THE 10TH JOINT INDUSTRY OUTREACH SEMINAR

ON STRATEGIC TRADE MANAGEMENT - SINGAPORE 2022

Compliance Challenges in a Complex Regulatory Landscape

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Agenda

- Providing an insurer's perspective on trade controls and sanctions risks
- Protection and Indemnity (P&I) insurance in brief
- How does the P&I sector respond to trade controls / sanctions risks?
- Conclusion

P&I insurance in overview

- Marine liability coverage of ship owner / operator’s key shipping liabilities on a “named risk” basis.

- A key insurance for shipowners (alongside Hull & Machinery)- a “ticket to trade”.

- 13 P&I mutual organizations (clubs) insure 90% of world’s ocean going tonnage:
  - “Pooling” of liabilities between clubs and extensive reinsurance to respond to larger claims.
  - Mutuality and pooling require that P&I clubs move ”in step” to insure the same risks.
  - Modern P&I clubs place a heavy emphasis on “loss prevention” – sharing knowledge with clients to proactively avoid claims.

P&I insurance in overview

Key liability risks are covered under P&I:

- Cargo claims
- Crew injury / illness claims
- Pollution liabilities
- Collisions
- Wreck removal
- **Fines**
  - Most relevant rule for trade control liabilities faced by shipowners.

P&I coverage for fines- how does it work?

- Certain **named** types of fine covered as of right, including ”every day” trade control breaches:
  - Fines for accidental breaches of “declaration of goods” and “documentation of cargo” regulations + certain cargo customs fines.
- Other types of fine covered on **discretionary** basis – catches serious criminal acts (e.g. smuggling).
- Client must show that they have acted reasonably, with no serious default or “wilful misconduct”.
- A balancing act – the insurer will not generally cover claims arising from serious / intentional breaches of trade laws / regulations.

How does P&I cover respond to sanctions risks?

- P&I insurance policies include robust anti-sanctions provisions:
  - Coverage for claims arising out of sanctionable trades excluded.
  - Club has ability to terminate a ship's insurance entry if it engages in sanctionable trades.

- Modern P&I clubs are committed to using software to selectively monitor movements of insured ships to detect potential sanctions breaches. Monitoring focuses on:
  - Ships' presence in "high risk" jurisdictions.
  - Irregular navigation patterns.
  - Ship's switching off of its Automatic Identification System (AIS).

- P&I clubs have heavily invested in sanctions "due diligence" software and have enhanced Know Your Client (KYC) procedures which are designed to identify and avoid sanctions exposures.

Conclusion

- P&I insurers aim to minimize exposures to sanctions and trade restrictions risks:
  - Limited (if any) coverage available and coverage discretionary.
  - “Deterrent effect” achieved by not providing automatic coverage for less responsible assureds.
- Sensitivity to the operational challenges faced by ship owners, and potential to cover a claim where client has been the innocent victim of criminal conduct.
- Clubs have invested in resources that allow them to identify / respond to sanctions exposures.
- Clubs share knowledge and co-operate with their clients to proactively avoid such claims.