

## YACHT FISCAL

### MONACO MANAGEMENT MEETING

Monday 6 October 2008 — Tuesday 7 October 2008

Day 1

#### INSURANCE & LIABILITIES

Simon Ballard

Paul Miller

CRS Yachts

Underwriting Risk Services Ltd

#### Chairman— Martin Redmayne

Good afternoon everyone. Session 2—the Insurance and Liabilities session. We have an underwriter and a broker; an insurance broker I must add. A few topics to be raised—the synopsis is showing that the market is going through some interesting times. There's some huge contract values so it's an interesting insurance market. These two gentlemen will give their perspective on where we stand at the moment. I think Paul will start?

#### Paul Miller Underwriting Risk Services Ltd

Good afternoon. I'll sort of just set the scene to start with. What we're going to try and do is touch on a number of different subjects then hopefully provoke some questions from the audience—I guess if there are questions you want to ask that don't relate to the subject or the particular items we're talking about we're happy to try and answer them for you if we can because that's the idea of being here.

First of all, as Martin set the theme to some extent, we're going to touch upon values, the current market situation as we see it as insurers, then we're going to talk a little bit about policy security and syndication as we talked about it this morning from the banking side of it. Then we'll talk a bit about builders' risks and the new yards and various other things. Yard liability is a current issue in the insurance market—piracy, and then finish off with a little bit about the ILO and IMO and in terms of how that may, or will, potentially impact on you guys. I think Simon is going to fire off on values and current market.

#### Simon Ballard

CRS Yachts

When Martin sent over the brief and asked us to speak, I looked at it quite quickly and said 'well, it's quite a quick question'. No, it isn't. And the reason to get to that conclusion quite quickly was that we, as brokers, see a number of gigayachts over the last couple of years—we've seen values escalate over the hundreds of millions, there was talk—we were looking at some builders' risk side a couple of weeks ago with values of \$400million plus for new builds. We've got yachts being delivered this year that are over \$200million plus, so it made me think 'well, what is the actual global book worth?' It comes back to a little bit of transparency, and I think it's from the bank insight this morning, where it was quite obvious as well that the problem we've got in this industry and we've always had it and I think we will always have it, is lack of transparency, it's cooperation and it's real statistics. As insurance underwriters, as Paul is, I think they hold a lot of the keys to information as far as values, they have a good grip on what they're seeing and us, as brokers, we see what we would hope to be the correct value of either the purchase price or the build price. So I think we can step back and have a look at it objectively. So I started to

have a look at what the new premium to the market for this year alone might be, and for that I actually split the new builds into metres, number of builds within those metres, and then put an approximate—we were just talking to Martin—number of euro figure per metre. So Paul and I have gone through some rough figures and together we believe that this year alone we're looking at about \$6billion worth of new builds launched, and we're just talking over the 24metre, the superyacht category. Now of that, if you take an average premium rate, and again this is all very much on an average basis, we're looking at about \$25million worth of premium in the insurance market for superyachts, for new builds, based on a value of \$6billion. So to go back to the original question—is it a sustainable market at that level? If you even look at a snapshot of one year—no, the market can't sustain big losses. It just can't. With boats far exceeding \$5million in there, the pot just gets smaller and smaller. And the exposures get bigger and bigger. Now if you take from that \$25million the amount of \$10million, \$8million, \$5million boats that might be a total loss, you're getting a much smaller pot. So to go back to the original question—is the market with high values on the insurance side sustainable—no, as an arrangement, as a traditional insurance arrangement, which I think we're going to talk about a little more, no, it becomes a very hard prospect. Does that mean rate rises? Possibly, but it's not going to be enough to sustain where we're going with values. Values are far exceeding what the market was initially set up for and where the market has really gone to. Paul sees a lot more of these, as far as the global—as I say, I've only really looked at it as a snapshot for where we're looking at this year for new builds alone. But Paul has probably got a little bit more of an indication of where the global premium pot sits and possibly where claims over the last year or so have gone.

