P&I Bulletin

2021 Renewal

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Introduction

2021 was always going to be a challenging renewal with every club seeking increases. The stark increase in pool claims, volatile investment market, years of premium erosion, and the watchful eye of Standard and Poor left little option but to address premium levels.

It will be interesting to hear the result of these hikes in premium, ranging between 5% to 10%, with additional adjustment for loss history. During renewal, it soon became clear which clubs were destined to take a firmer stance. It will come as no surprise clubs that had previously felt the hand of Standard and Poor held a much harder line.

While each club will report a positive renewal, few will have successfully secured their proposed increases. We have previously highlighted the performances of each club's combined loss ratio, with just one posting less than 100%. When stripping out investment income, the picture looks a lot bleaker. However, we did stress any alignment in addressing premiums should have a soft touch. That wasn't the case, and some clubs showed little flexibility.

The number and severity of pool claims and the legacy they carry for each club are concerning. The current investment market has shown such a turnaround since any talk of general increases was made; it has created an embarrassment of riches. No doubt this will lead to cries of how much is enough?

It mustn't be forgotten that a year ago, free reserves were under severe pressure, and it is testament that even at that time, the better financially performing clubs still held more than adequate capital. Now the reality is premiums have gone up as free reserves are bolstered. Will we see capital returns? These are difficult times, and it is important to communicate the right message to shipowners, many of who will be suffering from yet another hike in operating costs only to see their clubs' wallet swelling.

A significant change to market conditions has seen an exclusion of cyber and pandemic risks. Practically every maritime insurer has imposed these restrictions. The International Group continues to provide cover but for mutual entries only. However, non-poolable risks are subject to these exclusions, though each club offers limited cover. Overleaf we list each club's offering.

In conclusion, a renewal that started with some lofty ambitions resulted in some, but not too severe, remedial action. We hope this is not cited as a work in progress and that longstanding members do reap the benefit of the loyal support while future underwriting discipline takes control.

The impact of COVID-19

It has been over a year since a global pandemic was declared, and the effects of the virus have been widespread. The insurance industry has felt the financial pressure of coronavirus-related claims; underwriters have rushed to apply coronavirus exclusions to protect themselves from the cost of such losses.

Mutual members of P&I clubs have been fortunate as they have benefited from no exclusion for COVID-19 losses. At the 2020 renewal of the reinsurance programme, the terms of the agreement were bound on a two-year deal basis. Thus, the existing terms prevail for 2021, which do not include any limitation on cover for COVID-19 type claims. The claims impact from COVID-19 has been significant for the International Group. The COVID-19 outbreak on cruise ships, such as the Diamond Princess, was covered extensively in the news. The virus has resulted in illness and death claims for crew members working on all types of ships. For shipowners, it has certainly been a real positive to have no exclusion on personal injury cover provided by the clubs over the past year.

We've seen the clubs show support to the members on their fixed premium offerings also. Alongside the mutual-owned business, clubs provide a range of covers such as Charterers' Liability, FDD, and numerous cover extensions such as Specialist Operations and Extended Contractual. While the reinsurers have imposed strict exclusions for COVID-19, most clubs are offering a sub-limit within their own retention. The sub-limits vary from USD 10 million given by Gard and Skuld to USD 1 million given by London. Japan P&I Club has not set a firm position but will consider and provide limits upon individual requests from members.

Cyber

Cyber risk has been a hot topic in recent years as businesses have become more aware and worried about their exposure to cyber-attacks. Not dissimilar to their approach to the pandemic, underwriters are introducing strict exclusions for Cyber to protect from potentially extensive exposure.

As mentioned above, mutual P&I cover continues to be subject to the same rules as the prior year due to the two-year deal agreed on the reinsurance terms. Therefore, mutual P&I cover includes liability for any valid P&I claim resulting from a cyber-attack. The only limitation on cover is that any cyber-attack deemed an act of war is not recoverable under the policy.

In respect of the fixed premium offerings, the reinsurers have introduced a strict exclusion for all malicious cyber-attacks. At the current time, Steamship is the only P&I club that has announced it is providing a sub-limit for Cyber from its own retention, for USD 3 million and on the same terms as for the mutual cover (i.e. excluding attacks deemed acts of war). Other clubs are looking at the potential to provide cyber coverage, whether within the existing premium pricing or for additional premium. Currently, Standard is the only club not yet excluding Cyber; however, this is expected to come into effect imminently.

Please see below a list of each club's status on COVID-19 and Cyber.

	Cyber	COVID-19
American	Excluded	USD 5m sub-limit
Britannia	Excluded	FD&D- USD2m sub-limit per occurrence Additional Insurance – USD 3m sub-limit occurrence Charterers' Liability – USD 5m sub-limit occurrence Subject to an Annual Aggregate of twice the above
Gard	Excluded	Up to USD 10m sub-limit
Japan	Excluded	Limits to be provided upon request
London	Excluded	USD 1m sub-limit
North	Excluded	USD 5m sub-limit
Shipowners	Excluded	Up to USD 10m sub-limit
Standard	Not yet excluded*	Up to USD 5m
Steamship	USD 3m any on accident or occurrence sub-limit	USD 3m any on accident or occurrence sub-limit
Skuld	Excluded	USD 10m Coronavirus buyback
Swedish	Excluded	USD 5 m
UK	Excluded	USD 5m any one event sub-limit
West	Excluded	USD 3m any on accident or occurrence sub-limit

Claims

The Aon P&I team has highlighted in our bulletins, webinars for audiences worldwide, and individual discussions with clients and prospects that from the middle of the 2020 policy year, it was clear that this would be an extremely bad year for claims. More specifically, terrible for major claims, including those above USD 10 million and therefore falling into the International Group pooling system.

After six months, at 20th August 2020, incurred claims on the pool were at USD 294 million, which is twice as severe as any other year in the last decade at that point. By the time we got to nine months, at 20th November 2020, this had deteriorated further to USD 359 million. P&I underwriters were vocal on how much the pool was costing them, and these costs were often used as a justification for the increases they were seeking at the renewal just passed. So how did the 2020 policy year finish?

We have discussed with various sources, and we believe that, at 12 months, there are around 24* claims reported to the International Group pool and a total incurred of approximately USD 415 million in claims. This represents a deterioration of around USD 56 million from 20th November 2020 to 20th February 2021. As P&I is a long-tail risk, we can be sure that this figure will deteriorate further as more claims are notified post-year-end and claims that have been notified increase in value. It is clear that the 2020 policy year was a dire one for the International Group pool, and the second half of the year was significantly better than the first.

This could mean that the clubs have budgeted for a larger bill for pool claims than what eventually materialises. Alongside the better-than-expected investment income that we covered earlier in the bulletin, perhaps we are going to see some good results from the

stronger clubs. For some clubs, free reserves could potentially increase, leading to the inevitable question of whether clubs needed to be as tough as they were at the renewal. It is impossible to answer that question now, and time will tell whether the 2020 major claims experience is a trend that will continue or if it was simply a bad year, and in 2021, we will return to the level of claims we would have previously expected. On average, you might see USD 250 million of incurred claims after 12 months rather than USD 415 million for the 2020 policy year, so we hope for a return to these lower levels in 2021 and a softer P&I renewal next year.

It has been well publicised that the GOLDEN RAY wreck removal from the 2019 policy year is now the second-largest P&I claim of all time, currently estimated at just under USD 800 million. At the time of writing, there have been no claims in the 2020 year above USD 100 million, although certain claims could deteriorate to that level or higher. Even without a USD 100 million-plus incident in 2020, it is likely that the 2021 renewal of the International Group reinsurance contract will be difficult. The contract was on a two-year deal, so no increase has been paid since the GOLDEN RAY claim, and we suspect that reinsurers will want to see increases to reflect the hardening market and significant losses they have suffered as a result of GOLDEN RAY at 20th February 2021. While we are primarily commenting on the 2020 policy year in this bulletin, and it is still very unclear how much the incident will cost the UK Club, the 2021 policy year has also not started well with the EVER GIVEN incident in the Suez Canal continuing at the time of writing.

As a footnote on this subject, despite the clubs using pool claims as justification for their increases, they are very reluctant to release any details about these claims. It is been quite difficult to obtain the correct information to put this article together. The secrecy around the pool has certainly increased in the last year, which is disappointing and may lead some to question whether the clubs are being purposely opaque in order to give their members less opportunity to scrutinise and question the justification behind the increases they are being asked to pay. At Aon, we are huge supporters of the International Group and the P&I club system, which we believe provides better value and service than it is possible to replicate commercially. However, in order to maintain trust, the clubs need to be open with their members. Unfortunately, whether it is in costs allocated to loss records, the justification for levels of release calls, or how everyone collectively pays claims, it feels the International Group is less transparent than previously.

*if you count quota share claims as one claim from each club.

