Comparing and Contrasting the Canadian and US Hull and P&I Markets

Hosted by:
American Institute of Marine Underwriters &
Canadian Board of Marine Underwriters

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Today's Moderator

Today's Webinar

US Underwriter's Perspective

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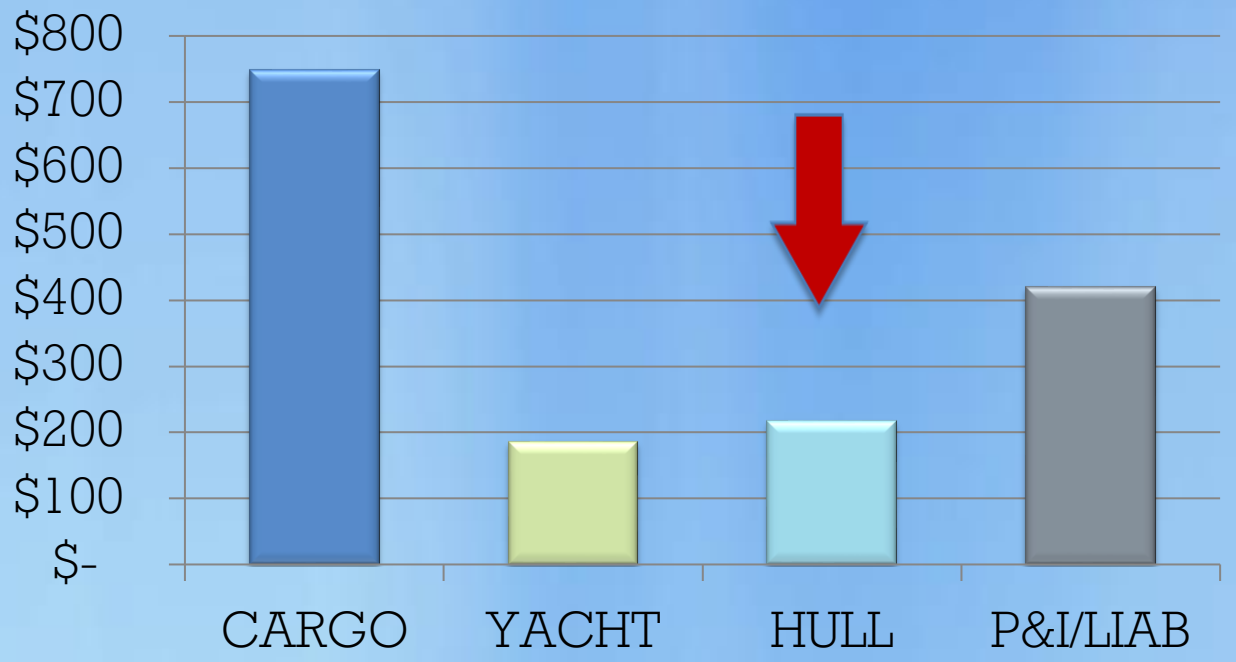
2019 U.S. Marine Direct Written Premium*

