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Dollar levy could end P&I impasse

THE PASSENGER PAYS: cruise surcharges are on the horizon

Photo: Glenn Ostling

LESS THAN a dollar surcharge on daily cruise rates and ferry tickets could help end a developing impasse over the protection-and-indemnity (P&I) clubs' reluctance to pay much higher compensation following a passengership disaster.

Compensation limits are expected to rise around tenfold as a result of a diplomatic conference called for October but the clubs are warning that they may not be able to foot the bill.

The problem is that passengerships account for less than 5% of the tonnage insured by the clubs and there are fears that bulk-carrier and tanker owners will object to the total financial strength of the P&I market being put at risk to meet the needs of a single specialist sector.

The difficulties are further compounded by the fact that victims and their families will have a direct claim against P&I clubs rather than there being the cut-out in the liability chain provided by the traditional "pay to be paid" rule.

The solution proposed by insurance broker Graham Barnes is similar to that developed to keep ships trading to the US during a similar standoff over Certificates of Financial Responsibility (Cofrs) in the early and mid-1990s.

Barnes was one of the inventors of the this type of solution in which the P&I clubs continue to provide the underlying cover but the risk of them not paying is transferred to a special company such as Sigco or Shoreline Mutual. The broker has put forward alternative "deluxe" and "low-cost" solutions to a correspondence group run by Professor Erik Resaeg, director of Oslo University's Scandinavian Institute of Maritime Law. Resaeg is involved in preparations for the diplomatic conference.

Barnes plan to directly address the issue of victims being able to directly seek compensation from a P&I club but as a consequence may make the issue of much higher limits less of a confrontational issue.

A study by Barnes suggests that under the low-cost option, premiums to set up a financial guarantee company that would stand between victims and the P&I clubs could run to about $300m a year — which is an affordable figure.

The solution could also help defuse the developing dispute about compensation limits, expected to be set at between $450,000 and $650,000 per passenger, as the P&I clubs in practice already have such exposure to cruiseship disasters in cases where claims would be resolved by the US courts.

Barnes is the founder of BankServe Insurance Services, a London broking firm that counts many top shipfinance institutions among its clients.

He says the cost of a Cofr-type solution could be covered by a surcharge of $0.75 a day on cruise tickets and $0.65 per ferry trip. If the US stays outside the revised Athens Convention the cost would rise to some $1 per ticket.

The deluxe solution would be to establish a stand-alone insurance company that would provide ground-up cover for passenger liabilities, thereby taking them out of P&I club cover. Barnes estimates the cost of such a venture could be around double that of the low-cost solution and notes that it might also raise US antitrust and EU competition policy concerns.

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from London