Stuck In The Suez: The impact upon marine insurance covers

Original article by Vladimir Ljubisavljevic, Aon Singapore

On 23rd March 2021, at approximately 0540 GMT, the m/v EVER GIVEN ran aground 151km north in the Suez Canal, effectively blocking passage through the canal and immediately causing a backup of more than 100 other vessels either already in or entering the canal from either end. She was finally refloated some six days later with the help of an array of salvage companies, led by SMIT Salvage.

The m/v EVER GIVEN is a 219,049 GT fully cellular container ship with a capacity of 20,338 TEUs. Owned and operated by Japan's Shoei Kisen and Taiwan's Evergeen respectively, she is entered with the UK P&I Club by her owners and with Gard by charterers.

Every day the Suez Canal was blocked, an additional 50 vessels added to the backlog of traffic entering the canal from either end, resulting in potentially USD 10-15 million of additional losses per day. What is the marine insurance position of the m/v EVER GIVEN and the vessels whose passage had been hindered?

IN-DEPTH

m/v EVER GIVEN

1. **H&M:**

   - Though understood to not be severe, damages to the vessel as a result of the grounding will give rise to an H&M claim.

   - Salvage operations as a result of the grounding would be added to the claim, and the salvage award will be borne by H&M underwriters.

   - General Average costs will certainly be incurred in order to complete the common adventure, and these would be recoverable from cargo interests as per the New Jason Clause. Due to the volume of packages on board and Bills issued, owners could have opted, depending on their H&M conditions, to recover these funds from H&M underwriters through their General Average Absorption Clause. The vessel has now formally declared General Average.

2. **P&I:**

   - Any cargo damage will be covered by the vessel's P&I club. As the cargo is not thought to be damaged due to the grounding, presumably, this will mainly be relevant for perishable cargo.

   - Consequential loss of late delivery (of sound cargo) is not covered. In any case, this will likely be excluded under the relevant Force Majeure provisions and the Hague/Hague-Visby Rules.

- Fines imposed by the Suez Canal Authority could be covered under Rule 2, Section 22.

- Unrecoverable General Average contributions (e.g. from H&M, Cargo interests) are covered. It will be interesting to see, now that the vessel has declared a GA, to what extent this Rule will be used.

- Damage to the Suez Canal itself (e.g. the banks of the canal) would be covered as a result of a collision to a fixed or floating object.

- There is an argument of third party liability, i.e. a duty of care, to other vessels and their cargo, in tort. Such an action would have to be heard by the Egyptian courts, under Egyptian Law. Even following English Law and the Tort of Negligence, a claimant's argument would be difficult to prove.

- There is a strong argument that consequential damages i.e. business interruption to the canal as a result of the blockage, would also be covered as a result of the same FFO peril.

- Should this be the case, the collision claim would quickly become a claim on the International Group Pooling Agreement.

3. **Loss of Hire (if purchased)**
   - There is a valid claim under the policy subject to the excess period – generally seven days for Japanese shipowners, with typical limits of 90, 120 or 180 days.

4. **Delay Insurance (if purchased)**
   - There is a valid claim (Grounding, Collision) under the policy subject to the excess period, typically four days with limits of 10-20 days.

All other vessels:

1. **H&M:**
   - As no damage has arisen to any other vessels, no H&M claims are expected.

2. **P&I:**
   - Cargo claims are expected for perishable cargo, and these are expected to be covered by the vessels' P&I clubs, with recourse action potentially being taken against the owners of the m/v EVER GIVEN and their P&I club.

- Consequential loss of late delivery (of sound cargo) is not covered. As mentioned above, this would likely be excluded under the HR/HVR.

- As the m/v EVER GIVEN sat in the Suez and its quick recovery looked unlikely, several vessels set sail for a passage around the Cape of Good Hope. Such a voyage would at the very least raise the question of deviation or the duty of utmost despatch, and the legal issues that come with it, as well as the unprejudiced continuance of club cover.

- The journey around the Capes is more dangerous by nature, and hence if any cargo was damaged as a result of the more perilous journey, clubs would have had to agree to this in advance for members to enjoy uninterrupted club cover.

3. **Loss of Hire (if purchased)**
   - With no H&M damage, owners' Loss of Hire policies would not be triggered.

4. **Delay Insurance (if purchased)**
   - Delay Insurance would be triggered as the blockage of the canal constitutes a physical obstruction to a navigable waterway, a covered peril for Shoreside events. This is typically subject to a 1-day excess period and limit of up to 20 days.

This is an unfortunate incident and certainly one that will be discussed for many weeks and months to come. What is evident is the need to look at products that might be outside the scope of typical H&M and P&I covers, such as Delay Insurance, with typically niche products offering a sleep-easy solution to shipowners and charterers.

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