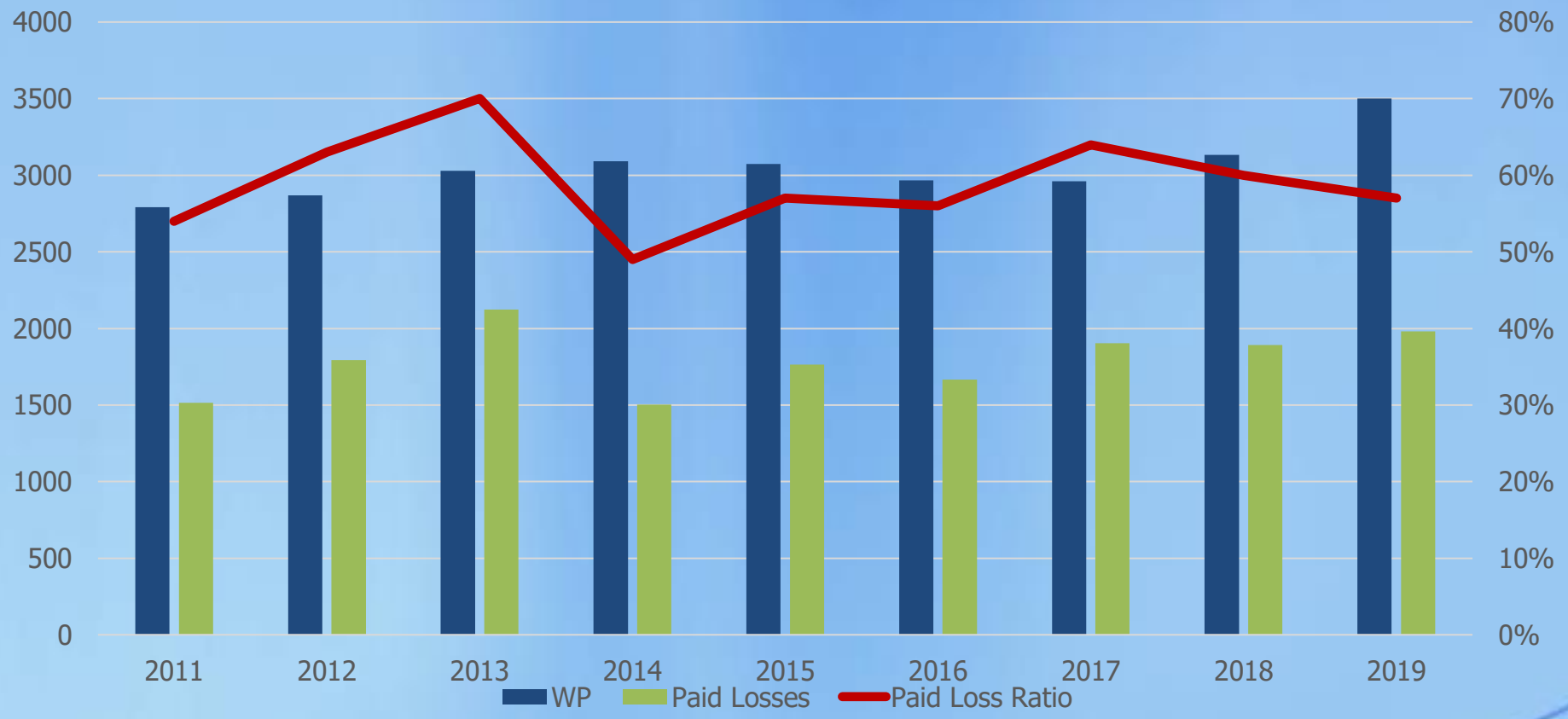
*As voluntarily reported by 17 AIMU member companies



Total DWP: $1,572 USD	
Cargo	$748M
Yacht	$186M
Hull	$218 M
P&I/Liab	$420 M

AM Best Ocean Marine Results 2011-2019

(all lines combined)



Legislation and Regulation (US)

- Marine commerce falls under federal Maritime Law

  No single overriding act

  - Limitation Act of 1851
  - Merchant Marine Act of 1920 (aka the Jones Act)
  - Death on the High Seas Act (DOHSA)
  - Carriage of Goods by Sea Act (COGSA)
  - Oil Pollution Act of 1990 (OPA 90)
  - Terrorism Risk Insurance Act (TRIA)

Forms (US)

- Hull:
  - American Institute Hull Clauses (June 2, 1977)
  - American Institute Tug Clauses (August 1, 1976)
  - Taylor Hull Clauses (1953 - Rev. 70)

- P&I:
  - SP-23
  - SP-38 (1955)
  - AIMU 23 (June 2, 1983)
  - Crew Liability – NOT covered under Worker's Compensation schemes
  - Very limited pollution offered – There is a separate market for that.

Types of vessels (US)

Varies by Region

East Coast: Tugs and Barges, Dredges; Fishing Vessels, Ferries, Sightseeing Vessels; Charter Vessels (Six Packs)

Central US: River towing fleets, tugs and barges, dredges, sightseeing vessels

Great Lakes: “Lakers”, Tugs and Barges, Dredges; Fishing Vessels, Ferries, Sightseeing Vessels

Gulf of Mexico: Tugs and Barges, River towing fleets, offshore supply vessels (OSV), crew boats, Lift Boats, dredges; Fishing Vessels

West Coast: Tugs and Barges, Dredges; Fishing Vessels, Ferries, Sightseeing Vessels; Charter Vessels (Six Packs)

Geographic Factors (US)

- Northeast: challenging weather in the winter; limited navigating for some, *but not all*.
- Southeast and Gulf: hurricanes and tropical storms
- Great Lakes: ice navigation; limited navigating season
- Inland rivers & lakes – floods & high water, flotsam & jetsam, ice, limited navigating season in some cases
- Alaska – ice navigation; limited navigating season; lack of infrastructure in some places.

Hull and P&I losses (US)

- Barge breakaways on US river system
- Sinking of fishing vessels off Alaska and New England
- Allisions with bridges
- Dredge sinking during heavy weather
- Liftboat capsizes in heavy weather
- Vessel Fires
- P&I – Passenger and crew injuries and fatalities

Canadian Underwriter's Perspective

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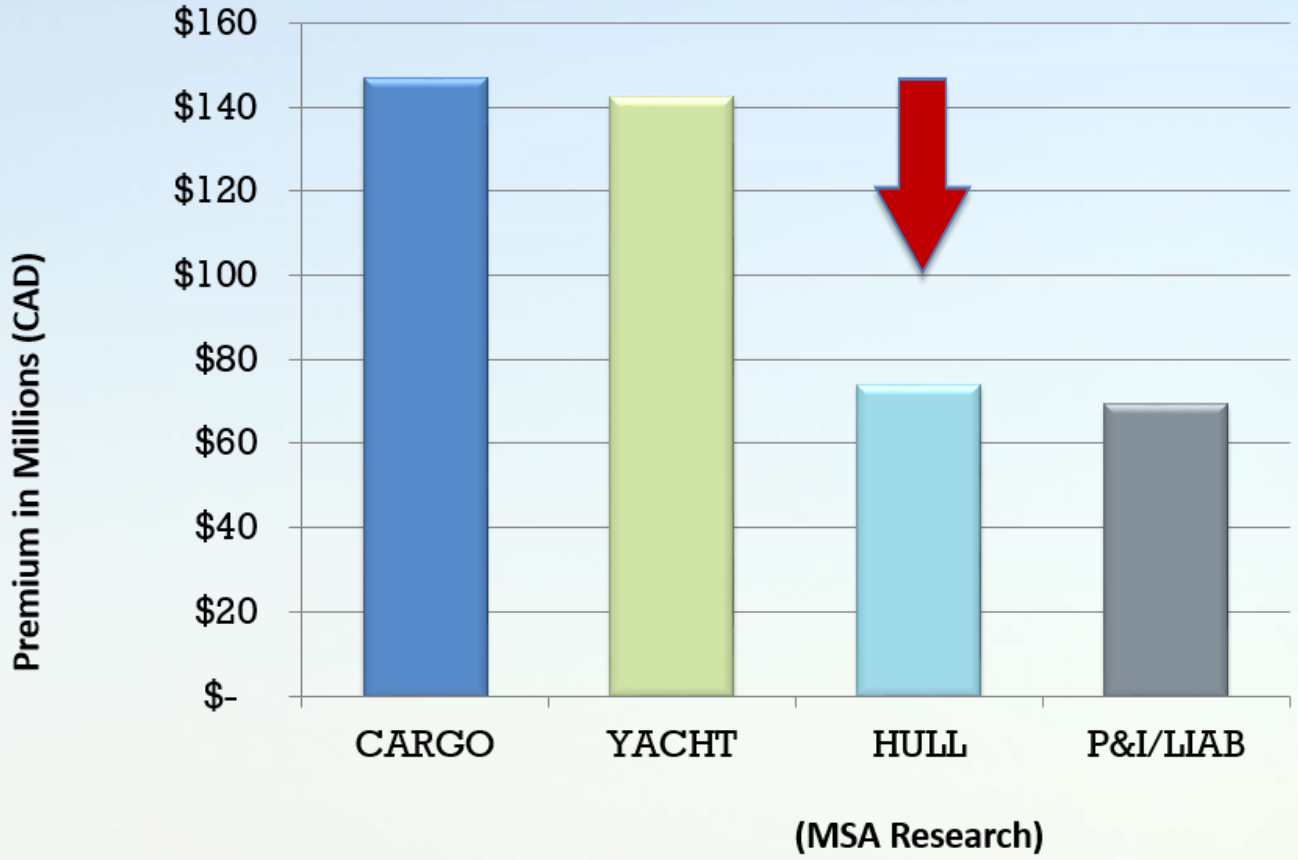
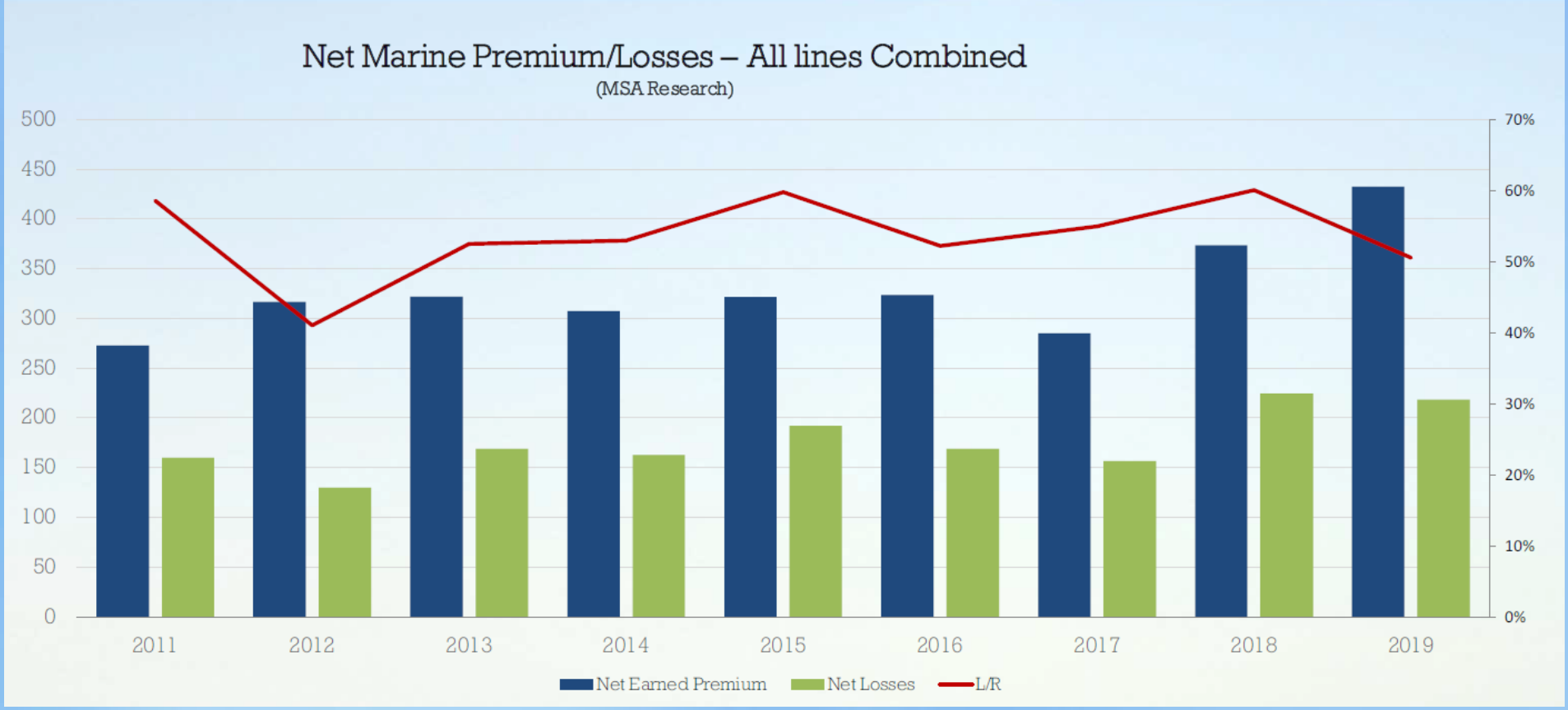
2019 Direct Canadian Marine Premium