## **Paul**

Our rough estimate—and as Simon said, it's very difficult to capture all the statistics because there's no central body or no way of really doing it, but we think the best guess is between \$700million and \$800million is the global yacht premium. And that's small to big, is what we reckon it is. And obviously a big chunk of that is the U.S. market, then outside of that the European market runs a close second. Other places, Australia, New Zealand, are not very big chunks of money, relatively, compared to what goes on. I tried to look at it from the underwriting side of it and said if you look at Hurricane Ike which has just gone through Texas, our estimate out of the something approaching \$40billion total insured losses, about \$400million of that is probably yachts. I don't really write much in the U.S. book at the moment but down in Galveston they're all fairly big sports fishers, they're 50, 60, 70 feet—you don't get small boats there, there's nowhere to go. So you either go offshore and go fishing or go home. Because there's not really anywhere else to go. So you get reasonably big values there. If you look at the news reports you can see all these 50- or 60foot boats stacked up on top of each other. So we reckon that was about \$400million. Katrina was about \$800million. I know people will argue that a lot of these losses will get swept up in other areas of a big corporate insurer, you know, the property and the marine, and the oil and gas industry for instance, got hit really heavily from those sorts of things, and it all gets swept up. But it does all take premium out of the yacht book. The best way probably to describe it is supply and demand. Insurers cannot write all of this stuff on a 100% basis. We have to lay the risk off in what's called reinsurance, to the reinsurance market. Some people will do that individually per risk, generally people will buy a block policy—they'll say 'right, we're going to write \$50million of yachting this year and we're going to write a maximum line of \$50million for any one vessel'. They would then buy a reinsurance programme that would cover them for losses in excess of a certain amount—they may say it's \$5million, \$10million, so they'll lay off their bigger exposures and pay a premium for that. And

potentially— let's just say it's 20% of the premium they write—so they pay \$10million to buy that policy. The problem we've got is the reinsurance market is paying the price of all these losses—Hurricane Ike, Katrina, all the other stuff that's gone on. You may recall the oil depot fire at Buncefield in the UK. That's going to be over £1billion for that fire loss. The market is carrying all this, and the reinsurance market to the insurance industry is a bit like raw materials to the shipping industry—if the price of steel goes up then the price of the boat goes up. Well, if the price of reinsurance goes up then our prices have to go up. There are certain bits where you can sit back and you can absorb them, but beyond that prices have to go up. And I think the view is at the moment that's sort of where we're heading. The market has to harden, we've had a soft market with falling prices for a period of time and the market now is at the point where it's turning and it's going to harden. And I think we see an element of that in the banking industry—we all know just generally from the credit crunch it's harder to borrow money, it's harder to get there, unless you are one of the incredibly wealthy, high net worth and the banks will only lend you the money if you don't need to borrow it. And we're in that position. So I think, from the underwriting perspective, that's where we are. And Simon is right—in addition the escalating values we're seeing—I did a quick rule of thumb but I think we're looking at values of 30 metres and up in the market at the moment are about €1million per metre. From 50 meters they're probably going to €1.5million a metre, 70 meters is €2million a metre, and for 100 metres plus, anything from €2.5million and €3million a metre. They're the sort of values we are seeing now on the build risk side. They're enormous, quite frankly. As Jay mentioned this morning, you've got huge, great gas tankers at \$250million a go. We've got yachts in value dwarfing that. We've got yachts coming out—one recently launched last year at 15,000 tons for a yacht. These are big pieces of kit now. And some of the yacht market is heading nearer the commercial market. It is in that sense of it. We've always worked effectively on metre size—if you look at The Yacht Report, it's reported on metres and size and whatever it is, but actually we're heading more into the commercial world where everything is done by tonnage. And it becomes a very different view of life. I remember a long time ago in the market, 20 odd years ago, the way we'd look at a boat was the value per ton. But we were looking at 50-foot sail boats that were 15 tons. We weren't looking at 150-metre boats at 15,000 tons. We're in a completely different arena now. And I think we all know you have two virtually identical boats sitting next to each other and one can be worth €30million, one can be worth €50million. It's what you put in it. The hull and the superstructure quite frankly doesn't cost you any different to build. It's what you put into the boat that adds to the value. It is a difficult market at the moment. I think we're all aware that some of the insurers are going through difficult times, and we're going to touch upon that in a minute, but I think the sudden virtual collapse of AIG in a matter of days as the biggest insurer globally by a long long way. I think if you split AIG as it was, into four separate companies, each of those companies are still 2.5 times bigger than its nearest competitor. They are a huge company. And they collapsed virtually in two weeks. It sort of brings it into perspective. May I add though, that it was not the insurance side that brought it down. It's the other areas—you don't get that big by just being an insurer. If you wrote everything in the world, you'd struggle to get that big. I guess everybody is diversifying—too many people are diversifying in a quest for more income for growth, for everything, and we've seen too many people going into areas that potentially they don't understand, areas they're not sure of and I think I would argue, from a yacht underwriter's perspective, we're seeing a lot of new companies coming into our arena that read the press—all we see is positive press—yards are booming and the order books are full, and the chief executive says 'well, why aren't we in the yacht business?'

