



Welcome

Welcome once again to the latest monthly bulletin from Seacurus. January was an incredibly busy month for the team, and we ended on a wonderful high with the official opening of our new offices on the Gateshead Quayside.

Seacurus was incredibly pleased and proud to welcome underwriters as well as some old friends and supporters to the wonderful setting overlooking the Tyne, the Baltic, Sage and Millennium Bridge.

Over forty people attended the gathering, fellow director Nick Maddelena and I were pleased to deliver a brief presentation on just how far Seacurus has come in the years since we first launched.

Nick focused on the successes of the past, but not without remembering some of the "learning opportunities" along the way. It was with real pride that we were able to introduce the team who work so hard to make Seacurus the success it is and to speak confidently of the outlook ahead and the plans to grow new business and to deliver into the future.

Thank you to all who attended the opening and to those who could not make it we hope to welcome you at the new offices very soon.



Captain Thomas Brown
Managing Director –
Seacurus Limited

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From left to right: **Alan Wilson MD NEPIA**, **Thomas Brown MD Seacurus** and **Andrew Taylor Director NEPIA**

New Lloyds K&R Facility

After many months of preparatory work, approvals, audits and actuaries - Seacurus are pleased to advise that their Lloyds K&R plus LoH binder is finally up and running and open for business.

We are proud to announce the launch of this new facility which is lead by Catlin Asset Protection.

Peter Dobbs Head of Catlin Asset Protection said, "Catlin are delighted to support Seacurus with this new facility for Marine Piracy & Loss of Hire. We recognise Seacurus's product knowledge and their comprehensive understanding of these risks."

Marine K&R losses are often very significant when compared with similar non-marine incidents and Seacurus have always supported the idea of a facility that is supported by a syndicated Lloyds market placement to provide consistency on pricing and service but to also shoulder the losses when and if they arise.

We trust you will help Seacurus develop and support this new facility.

For further information please contact – Capt. Thomas Brown – tbrown@seacurus.com



Coverholder at **LLOYD'S**

Product Focus - Residual Value Insurance and it's Application to Shipping

Residual Value Insurance (RVI) is a specialist insurance used by asset buyers and financiers to mitigate the risk associated with the future change in asset values, which could lead to a loss or the failure to be able to repay outstanding debt associated with the financed asset. In some cases it can convert an asset risk into a credit risk, which may be easier to price by some financiers. Although not commonly used in ship financing it has certainly been used before and is more recently seeing a re-emergence due to the pressure that financiers and shipping funds are finding themselves under to create structures that work for the purchaser.

Residual value insurance is a specialized form of insurance that transfers asset-value risk from a financier to an insurer. Specifically, RVI transfers a financier's risk that an asset's fair market value at the end of its financing term might be less than the estimated residual (ending) value that the financier established for the asset at the beginning of the financing term. By indemnifying the financier for any shortfall in fair market value, RVI, in effect, guarantees the financier a specific residual value.

Benefits of RVI

Most financiers purchase RVI so they can receive preferential accounting treatment. They might also purchase it to support an asset-backed securitization, although these are rarer in the current finance environment. A third reason they purchase it is to protect themselves from an unexpected reduction in the residual values of their financed assets. Each is further explained below.

Financiers will typically purchase RVI to improve the overall cost of finance on offer to the asset owner/operator.



Asset purchasers will typically buy RVI to improve the overall cost of finance, to extend the effective repayment term associated with an asset purchase, or to achieve off-balance sheet financing.

Underwriters' Requirements

A RVI underwriter requires detailed information on both the structure of the financing and the assets being financed and examines certain fundamental characteristics; in the case of shipping this would be the specification of the vessel, the sector in which it operates, supply and demand of similar tonnage and the sustainability of current charter rates.

1. Financing Information

- The underwriter requires information on financings, such as:
- A copy of the financing contract and charter contract (if applicable)
- Description of the vessel, specification and trading pattern
- Appraisal of current value and future, preferably by an independent third party if available – this might be a shipbroker

2. Retention (equity)

The underwriter usually requires the financier to retain an initial layer of loss (often called a retention or equity). In this situation, the financier has a financial incentive to avoid losses because it must pay a portion of the loss before RVI attaches.