Total DWP: $433M CAD

Cargo	$147M
Yacht	$142M
Hull	$74 M
P&I/Liab	$69 M

Marine Results 2011-2019



Legislation and Regulation

- Commercial Hull and P&I legislated Federally
  - Marine Insurance Act
  - Marine Liability Act of Canada
    - 200 nautical miles offshore
    - 1976 Convention on Limitation of Liability for Maritime Claims
    - Limitations – vessels less than 300GT:
      - Passenger liability: 2,000,000 SDRs and 175,000 SDRs per passenger x number of passengers
      - All other: $1,000,000 claims for loss of life or personal injury / $500,000 in respect of any other claims
      - *SDR – Special Drawing Right*
    - Carriage of Passengers and their Luggage by Sea (Athens Convention) – vessels over 300 GT – passenger liability – 250,000 SDRs
    - Nairobi Wreck Removal convention – vessels over 300 GT
    - International Convention on Civil Liability for Oil Pollution Damage – pollution for vessels carrying over 2000 tonnes of oil
    - International Convention on Civil Liability for Bunker Oil Pollution Damage – vessels over 1,000 GT – pollution
    - Carriage of Goods by Water regime – Hague Visby Rules (shipowners liability to cargo)

Legislation and Regulation (cont'd)

- Compulsory Insurance for Ships Carrying Passengers – minimum limit of $250,000 per passenger
- Canada Shipping Act, 2001
- Coasting Trade Act – any vessel operating between two Canadian ports must be Canadian flagged and Canadian crewed

Forms

- Hull:
  - American Institute Hull Clauses (June 2, 1977)
  - Institute Time Clauses – Hulls (1/11/95)
  - Canadian Board of Marine Underwriter Great Lakes Hull Clauses (September 1, 1971)
  - Canadian Hulls (Pacific) Clauses – 2005 (Association of Marine Underwriters of BC)
- P&I:
  - SP-23
  - Excluding Crew Liability – covered under Worker's Compensation schemes
  - Sudden & Accidental Pollution often included
  - Canadian (Pacific) P&I Clauses 2007 (Association of Marine Underwriters of BC)

- Navigation Warranties – West Coast - #1, 2/2A & 3

Geography and types of vessels

- Arctic –
  - Ice navigation; limited navigating season
  - Service First Nations communities; mining activity
  - Tugs and barges, multi-purpose container vessels, tankers, fishing vessels
- East Coast –
  - Ice/icebergs, heavy weather
  - Fishing vessels, tugs and barges, ferries, tour boats, off-shore supply vessels
- Great Lakes/St Lawrence Seaway –
  - St. Lawrence Seaway lock system
  - Lakers, tankers, tugs and barges, ferries, tour boats, fishing vessels

Geography and types of vessels

- Inland rivers & lakes –
  - Numerous inland waterways; can act as part of the highway system
  - Ferries, tour boats, fishing vessels, tugs and barges
- West Coast –
  - Logging, environmental protection
  - Fishing vessels, tugs and barges, ferries, tour boats

Hull and P&I losses

- Collision & Groundings in the St. Lawrence Seaway
- Sinking of fishing vessel
- Stability issues resulting in passenger injury and death
- Ice damage – lack of infrastructure in Northern Canada
- Fires – engine room

US Broker'S Perspective

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US Hull / P&I Market Observations and Commentary

What does the U.S. market do well?

"E Pluribus Unum"

Market appetite covers an amazing range of

- vessel types, geographic / industry niches
- placement / program design
  - 100% or syndicated
  - mono-line or packaged
    - particularly attractive ability to package P&I with other marine liabilities
  - "small / middle market" vs larger / complex risks

Accepts the 'unique' US crew risks

Facilities for vessel pollution

i.e. capacity and market appetite are generally well aligned with:

- vessel owner (etc) needs / objectives, and
- scale / size of overall business opportunity

US Hull / P&I Market Observations and Commentary

….then why do owners / brokers place covers elsewhere?

No single / simple answers….