**Simon**

I think Martin helped that with the FT.

**Paul**

Yes, we'll blame Martin for that one. And all of a sudden, we see another insurer trying to come into the yacht business. And they don't understand it. I think the RBS one this morning was quite a good one—they came in and I remember three years ago having the most amazing conversation with them—they were just going to take their aircraft leasing philosophy and come in the yachting world. And I had a conversation with this guy, and naïve is probably the wrong word, but that's pretty much what it was. I said to him 'but don't you understand that if you are lending money on a corporate jet, it goes into a factory, it comes out the other end, the quality control is unbelievable, the thing is tested, it flies, it comes out certified, it comes out the other end as a perfect piece of equipment. You can lend money on a boat and you have no idea if it is going to float when it's launched. You have no idea'. And he looked at me as though I was from a different planet. But I think ultimately we were proved right. In the sense that they were in then they were out. It's crazy the way that the market is at the moment. Sorry, I'll stop.

**Simon**

That kind of leads us into the next topic to a degree. As we've seen values increase, as we've seen more money, allegedly within the industry, we've seen new players. We've seen new insurers, we've seen big company players, we've seen AIG to a degree, we've seen some European players that have a lot of fingers in different pies. And insurance tends to be one of those at times. And they offer cheap capacity. And as an insurance broker, it's my job to source the best capacity and the best risk for our clients. And that is not necessarily always the cheapest. It's quite hard to put that across to a client, in fact it's very hard especially when they're looking at maybe soaking up a €50million to a €100million risk with one insurer. And that's what AIG could do. Now, going back to what Paul was saying, they actually laid off some of that risk. Essentially, they were looking at taking that risk 100%. As a broker, I've had my fingers burned with that several years ago, and I'm not going to go back there. Going back to my question this morning with the finance side—syndication. On the insurance side, we call it co-insurance in a subscription market, and that's where each insurer takes a small part of the risk. Now, then a broker's job is to put those all together and make sure that it all works. On the insurance side, there's 300 years of that working. So there's experience there, people know how it works, what we would do as brokers is—we would go to a recognised leader, say for instance it's Paul, and he would say 'yes, I want to write €20million of that', or €30million or whatever it might be. And then, we would go to another insurer, Paul would set the terms, set the rates, and conditions. We would then go to another insurer and say 'would you like to follow this?' In its basic form, that's how it works. Now we would continue that until it's finished, without one insurer taking too big a slice. This week, and the last couple of weeks, certainly in the financial markets, that's going to get stronger on the financial side where we've got owners personally—my friends and people I know—you're talking about where you're going to put your money. Northern Rock in the UK is going to be the safest bit so people put £20k in Northern Rock, put a bit more elsewhere. This is just the same as what's been happening on the insurance side for years. But it's not actually—we haven't shouted about it, we haven't shouted about why we've been doing it. If you look at, say Lloyds for instance, if we come back to the security chain—what we do is syndication and co-insurance in the

subscription market. Lloyds of London is set up purely for this purpose, so you place a risk in Lloyds, you have to be an accredited Lloyds broker so you have to go through a different type of regulation than normal FSA, and you get to place business at Lloyds. Now, that is several insurance companies—I can't remember how many, Paul will probably know off the top of his head—there's about 50 separate insurance companies sit on a box—not actually a box, it's a desk—but as my wife said the other day when I said 'well, they sit on a box', she said 'do they actually sit on a cardboard box?' No. And we, as brokers, would spread the risk. Now, with Lloyds security, you've got another security measure with essential fund. Everything we've seen on the banking side with the governments bailing out companies—Lloyds have been putting money aside to bail out one of their own in case of financial trouble for 300 years. Now that's built up a large pot for financial security. As a broker, yes, I think we should be going out selling decent security rather than one insurer for one boat. Personally, going forward I don't think it works, I don't think it's worked for a long time, but coming back to what Paul was saying, I think there's a cost to that. And fortunately, Lloyds underwriters are very good at some things, but they're also very good at jumping on bandwagons pretty quickly and rate rises are going to come quite quickly and a lot quicker than in the commercial market, or in the domestic market, if you like, if you're working with the likes of the European insurers. I think Lloyds will see the benefits of increased premiums for what they've got and the benefits of security. But to go back to the original question of what we were looking at, subscription markets for larger risks works. Each insurer takes a small part of a larger risk. Hence why yes, if we're looking at €200million to €400million risk, yes, it's a longer walk, we've got to see more people. But that's our job, that's what we're there for. And that's a market that's worked for 300 years and lo and behold it will work for quite a few more years.

## **Paul**

I think we should probably stress that there are plenty of other insurers out there that have good security—this isn't just a Lloyds road show. It's not meant to be. But Lloyds just happens to work on the subscription market basis and always has, but there are other people out there that work that way. I think the point we're trying to make is that if you put all your eggs in one basket, then you run the risk of potentially seeing a much more damaging downside of that rather than a group of 15 or something on your contract. It's a difficult decision in a way for people to make. I think a lot of the decisions over the last 3 years have pretty much been price-driven. Whatever it came down to. And as everybody's referring to it now—there's a flight to quality starting to occur. There's a lot going on in the market—not so much on the yacht side but certainly in the commercial side, where you have big multi-nationals. A lot of their contracts include what are called downgrade clauses. So if an insurer gets downgraded by more than 2 notches by Standard & Poor, or whoever it may be, then they are automatically taken off and the brokers' job is to go and get that line replaced instantly. And there's an awful lot of people going around with a suitcase full of slips to replace AIG at the moment. They're the particular one at the moment—it may be there's a few others out there that there's been some press about over the last few days. And potentially they will be in the same position where they're writing big multi-national corporate risks. I think you've got to expect some changes is the bottom line. We do expect the market to harden, I mean Michael is here from Pantaenius—I don't know whether he deals with that, or whether he thinks, talking to the insurers that support their operation, they are of a similar view but I don't see this market continuing as it is at the moment. It can't.

## **Martin**

Do you have any idea of what percentage you're looking at, the hardening?

**Paul**

No. But it's not going to jump 50%. My view is, potentially we might see 10% and start to move forwards on that basis. The decline in pricing has not been totally dramatic, it has in some ways, where we've got people coming in trying to buy business—you're seeing reductions of 25% on expiring risks. But I don't see that the rise will be that dramatic. I think it will be gradual over a period of time. But going back to the numbers we quoted, on the new deliveries of \$6billion, we've got €25million of premium, which quite frankly on some of the really big stuff now it doesn't pay for much.

**Simon**

Going back to what I was saying with a flippant comment about Lloyds underwriters and insurers in London being a bit quick off the mark, I think what we'll see, and it is traditional, I mean insurance is very much a matter that goes round in circles. You have a hard and a soft market. And people have done this for years and years. So this is nothing new in the insurance game. But I think you'll see London underwriters getting on the bandwagon pretty quickly with 10% —now that might be a 10% then another 10% and maybe a 5%, and my gut feeling is you'll see some Continental insurers going 'well, OK, let's take advantage of that'. And not offering the rises that should be there to make a sustainable book, and then, all of sudden, piling in with 30%. And we've seen it before and we'll see it again.

**Martin**

Michael, do you want to comment?

Michael Kurtz      Pantaenius

Why me? I have to agree with everything that has been said here. And the very delicate situation will happen when the big claims might come. I don't remember any claim more than €20million for a yacht 70 metres plus. I think nobody from the insurance side ever experienced this kind of thing.

**Simon**

Yes, Aviva.

Michael

How big was the claim?

**Paul**

Over \$30million.

**Simon**

The sum insured was \$50million but it was negotiated.

Michael

Especially when this might happen in the Caribbean or in the Pacific, or somewhere where there is absolutely no infrastructure to repair these kind of yachts and to ship these boats to the yards and to have all these surveyors around and all these problems around, to repair these boats. Finally the question is—the insurance split among all the insurance companies and the reinsurance market—how sound are they? When the worst part of this business happens, and there is the objective side of pure accidents—fire, collision, sinking, water increase. And there is the subjective side that criminal things might happen—who knows what happened to those people going bankrupted in the next 4 weeks or are already bankrupted. The yard insurances, the building insurances might develop some problems. So, from our point of view, from the Pantaenius point of view, we are extremely careful with covering yachts €60million and more. Because if we have two or three claims in a row in two years, how can we manage this money? But aside from this, I agree completely with what you are saying.

**Paul**

I'd agree with that Michael. I think the problem we all have is that the values that we're being asked to insure these days are so far beyond any kind of premium base we have that our income to the exposure is just multiples at the moment. I'd liken it a little bit to what's happened in the race boat scene. A few years ago, the boat to have might have been one that cost €400,000 as a 52-foot racing machine. We now have a boat virtually the same size, not far short of being similar to a TP52 and costing €1.5million to build now, because it's a racing class with no rules and your boat next year is worth half of what you paid for it last year. They really are throwing money at this stuff. It's a bit like standing under a cold shower ripping up £50 notes. It really is there at the moment. And these guys are finding it really difficult to get insurance, because people work hard—to get their regular book of business is not on the megayacht side, but you know, somebody has a €10million to €15million book of business, they're not going to expose 20% of their book on one risk. Because the small stuff is frequency driven. Therefore, it's not the big stuff which is single risk. It's frequency-driven.

**Michael**

But if I can interrupt you—the TP52 story is a little bit delicate because these are pure racing machines, and they are so over-constructed that they bought masts and technical parts of their constructions which were definitely without guarantees from the builders, but this you cannot compare with the risk of the superyacht market which is €60million or €70million more.

**Paul**

Yes, now you're taking us into a completely different area, which is carbon fibre. We borrow all this technology from the aviation industry and apply about 10% of the quality control.

**Michael**

The big issue with the superyachts is the enormous effect of material, of technology, of sensibility, of electronics, in case of an accident. No one can judge what happens if the electronics fail, and the water rushes in and so on. If you see for example this new Wally, which was at Monaco at the Boat Show—when you see the electronics

on which this huge boat is working, immediately we have a €5million to €10million claim with these kinds of boats. And the motor boats with these highly sophisticated electronics, interiors—I think it's a quite smart and quite interesting situation in the part claims. I don't know if the insurance structure is really knowing what they are doing at the moment.

**Paul**

I certainly think there's an element out there that doesn't. I would agree with that. From our perspective, the insurance side of it—Maltese Falcon, I think, is another example—where you've got a lot of spars, you've got god knows how many winches on each spar—you get hit by lightning, you're going to get one seriously big bill because no manufacturer is going to say 'yes, I'll repair that winch for you'. They'll be going 'here's a new one, you have to buy a new one because I'm not going to repair it or guarantee it'. And there's an awful lot of exposure sitting above the deck on something like Maltese Falcon.

John Leonida [From the floor]

Paul—a question. Over a certain size, let us say 60 metres, do you see any move or do you predict a likelihood of owners having to self-insure if the London market will refuse to insure?

**Paul**

I think that depends on how extreme some of the designs get, without a doubt.

**Martin**

Do you have some inside knowledge?

**Paul**

There's certainly been some moves where some owners have tried to create their own mutuals—they've looked at pooling arrangements, some of the big boat owners. But given the current state of the market, I think that's probably much further away than it might have been in a softer market.

John

Martin, I know some of my owners have in the past self-insured regardless, because they reckon they've got more money than the insurance companies and have decided not to pay the premiums. If anything happens, they said they'd cover it, and they've done that.

**Paul**

I will say this much. I had, as a good example as the other side of that, one of the shipyards I deal with and have insured for a long time—a vessel came in for a major refit and they only had P&I insurance, no hull insurance. And they came to me and said 'is this OK?' And I said 'absolutely not. Do not let that boat in your yard if it's not carrying full hull cover while it's in there.' Because the yard will cover their liability to the vessel but it doesn't cover acts of god, so it's not going to cover lightning or storm, or everything else. And just say the boat gets hit by lightning, catches fire and

it's a mess. The yard is going to have a huge fight with the owner about clean up costs, clearing it, getting rid of it and clearing it out. The downside of self-insurance is when you want to go in a yard—you try buying cover for 30 days—I'm going to charge you an annual premium for that, virtually.

### **Simon**

Can I just add to that? I don't think we'll get to that, when the market won't insure a 60-metre. I think we'll get to a point where the market can't cope with a 200-metre but it certainly won't be down in the 60-metre, the waiver value. There's always going to be a market there.

### **Tork**

Can I just interject a question there? I don't quite understand why? Because if you're operating on a percentage with an assessed risk, what's the difference between 200 metres and 20 metres? As long as your premium accurately reflects the risk.

### **Simon**

But it never will do, that's the problem. It will never do that on a percentage basis when you're looking at a larger risk—because I think if you look at the two different major risks, which are repairable damage and total loss. We're putting together policies at the moment—I had an interesting one where basically you have 2 sections, where you have what's known as increased value, so your total loss figure comes down to do that. And your premium comes down. And we had a new introducer, a Swedish guy, a big boat, new out next year. And he said 'look, this doesn't work, that's unsustainable for underwriters'. He said underwriters cannot pay a total loss out at 70% of the build cost. And he's right. It is unsustainable. But it takes a fresh pair of eyes to actually look at it—he said he was in a meeting with the owner and he was talking to him about it and he said 'look, it doesn't make sense'. And it doesn't. The way the insurance is structured doesn't make sense. But then it comes back to a supply and demand—what cost would you buy. And this is what I was going to say to John—if some of his owners are saying they're going to self-insure, OK, you've got an owner who has a €30million boat for instance, and he won't pay €100,000 to insure that against everything. Well, why is that? It doesn't always come down to the fact that he's got more money and he won't pay it. Does he not want to pay the €100,000? So, in that case, if we're going to be involved in a project for €250,000 more and more won't pay it, and it's not because they want to self-insure and they want to take the risks themselves, it's because they don't want to pay the premium. And I think that changes the dynamics of it.

### **Martin**

Does that compound the problem?

### **Simon**

Yes. Because, for instance, Michael might be a good one for this because we've never done it. But a very good example of that market is loss of charter hire on superyachts. Now, some years ago, I remember people saying loss of charter hire, brilliant, and what loss of charter hire will do is a basic form of insurance where if you have a hull and machinery claim, let's just say your boat is grounded and you lose ten weeks of charter, you get your charter money back after the first 7 day excess or

whatever it might be. Now that market is miniscule because people would not pay the premium for it. And it's basically that. People wouldn't pay.

### **Paul**

Some of it is a major misunderstanding of what it actually covers as well. Too many claims get presented on the basis that *I could have chartered it*. Which doesn't bear any relation to the risk that's being run.

### **Simon**

But that's a great example of the fact that the hull and machinery costs him €100,000, and his loss of hire to cover him up to €1.5million costs him €100,000. And they decide not to buy it. They'd like it, but it's the cost. And I think that will go back to where we're going. So that market is a very bad market now because only a few people buy it and they're probably the worst risks. So ultimately, it makes it a worse market.

### **Martin**

But even the hardening of the premium—does that solve the problem?

### **Paul**

Not really. I think hardening of the premiums is fine, and to some extent I guess it's generally about insurers balancing the books to some extent. But it's appetite for the risk. Loss of charter hire on commercial vessels is very difficult and people struggle to make a market where you have literally got tens of thousands of boats in that arena. In the yacht market where—I won't say vessels are more delicate, but they are more susceptible to certain things—then it's a really difficult market to try and make any money in. