

CIRCULAR REF: 2013/009

**CIRCULATED TO ALL MEMBERS, BROKERS AND DIRECTORS
ATTENTION INSURANCE DEPARTMENT**

**15 FEBRUARY 2013
SSR/MA**

MARITIME LIEN INSURANCE FOR CHARTERERS' DEBTS

The purpose of this Circular is to draw Members' attention to the above insurance policy for which the Managers of the Association have once again secured the support of Lloyd's Underwriters for the 2013 policy year. In doing so, the Managers of the Association are acting purely as agents only and Members should understand that this is a Lloyd's Insurance Policy. The risks covered by this policy are the risks of claims being made against insured vessels as well as liabilities being incurred by Members in respect of insured vessels arising as a result of the insolvency of a charterer.

The Policy

The Policy is a Lloyd's Insurance Open Policy to which declarations can be made, but only in respect of owned vessels entered in the Association's FD&D Class. At present, third party claims made against vessels entered in the FD&D Class fall within the scope of the Association's FD&D cover such that Members are ordinarily afforded support from the FD&D Class to defend such claims and attempt to make recoveries in those cases where this is possible. If, however, Members are deemed to have acted recklessly when fixing to the particular charterers whose insolvency has given rise to the claims, then the support of the FD&D Class may not be granted. Even if FD&D Class support is granted, however, this will only provide insurance cover for the legal costs and not for the actual claims being made against the vessel. As far as the Managers of the Association are aware, insurance for such claims is not readily available elsewhere and this policy has been designed to provide cover for such claims as well as the liabilities which Members may have to incur in order to continue and complete a voyage already commenced prior to the insolvency of a charterer.

Scope of Cover

The scope of this cover is to indemnify Members for financial losses incurred by them by way of "third party claims" arising directly from the insolvency of a charterer of the vessel. Third party claims are defined as:

1. Any claims being asserted against a declared vessel including, but not limited to statutory rights of action in rem, maritime liens and any other maritime claim which it is alleged by the claimant gives a right against a vessel; and
2. Any liability to pay the cost of bunkers, port charges, stevedoring costs and any other costs necessary for the completion of a voyage which would properly be the responsibility of the vessel's charterer.

CIRCULAR

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It will be seen from the above that the policy is designed to cover not only Members' liability to third parties in respect of charterers' unpaid debts, but also any liability which Members may have to incur in order to continue and complete a voyage already commenced prior to the insolvency of a charterer.

Whilst many such liabilities will arise under time charterparties, it is equally possible that such liabilities may be incurred under voyage charterparties, particularly those on FIOS terms (or similar).

NB: The policy does not cover any loss of earnings whether it be hire, freight, deadfreight, demurrage or indeed running expenses for the vessel etc.

The Period of the Policy

The period of the policy will ordinarily run from 20 February for 12 months unless a vessel is sold. Members purchasing a vessel during a policy year will naturally be entitled to buy this maritime lien insurance for charterers' debts as from the date of delivery of the vessel or, in the alternative, from the following 20 February. The policy is, however, subject to a minimum premium (as to which see below).

The Policy Terms

The premium per vessel declared to the policy for the 2013/2014 policy year will rise to US\$7,500 pro rata per annum subject to a minimum premium of US\$1,250. The limit of cover will be US\$1.0 million per claim and in the aggregate per vessel, per declaration, subject to an aggregate limit per Member of US\$3.0 million in respect of the insolvency of any one charterer. Claims will also be subject to a deductible of US\$20,000 per insolvency per vessel.

The terms of the policy are non negotiable and Members are not able to obtain a reduction in premium by opting to accept a lower limit of cover or a higher deductible.

Members should note that a commission will be payable to the Association to cover administration expenses.

Approval of Members/Charterers by Underwriters

As this is a Lloyd's Insurance Policy for which the Managers of the Association are acting purely as agents only, acceptance of any Member wanting to purchase this additional insurance is expressly subject to approval of the Lloyd's Underwriters concerned.

In addition, all new and renewing Members must declare the current charterer for an Entered Ship prior to attachment and any changes during the policy year must also be advised in advance.

SUMMARY

The Managers of the Association hope that this maritime lien insurance for charterers' debts will continue to provide Members with a useful additional cover to protect them against unforeseen financial losses. The policy wording is attached to this Circular together with an explanatory set of "Frequently Asked Questions". In addition, these documents may be viewed and downloaded from the Association's website at <http://www.nepia.com/>. Any enquiries in relation to this policy should be directed to the Association's Underwriters in the first instance.

STEPHEN REBAIR

ASSOCIATE DIRECTOR - North Insurance Management Limited

As Managers on behalf of the North of England P&I Association Limited

MARITIME LIEN INSURANCE FOR CHARTERERS DEBTS

FREQUENTLY ASKED QUESTIONS

1. What is the risk that is covered by the Maritime Lien Insurance for Charterers debts?

Under this Policy, Members are insured against financial losses incurred by them by way of "*third party claims*" arising directly from the insolvency of a Charterer of the vessel. "*Third party claims*" is a term defined in the Policy to include two categories of liabilities which Members may suffer as a result of the insolvency of a Charterer;

- i) Any claims being asserted against a declared vessel including, but not limited to statutory rights of action *in rem*, maritime liens and any other maritime claim which it is alleged by the Claimant gives a right against a vessel; and
- ii) Any liability to pay the cost of bunkers, port charges, stevedoring costs and any other costs necessary for the completion of a voyage which would properly be the responsibility of the vessel's Charterer.

It will be seen from the above that the first category of liabilities covered by the Policy can be described as unpaid Charterers' debts which the bunker supplier, stevedore or other company seeking payment demands payment of by threatening to arrest the relevant vessel.

The second category of liabilities covered by the Policy can be described as the costs of completing a voyage already commenced prior to the insolvency of a Charterer providing such costs are Charterers' responsibility under the terms of the governing Charterparty.

2. Will this policy cover outstanding freight or hire if a charterer goes insolvent before completion of a voyage?

No. Although the Policy will cover the cost of bunkers, port charges, stevedoring costs and any other costs necessary for the completion of a voyage, there is an express exclusion for loss of earnings, whether it be hire, freight, deadfreight, demurrage or indeed running expenses of the vessel.

3. When will a Member be entitled to demand payment under this Policy?

It is a condition of the Policy that the Member concerned has either:

- i) Settled the claim with the third party with the approval of the underwriters; or
- ii) That the claim be the subject of a final Judgment of the relevant Tribunal or Court.

4. Will underwriters put up a guarantee if a vessel is arrested?

No. The Policy specifically warns Members that the underwriters will be under no obligation to put up security if an insured vessel is arrested.

5. If some of my vessels entered with the Association are not entered in the FD&D Class, but others are, can I still buy this insurance for all vessels entered with the North of England?

No. Members can only buy this insurance for vessels which are entered in the FD&D Class of the Association.

6. Am I free to pick and choose the periods for which I buy this insurance cover?

No. The period of the Policy will ordinarily run from 20 February for 12 months, unless a vessel is sold. Otherwise, you can buy this cover when you are purchasing a second-hand vessel or taking delivery of a new building from the date of delivery.

7. Can I buy this insurance for a vessel which is already on charter to a company I think is going bankrupt?

No. If a Member believes a Charterer is about to go bankrupt then this knowledge would have to be disclosed to the underwriters who would be most unlikely to accept to insure the vessel against these risks.

8. If I buy this cover, do I have to tell underwriters every time a Charterer pays hire late?

No. You only need to notify the Association either when you become aware of the insolvency (as defined in the policy) of a Charterer (either existing or previous) of an insured vessel or of a claim demand being made against a declared vessel arising directly from the insolvency of a Charterer.

9. Do I have to buy US\$1m worth of cover, or can I have a lower limit of cover and pay less premium?

The terms of the Policy are not negotiable - Members cannot buy a lower limit of cover for less premium.