

TRADERS' AND CHARTERERS' LIABILITY INSURANCE A MARKET UPDATE

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Traders' and Charterers' Liability Insurance

What is it?

- Liability Insurance
- Loosely based upon P&I insurance conditions:
 - Crew liabilities
 - Cargo liabilities
 - Collision liabilities
 - Pollution liabilities
 - Wreck removal liabilities
 - Third party property liabilities
 - Fines & penalties
 - “Damage to Hull” liabilities
 - Legal costs insurance (“Freight, Demurrage & Defence”)
- Protecting against the risks of:
 - Chartering vessels
 - Putting (dangerous) cargoes on board

Traders' and Charterers' Liability Insurance

Who buys it?

- Vessel charterers
 - Time, voyage, part & slot charterers
 - Not: bareboat charterers!
 - All types of vessels (ocean going, coastal, inland)
 - Traders or ship operators
- Traders
 - Shipping, owning or receiving cargoes carried by vessels
 - All kinds of cargoes
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Traders' and Charterers' Liability Insurance

Who provides it?

- Initially:
 - For trader-charterers: (Antwerp) Marine Cargo Insurance market
 - For ship-operator charterers: mutual P&I Clubs as an extension to an Owner's P&I entry
- Later:
 - All kind of charterers:
 - Mutual P&I Clubs: charterer's liability insurance as a stand-alone product
 - Commercial Underwriters: stand-alone product
 - For ship-operator charterers

Traders' and Charterers' Liability Insurance

Is it still relevant?

- It is a flexible liability insurance that adapts to changing circumstances
 - From: mainly “Damage to Hull” risks
 - Via: “carbon copy” of owner’s P&I rules
 - To: special charterer’s liability insurance wordings
- And adding unique charterer’s clauses along the way:
 - Cargo Owner’s Legal Liability (“COLL”)
 - Extra Bunker Handling costs
 - 2020 Bunker Sulphur Cap fines (future?)
- It is still an important part of strategic risk management for all charterers:
 - Protects against **daily operational risks** that cannot be avoided even with good prevention and risk management
 - Provides claims handling **service** and (legal) assistance
 - Provides **high limits**

Traders' and Charterers' Liability Insurance

Is it still necessary?

- Both the number and average value of claims against charterers keep rising
 - World fleet is getting younger
 - Vessels get more expensive
 - Vessels get more sophisticated and fragile
 - Consolidation on shipowner's side
 - Shipowners get stronger negotiating position, relatively weakening the charterer's position
 - Many C/P clauses favour shipowners
 - BIMCO Piracy clauses
 - BIMCO 2020 Sulphur clauses
 - North African cargo shortage clauses
 - BIMCO C/P clause for solid bulk cargoes which may liquefy
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Traders' and Charterers' Liability Insurance

Is it still necessary?

- P&I Clubs provide better and better service to their shipowning Members
 - All P&I Clubs have legally and technically trained staff in their claims departments
 - 90+% of the world's fleet is covered by mutual P&I insurance
 - P&I cover is necessary for a ship to trade worldwide
 - Legal necessity
 - Operational necessity

Almost all shipowners have therefore good protection and assistance!

- Charterers have no legal necessity to have similar protection and assistance, but there are good operational reasons to do so!
 - By getting charterer's liability with a P&I Club, they get the same protection and assistance as Owners
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Traders' and Charterers' Liability Insurance

What markets are interested?

- Insured's side of the market
 - All shipping lines use chartered tonnage and take charterer's liability insurance mostly with mutual P&I Clubs
 - Most major / global trading houses have charterer's liability insurance usually also with mutual P&I Clubs as they need high limits of coverage
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Traders' and Charterers' Liability Insurance

What markets are interested?

- Insurance side of the market
 - Mutual P&I Clubs that provide fixed premium charterer's liability insurance
 - Linked to an owner's entry
 - As a stand alone product
 - Commercial insurers and underwriters
 - As part of a full spectrum marine insurance catalogue
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Traders' and Charterers' Liability Insurance

What markets are interested?

- Insurance intermediary side of the market
 - Global insurance brokers that offer full service (risk management advice, placement and claims handling) for all marine insurance lines (H&M, marine liabilities, marine cargo insurance)
 - Regional or local insurance brokers for all marine insurance lines or with a more niche-based approach
 - Small local brokers will miss the expertise and reach when trying to place optimized charterer's liability covers
 - Service

Traders' and Charterers' Liability Insurance

What direction are the markets going?

- The insured's market
 - Ship operators
 - Consolidation
 - Big shipping lines are getting even bigger
 - Small operators need to cooperate to avoid being taken over by the big ones
 - Few successful new initiatives of major size
 - Trader-charterers
 - Major trading houses keep expanding
 - Some have become a major ship operator in their own right
 - Major trading houses keep losing traders who start their own ventures
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Traders' and Charterers' Liability Insurance

What direction are the markets going?

- The insurer's market
 - Mutual P&I market is somewhat static, although the big P&I Clubs seems to be slowly gaining in size, but it is difficult to separate their charterers business from their overall figures
 - Commercial insurers are consolidating. Only the large insurance companies can provide the high limits needed in this market
 - Some niche underwriters (backed by big insurance companies or Lloyd's syndicates) seem to be doing well and holding their ground
- Limits available
 - Mutual P&I Clubs: starting at USD 350 million and upwards to USD 500 million or more; upto USD 1 billion by using excess markets
 - Commercial insurers: upto USD 500 million and upto USD 1 billion by using excess markets
 - Niche underwriters: generally lower limits of about max. USD 300 million; beyond that they need to access excess markets

Traders' and Charterers' Liability Insurance

What direction are the markets going?

- Premium evolution
 - After many years of price reductions, the bottom of the market has been reached
 - Mutual P&I Clubs have been returning money to their ship-owner members: increasing claims and worsening loss ratios have stopped this now
 - Major commercial insurers have been hard hit by natural catastrophe risks and need to improve results on all lines to support these losses
 - Lloyd's marine syndicates have been warned to “clean their business or get out” leading to an important reduction of capacity in the market
 - Brexit uncertainties have already triggered expensive “plan B” contingency measures
 - Charterers with excellent loss ratios may still find “as is” renewal offers; all others will start to see premium increases
 - This is a good moment to renew on a multi-year policy basis!

Traders' and Charterers' Liability Insurance

What will the future bring?

- Pressure on smaller mutual P&I Clubs will increase and we may see a charterer's liability market with two speeds:
 - Large P&I Clubs will offer cover for all segments (large and small)
 - Smaller P&I Clubs will either specialize (niche offerings) or will only provide cover for smaller charterers.
- Global commercial insurers will continue to offer charterers' liability insurance as part of their full spectrum of marine insurance, but their products may become too bland for more specialized charterers
- Lloyd's marine market will further retract but will (hopefully) bounce back in a more healthy form with higher premium income
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Traders' and Charterers' Liability Insurance

Any good advice?

- For charterers with a good loss record:
 - Try to get a multi-year deal at renewal to lock-in the still low premium levels
- For charterers with an average loss record:
 - Think of a modest increase in deductible: some underwriters will give reasonable savings in return
- For charterers with a bad loss record:
 - Due to many small attritional claims: increase the deductible, put these small claims in the cost structure and think of prevention programs
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and services that make our clients
more successful**