Putting aside the limited US market appetite / capacity for blue water vessels

- Hull
  - Owner perception of Lloyd's as the more 'stable' market (despite individual syndicate changes)
  - Consistent 'salesmanship' by leading syndicates
  - "Arbitrage" strategy via verticalized placements
- P&I
  - Core issue is IG P&I entry or not
    - After a general lessening of IG Club appetite for non-blue water US risks 1980-2000, make no mistake: they're back….
  - Limits / Rating efficiency on excess limits, particularly on low GT vessels
  - Service capabilities – claims outside of U.S. (etc) trade

US Hull / P&I Market Observations and Commentary

What we tell vessel owners:

Capacity is still widely available, noting however:

- Some underwriters are re-evaluating line size and/or redeploying their capacity
- Capacity buoyed by the entrance of "Lloyd's" entities in various forms

Following market support cannot be taken for granted. Each underwriter's proposed line is scrutinized as heavily as if it were a lead line

"Peer review" and increased management oversight impact underwriters' flexibility

Increased emphasis on modeling and actuary driven input on minimum pricing

Considerable resistance / shrinking market appetite for

- Non-standard coverages, 'singleton' vessels or 'one-off' risks
- Ancillary coverages - which were often previously taken for granted

Rating

Policies with adverse loss records seeing much larger average rises vs pre 2018

A focus remains on "correcting" historically underpriced capacity.

US Hull / P&I Market Observations and Commentary

CONTRACTS & CLAUSES

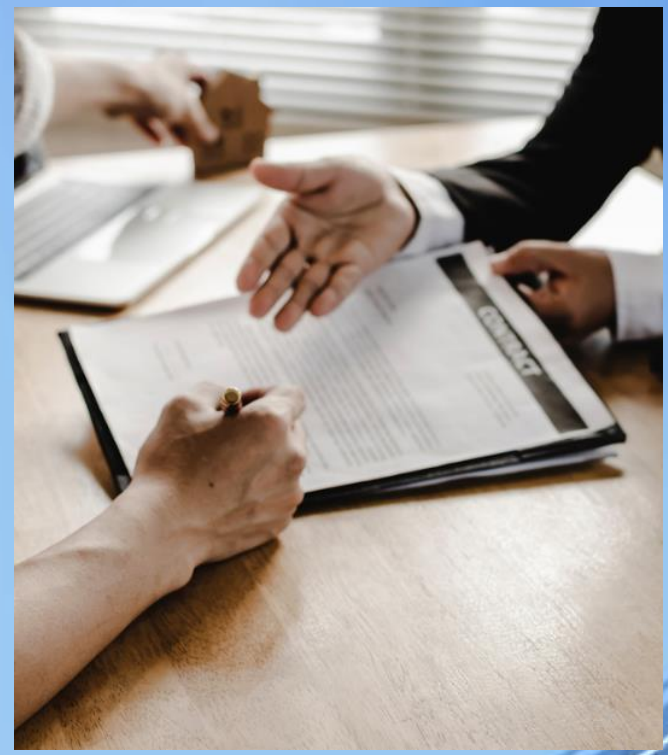
- CDX

Fundamental mis-match: "Crew employer" common law / statutory risks vs. imposition of CDX

Availability of buybacks

Willingness to align with global market terms, e.g. new JLC 'Pandemic' exclusion (**JL2021-014** 8th March 2021) – current best of the worst…..

Cyber – the Cyber market isn't going to come riding into the rescue and write resultant PD / BI liabs – people, we need to work to a broadly acceptable solution



US Hull / P&I Market Observations and Commentary

ENDORSEMENT EXCLUDING A COMMUNICABLE DISEASE FOLLOWING
A PUBLIC HEALTH EMERGENCY OF INTERNATIONAL CONCERN (PHEIC)

(for use on marine liability and energy liability contracts)

1. In the event that the World Health Organization ('WHO') has determined an outbreak of a **Communicable Disease** to be a Public Health Emergency of International Concern (a '**Declared Communicable Disease**'), no coverage will be provided under this (re)insurance for any loss, damage, liability, cost or expense directly arising from any transmission or alleged transmission of the **Declared Communicable Disease**.

2. The exclusion in paragraph 1 of this endorsement will not apply to any liability of the (re)insured otherwise covered by this (re)insurance where the liability directly arises from an identified instance of a transmission of a **Declared Communicable Disease** and where the (re)insured proves that identified instance of a transmission took place before the date of determination by the WHO of the **Declared Communicable Disease**.

3. However even if the requirements of paragraph 2 of this endorsement are met, no coverage will be provided under this (re)insurance for any:

A. liability, cost or expense to identify, clean up, detoxify, remove, monitor, or test for the **Declared Communicable Disease** whether the measures are preventative or remedial;

B. liability for or loss, cost or expense arising out of any loss of revenue, loss of hire, business interruption, loss of market, delay or any indirect financial loss, howsoever described, as a result of the **Declared Communicable Disease**;

C. loss, damage, liability, cost or expense caused by or arising out of fear of or the threat of the **Declared Communicable Disease**.

4. As used in this endorsement, **Communicable Disease** means any disease, known or unknown, which can be transmitted by means of any substance or agent from any organism to another organism where:

A. the substance or agent includes but is not limited to a virus, bacterium, parasite or other organism or any variation or mutation of any of the foregoing, whether deemed living or not, and

B. the method of transmission, whether direct or indirect, includes but is not limited to human touch or contact, airborne transmission, bodily fluid transmission, transmission to or from or via any solid object or surface or liquid or gas, and

C. the disease, substance or agent may, acting alone or in conjunction with other co-morbidities, conditions, genetic susceptibilities, or with the human immune system, cause death, illness or bodily harm or temporarily or permanently impair human physical or mental health or adversely affect the value of or safe use of property of any kind.

5. This endorsement shall not extend this (re)insurance to cover any liability which would not have been covered under this (re)insurance had this endorsement not been attached.

All other terms, conditions and limitations of this (re)insurance remain the same.

JL2021-014

8th March 2021

Canadian Broker's Perspective

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Nature of Canadian vessels operations

- Canada have several bluewater fleets that have their Head Offices located mostly in Montreal and Vancouver

- Large ferry fleets exist across the country as Canada has a very long coastline with many remote communities to deliver passengers and cargoes.

- Substantial fleet of tug and barge operators that carry bulk commodities to remote areas to support Canada's strong mining, forestry, and construction sectors

- The St. Lawrence Seaway completed in 1954 is key trade route for both Canada and the US and many Canadian based operators operate custom built vessel known as "lakers" that operator within the lock system.

- Import tariffs have been reduced allowing more new vessels to be built at a lower cost encouraging newer tonnage to be built and modernized our fleets

Canada versus the US – risk considerations:

- We do not have what is known as Jones Act legislation in Canada but rather a system of provincial worker compensation schemes that provide coverage for crew injury and death

- We have also a Workers Compensation mutual known as SCALA or the Standard Compensation Act Liability Association which provides crew injury and death cover for its members located in Ontario and Quebec primarily

- Our country has thousands of fishing vessel operators.

- Under Canadian law the maximum limit of liability for a passenger or crew member is approximately CAD $300,000 per passenger or crew member

- We have our own War Risks insurance Mutual known as the Canadian Shipowners Mutual Assurance Association

4 Trends for Hull Insurance in Canada

- Appetite for Hull business – the majority of Canada's largest fleets are insured by insurers and in some cases brokers offshore – why is this?
- M&A activity and retirements in recent years has reduced the number of potential Hull market leaders in Canada - how are Insurers responding?
- Marine Insurers in the US have shown an increased interest in insuring Canadian Hull risks recently
- Insurers are now introducing efficiencies to lower the cost of transacting small and medium marine accounts.

4 Trends for Protection & Indemnity Insurance in Canada:

- The majority of Canada's fleets continue to be entered with the International Group Association P&I Clubs
- Mutual P&I Clubs are putting upward pricing pressure on their Members premiums in 2021 – will this continue?
- Canadian and US insurers continue to provide effective P&I solutions for the growing marine construction industry
- Collision and wreck removal claims inflation is on the on the rise in recent years.

Moderated Q&A