3. Liquid Secondary Market

The underlying vessel or vessels must have a liquid secondary market, meaning there is an established market in which to sell the ships in the event of a default.

4. Alignment of Interest

Underwriters are seeking strong alignment of interest, such as the desire by the equity investor to achieve profits at the end of the finance term, adherence to operating and maintenance conditions and a clear strategy for the trading pattern of the ship.

Target Organizations

The types of organizations that are likely to purchase RVI are:

- Commercial shipping banks
- Finance companies
- KG Funds and KG Fund managers
- Any other organization that is exposed to residual value risk on ship finance

For further information please contact Nick Maddalena – nmaddalena@seacurus.com

Clarification Delay

When the right hand does not know what the left hand is doing there are usually problems. There appears to be a danger of this with the UK rules governing private maritime security companies (PMSCs).

Despite widespread calls for clarity and guidance it seems that any consultation on UK rules governing PMSCs will not take place until the summer at least, with any attempt at enforcement to follow at least two months after that.

It is one thing to make bold, perhaps even brave, pronouncements such as the decision to allow guards onboard UK flagged vessels,, but doing it without the means to back it up seems unfortunate to say the least.

At an All Parliamentary Maritime and Ports Group meeting held last month Ian Proud, the Foreign and Commonwealth Office (FCO) head of peacebuilding and rule of law team, reported that a two-month consultation would be forthcoming in the summer that would lead to a draft charter. After the rules had been subjected to a two-month consultation process, Mr Proud added, there would be a need for companies to demonstrate that they were complying with internationally agreed standards.

It is understood that much work is currently being undertaken to even meet this seemingly long lead time but the lack of a clear vision is unfortunate.

Observers believe that the sheer scale of the task and the number of different government departments which have become embroiled make even the summer deadline a concern. At the moment efforts are ongoing within the "The Security in Complex Environments Group" (SCEG), but it does not stop there as the Home Office, Department for Transport, and even Ministry of Justice will also participate.

With all these departments facing severe difficulties with their ongoing work in the face of cutbacks, it seems complex work such as this can suffer.

Speaking at the parliamentary meeting Labour MP for Bridgend Madeleine Moon raised the question of what happens to pirates when they are captured by private security services. "What are the rules?" she asked, and so long as the answers contain references to ongoing work and dialogue it seems we may not be the wiser.

So you may well be left wondering what would happen if a PMSC did end up with pirate prisoners...well according to Mr Proud the FCO does not yet know what would happen. However, this admission did come with a caveat, and we should perhaps be reassured that the Foreign Office is thinking, "very carefully about the issue and recognised from discussion at this meeting that there were complex jurisdictional matters to be dealt with". but at the moment I think it is very much on an individual company-to-company basis. There is no collective engagement".

Ransom payments are not illegal under UK law except for cases in which there was evidence that the payment would trigger another crime. The Government has stated, for instance, that "payment of a ransom to a United Nations designated terrorist group or individual would contravene the al-Qaeda and Taliban sanctions regime established by UN Security Resolution 1267 (1999)". This approach is not shared by all states, some of which are known to have paid ransoms, and/or become involved in the ransom negotiation process when their citizens are held hostage. However, evidence from industry has been broadly supportive of the UK's approach.

It is true that the high payments encourage and fund further piracy. However, the report believes that the Government should address this through the recovery of ransoms and prosecution of those who have profited rather than by blocking payments, which would endanger seafarers' lives and would be likely to result in driving the practice underground.



Name Game

As the saying goes, 68.3% of statistics are made up and the other 62% are usually wrong. Remembering the flaws of counting, we often see that the piracy data produced can cause more bemusement than clarity.

Over the years the tag “piracy” has changed – and it could be time to drop the word altogether. Many have argued that in using a catch-all term which has differing definitions, and can even be confused with people selling fake Seasick Steve CDs, well it could be time to look at a set of universally agreed, more useful and descriptive terms.

One leading expert on piracy statistics is Andrew Robinson of International Maritime Security (IMS). Andrew has recently retired, and this has given him time to reflect on the missed opportunities of mislabelling attacks and of the dangers we have of missing trends because of our misunderstandings of the problems.

