? There were two common themes to all the enquiries. First: What should insureds be doing and against what benchmark for cyber security? Second: Is there an insurance product better than a reinstatement of a buyback as a proper solution to risk transfer? We argue that AstaaraCyber is the answer to both those questions.

Risk Management

The maritime community is not immune to the startling rise in ransomware events, phishing attempts, ecrime, business interruption, supply chain disruption and additional expense. Claim numbers have risen by more than 400% during the COVID-19 pandemic as companies have relied on a digital operating environment to manage business continuity. It is clear the move to digital operation was not conducted with enough digital protection (cyber security) to users and systems. Businesses are vulnerable, and the cyber criminals know it.

The starting point for any organisation is: How do I manage the risk presented by digital operations and what do I need to do to bring the risks within the board-specified tolerance?

Many owners are unaware that these risks can be identified, managed and mitigated. Governments in the US, EU and UK have been working hard over many years to equip the business world with tools to help them be a smaller digital target and ensure that, when hit by a digital incident, they are better positioned to recover quickly and with minimal cost.

The UK National Cyber Security Centre, the EU ENISA, and the US Department of Homeland Security have all issued guidelines to industry. The most common are Cyber Essentials Plus (CE+) in the UK and the NIST Cyber Framework in the US. The IMO has now mandated specific cyber audit requirements to be undertaken in flag state ISM approval and certification, placing flag states and their enforcement agencies with a bewildering array of challenges.

The prime reason for adopting CE+, NIST and IMO ISM Cyber Guidelines is that, properly implemented, you will be able to protect your business from nearly 70% of all digital threats. It will immediately improve your risk profile and bring other benefits. D&O premiums are rocketing, in part, because publicly listed businesses that have cyber losses will typically see share prices slump.

However, if you are able to demonstrate cyber leadership and cyber enterprise risk management to shareholders you will materially improve your risk profile. You will give your investors more confidence and ultimately your clients and, most importantly your staff, will be provided with confidence that data assurance is valued in your company.

There is one other significant benefit if, following a cyber incident, you are the subject of an investigation by flag state government enforcement agencies. Your only defence will be evidencing you were operating in accordance with the regulations. Nothing else will assist you.

Few can advise an owner of what practical digital risk

> "Claim numbers have risen by more than 400% during the COVID-19 pandemic as companies have relied on a digital operating environment to manage business continuity."
>
> ***Robert Dorey, Astaara***

management steps need to be undertaken, prioritise financial upsides, and, all with a real understanding of maritime financial risks.

The Astaara Risk Management team is built on a collective 100 years plus of experience in the cyber assurance, risk management and security fields. We work with large and small and take our clients on a cyber maturity journey that is affordable and demonstrably beneficial to all stakeholders. Whether it is an ISM ship cyber risk audit or the most sophisticated Operator of Essential Services under Network Information Systems Regulations (NISR), we can scale efficiently and quickly.

Underwriting

If you review all the digital operation/cyber claims that have impacted the maritime sector, you will draw four significant and startling conclusions:

1. Not a single ship has been physically damaged following a cyber incident, to date. No cyber incident would have resulted in a particular average claim potentially recoverable under a hull policy (with a cyber inclusion);
2. Traditional marine insurance will not pay loss of hire or, more broadly, business interruption if there is no physical damage to an insured asset that leads to the financial loss;
3. Existing cover is not fit for purpose. Most marine policies have cyber exclusions built in, and many cyber policies also exclude war and terror events. It is no surprise that many cyber claims have not been covered by traditional buyback of exclusions or data breach coverage; and,
4. If a ship is prevented from operating because the digital systems are not functioning, how does an owner achieve the required level of claims support if there is no maritime expertise? Existing claims products are deficient and denies owners the scope of support they enjoy for non-cyber/digital claims.

The AstaaraCyber solution is a comprehensive solution designed for shipowners and ports operators. It is an integrated ship/asset and enterprise coverage in a simple and affirmative policy that meets the risk faced by the whole of an enterprise. Key differentiators in the AstaaraCyber coverage are:

1. Physical asset coverage for cyber-caused incidents;
2. Business interruption where the asset is not physically damaged but has sustained a cyber incident compromising operation;
3. Defence and remediation;
4. Data loss and restoration;
5. Ransomware response;
6. A claims offering that understands the technology of the maritime industry ships/ports and related assets; and,
7. AstaaraCyber is unique, integrated and a comprehensive solution.

It will provide balance sheet protection that is unrivalled.

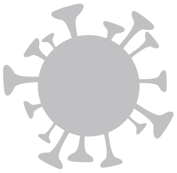
However, we cannot offer such broad cover unless we understand and have visibility of the level of cyber standards that the target insured is operating at. Astaara will not underwrite 'cyber blind'. As the cyber and digital threats increase then so must the operational maturity of the insured. Astaara will work with our insureds to ensure the standards are improving year-on-year, and we understand that this will take time. We are at our best when we work in partnership with our clients and our insureds.

For more information Astaara go to https://astaara.co.uk/

Contact CEO Robert Dorey by emailing
robert.dorey@astaara.co.uk

Storm of the Century

Global fiscal and monetary stimulus measures sparked by the COVID-19 pandemic have been massive and many investors are wondering about the short and long term implications. Vin de Lucia, Chief Investment Officer at New England Asset Management (NEAM), gives his thoughts on where we are headed, in particular with inflation. Longer term he believes the fallout could lead to supply chains being less global with a greater focus on bringing manufacturing processes closer to home, a big discussion about the distribution of profits between capital and labour and inevitably higher taxes at both the corporate and individual level.



As we began 2020, the global economy was on relatively sound footing, with a "phase 1" trade deal between the US and China providing some tailwind. Now as we head through mid-year, unemployment rates across most of the globe have risen massively and budgets have been upended by the extraordinary impact and economic dislocation caused by Covid-19.

The combined fiscal and monetary response has amounted to over 20% of global gross domestic product (GDP), much of it financed by additional borrowing, particularly in the US. This turn of events has investors concerned about the long run impact of these emergency measures.

> **"As we begin to emerge from the shutdown period, it is entirely possible that we experience some temporary price increases as demand may temporarily outstrip supply in various areas."**
>
> *Vin de Lucia*
> *New England Asset Management (NEAM)*

INFLATION: STIMULUS VS. DEMOGRAPHICS

To say that the last few months have been stunning is stating the painfully obvious. The US government mandated rescue programs are to be financed by the issuance of even more debt which will be purchased in large part by the Federal Reserve and other central banks. These are price insensitive buyers, effectively creating money out of thin air. This scheme will ostensibly keep interest rates very low since these central banks are poised to buy as much debt as necessary to fund the rescue measures.

This begs the question of whether this can go on ad infinitum, or whether at some point, inflationary pressures make a comeback. This question has been pondered for over a decade now, as zero interest rates, negative interest rates and seemingly endless rounds of quantitative easing have ballooned central bank balance sheets to levels once unimaginable (see chart 1).

Yet despite the seemingly endless money printing which largely became the policy prescription of choice after the financial crisis in 2008-2009, inflation in the price of consumer goods and services has remained benign.

To illustrate this, we have used the US Consumer Price Index (see chart 2). Indeed, monetary policies have had a much greater impact on financial asset prices than on prices for goods and services. To appreciate why, one needs to consider the following critical fact: Rising price levels for goods and services are ultimately a function of end demand which drives prices of raw materials, labour and services.

The aging demographics prevalent across advanced economies, combined with efforts toward globalisation over the last 25 years have been significant counterweights to price level increases and have mitigated the inflationary tendencies of ultra-easy monetary and fiscal policy. Demographics in developed economies puts a proverbial lid on end demand while globalisation of supply chains has kept both materials and labour costs in check.

Another more recently discussed item of note which has held inflation in check is income inequality. While income inequality is not usually discussed in the inflation context, it most certainly has played a role. With greater concentration of wealth in fewer hands comes a disinflationary impulse, since the marginal dollar is saved (or invested) versus consumed by those with the most wealth. Hence, while income and wealth disparity are discussed in terms of "equity" or what is fair versus not, it can also be thought of in terms of suppressing end demand which ultimately is what pushes price levels higher.

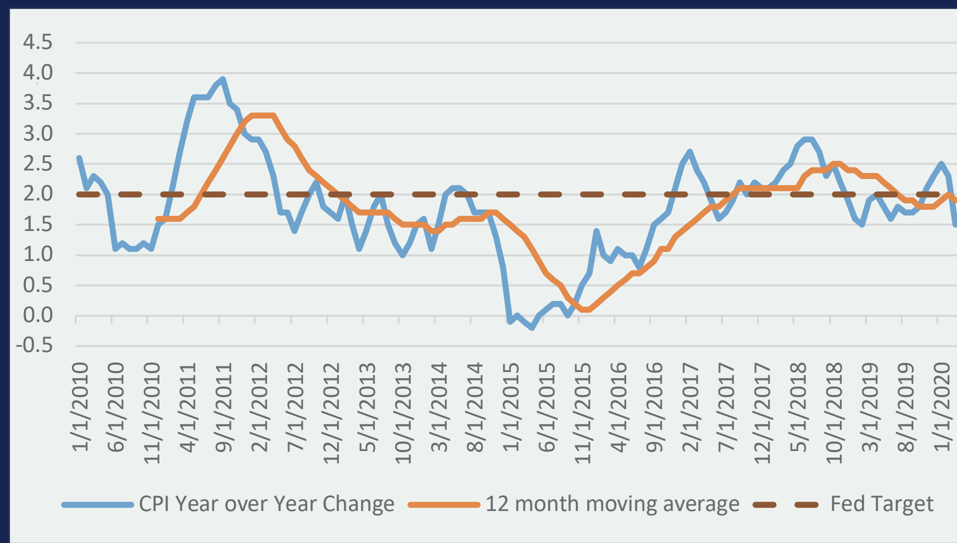
Hence, despite easy money policies which keep interest ▶

CENTRAL BANK BALANCE SHEETS
As a percentage of GDP

rates at astonishingly low levels, unless sustained end demand gathers momentum, it seems very likely we will continue to see more of the same – asset price inflation without a corresponding and sustained lift in general price levels.

As we begin to emerge from the shutdown period, it is entirely possible that we experience some temporary price increases as demand may temporarily outstrip supply in various areas. Oil and gasoline prices, for example, are likely to rise as we reopen economies globally. Oil production had declined by over 10 million barrels per day (mpbd) and is now at around 8mbpd less than pre-crisis, so we may now need to reestablish equilibrium because of supply side considerations. Time will tell, but if major central banks are to be successful in maintaining core consumer price inflation (and expectations) at or above their target levels of 2% on a sustained basis, some combination of the previously discussed factors will need to change.

U.S. CONSUMER PRICE INDEX
Year over year change



Source: Bureau of Labour Statistics, NEAM

WHAT LIES AHEAD?

Looking ahead to the next three to five years, we will likely see a world where supply chains are less global with a greater focus on bringing manufacturing processes closer to home.

The last 25 years has seen a focus on cost minimisation via globalisation. The next several years will likely focus on national security and self-sufficiency, particularly in key areas of pharmaceuticals and medical supplies. Somewhat higher price levels should be accepted in exchange for security and national pride.

Another likely outcome of the pandemic is a reassessment of the distribution of profits between capital and labour. For decades, capital's share of profits has increased as compensation for labour was held in check, as were consumer prices, by globalisation and automation. There is, once again, an acute awareness that profits are distributed to shareholders while systematic downside risks are "nationalised."

As "the bills come due", this will attract more attention, given we currently have some of the highest rates of unemployment that developed markets have seen since the Great Depression. While wage inflation isn't on anyone's radar with the spike in unemployment rates, it does seem quite plausible that companies that employ financial leverage to enhance shareholder gains will, one way or another, be asked to shoulder more of the "insurance" costs going forward.

To that end, policy adjustments will be necessary to deal with the massive costs of this pandemic or the endless monetisation of debt that will eventually be likely to significantly debase all major currencies.

In a post Covid-19 world, where government is called upon to be the lender of last resort and the guarantor of economic and financial stability, tax rates will likely rise to compensate for the fact that only governments have the wherewithal to deal with systemic shocks which, when they occur, entail enormous costs. Corporate tax rates should probably rise first and most, but individual tax rates will also likely rise. This seems likely to be a global phenomenon and we would expect this topic to find its way onto the agenda of future G-20 meetings. Insurance has a cost, and it will likely be paid for in the future by higher taxes at both the corporate and individual level.

NEAM is maintaining our emphasis on fixed income spread products, as the rescue measures and Fed, ECB, BoJ and BoE programs have supported credit markets. There is likely additional assistance coming for US state and local government as well, as they navigate the abrupt interruption of heretofore steady income streams. If the duration of the disruption is measured in months and not years, most states, local governments and agencies should be able to weather the storm of the century. ⚓