When he first started delivering training courses, Andrew relied on the standard IMB figures for his lectures, and was comfortable enough that the figures were generically termed “piracy”. That was until he looked closer and saw that the figures showed that the bulk of these incidents occurred in anchorages/ports and not on the high seas at all.

Faced with the fact that the general term of “piracy” was untrue and misleading, Andrew decided to show where the real threat fell and tailored courses accordingly. This worked well for a time, but it still was not refined enough. It was still too easy to miss trends, and to make assumptions. This led him to look at incidents of maritime crime in more depth than the major agencies were doing, basically categorising them as either piracy (attempted), robbery (attempted), terrorism and political/ecological.

Whether it is the IMB, IMO or ReCAAP, there are issues in the way they each report and record attacks. Even the most cursory glance at the figures and the fact that they do not tally with each other suggests a problem.

IMB are the current major provider of details of maritime incidents and their figures are often quoted, but IMO publish monthly figures in retrospect and some of these incidents are not published by the IMB, e.g. IMO August 2011 report has 24 incidents not previously reported by the IMB. Furthermore, the Singapore based ReCAAP also publish details of incidents some of which do not occur in IMB reports.

Then other sources publish details of incidents, Noonsite, SomaliaReport, NATO Shipping Centre and various media sources to name but a few. Suffice to say collation from these sources produce figures far higher than those officially published.





Piracy 3.0

We were intrigued by an article featured on the US website G Captain last month. Under the headline "Piracy 3.0" they compared and contrasted the development of piracy and the evolution it has undergone through the years.

Likening the development of maritime piracy to that of a software update is an interesting and compelling point. As the pirates try their new tactics in a beta testing mode, they eventually align on something which works, and then over time they refine it, before it's finally time to overhaul it and think again.

In the article they are only talking modern piracy, so we can forget the Caribbean and Barbary Coast – this is the last 30 years we are talking about. So "Piracy 1.0" is the Southeast Asia variety. Something they claim to be "a relatively genteel endeavor". While we aren't so sure the victims would agree, we admit that it never carried the cold, raw visceral threat of today's Somali pirates.

Piracy 1.0 was about the "grab" – what could you take and get away with? So in essence was about high seas robbery, breaking the Master's safe and getting away with a few thousands of dollars. While the model is still around and being used to good effect by pirates in Malacca and many ports in the region – it was always clear that aside from the occasional full-scale hijack, this was opportunistic crime and would never pay big time.

For the pirates studying 1.0, they would have known that it was time to redevelop and evolve – time to roll out Piracy 2.0. This was the term they coined for the Somali piracy model – the major hijack for ransom. Roaming close to the coast in skiffs, the Somalis were able to make the modest leap from 1.0 to 2.0 suddenly incredibly profitable.

Not for them the dollars in the safe, this new model was not about the ship, cargo or crew. It was about all of them. The model was working well for a time, but then the pressures of the seasonal weather and the demand from financial backers to get ever more vessels led to next leap forward, to Piracy 2.5.

The defining factor in Piracy 2.5 was motherships. By hijacking fishing boats or dhows, the pirates were able to extend their reach almost out to Indian coastal waters, South into the Mozambique Channel and North into the Gulf of Oman.

Extending the mothership concept, hijacked merchant vessels were frequently operated by pirates until their fuel ran low or they became too well known. 2009 and 2010 were difficult years with several high profile incidents, including the hijacking of the containership "Maersk Alabama" and sailing vessel "Quest".

Piracy 2.5 brought the pirates immense wealth and a vast haul of hijacked vessels – but it has been seen that it came with a price. Suddenly the threat was too great to ignore. The politicians latched onto the concept, the navies were called in and armed guards suddenly become almost commonplace at sea.

This was the Microsoft Vista moment, a good idea but not keeping up with reality. Sure it kept the money flowing in for the time being, but it threatened the continued success. The pirate business model was threatened, and with every fresh release and failed boarding the model floundered further.

So what next for the pirates? Well, with the navies closing in and merchant vessels protecting themselves they had to change again and now we are seeing Piracy 3.0. This is a subtle shift in targeting which the pirates hope will get them the cash without the hassle.

Piracy 3.0 is not so much of a paradigm shift as an evolution of the pirates' existing business model. Whatever we may think of the pirate gangs, they are resourceful and flexible, and have now seen opportunities elsewhere. Piracy 3.0 is the age of the "people grab".

The snatching of foreign targets is a concern for all, and it has seen pirates shifting from the sea to land. They have become marines – able to seamlessly switch their operations at will, and it is something which is of great concern.

For full details of the evolution and future see:

<http://gcaptain.com/forum/maritime-security/8016-piracy-3-0-a.html>

Ready For Launch

The Security Association for the Maritime Industry (SAMI) has launched its eagerly anticipated Accreditation Programme for Private Maritime Security Companies (PMSCs).

The SAMI Accreditation Programme will see maritime security providers, within the Association's membership undergo a 3-stage process of due diligence, systems checks and site visits. The programme will be managed by SAMI, with accreditations performed by an independent third party certification body, the National Security Inspectorate (NSI).

Work on developing the standards and accreditation programme has been ongoing for the past eight months. Further developing the guidelines laid down by industry and the International Maritime Organization (IMO), the programme will assess the capabilities, experience, corporate standing and resources of PMSCs.

According to SAMI founder, Peter Cook, "It has been no mean feat to forge a united front from an industry which has always followed its own path. We are pleased and proud to announce the launch of what we believe to be a rigorous and significant means of assessing global maritime security providers".

The developments were led by SAMI and supported by NSI who have been conducting a pilot scheme that successfully concluded in January 2012.

NSI Chief Executive, Jeff Little added, "We are delighted to work with SAMI. Our mission at NSI will be to uphold the independence and credibility of the SAMI Standard while actively and robustly verifying that the maritime security providers have everything in place required by the shipping industry and IMO".

The three stages of the SAMI Accreditation Programme build to form a full and complete picture of the subject company. Stage 1 is a due diligence check, which focuses on the financial, legal and insurance elements of the PMSC. Stage 2 is an in-depth review of the company and involves a physical verification of their premises, systems and documentation. While Stage 3 will see checks on deployed operations.

During the development of the Programme SAMI has worked in consultation with a range of leading marine insurers, flag States, shipping associations, seafarer welfare organisations and with vital input from the maritime security industry.

For more details see www.seasecurity.org



SAMI
www.seasecurity.org

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BURDEN OF PROOF



For shipowners who want to avoid the Gulf of Aden altogether a recent High Court judgment has stated that they will have to prove, with reasonable judgment, that there is a real likelihood the vessel will be exposed to piracy.

The judgment relates to the Pacific Basin IHX v Bulkhandling Handymax AS [2011] EWHC 2862 (Comm). Mr Justice Teare said that the main issue concerned the interpretation of the words in the war risks clause of the Conwartime 1993 charter, determining whether a shipowner was justified in changing the voyage route contrary to the charterer's orders.

Lawyers believe the ruling to be a useful clarification of the test shipowners need to satisfy if they wish successfully to decline orders to undertake transits of areas affected by piracy not limited to the Gulf of Aden.

Speaking to Lloyd's List, maritime lawyer Tony Swinnerton said that "In short, the decision is not a get-out-of-jail-free card for shipowners entitling them to avoid the Gulf of Aden if it suits them, but rather in each case the burden of proof is upon shipowners to prove that they had actually made an objective reasonable judgment determining that there was a real likelihood that the vessel would be exposed to acts of piracy in the Gulf of Aden."

At first glance the ruling seems to favour charterers but many believe that at least shipowners finally now know what they have to prove if they wish to avoid a transit which they feel may come with an unacceptable risk of piracy. These discussions have rumbled on for a long time, and owners and charterers alike have been wrestling with the Conwartime charter party expression, "exposed to war risks". Danger and risk it seems, can only be judged on a case-by-case basis and shipowners will need to justify any decision they make to alter their route due to a perceived threat of piracy.

Mr Justice Teare was reportedly reluctant to lend too much credence to statistics alone, and did not seemingly believe that the simple statistic, citing the risk of hijacking as 1 in 300 was overly useful. He said that while the statistic might give rise to an argument that such a risk was merely a bare possibility, he did not know how the statistic was assessed or how the experts related that statistic to the facts of the particular case.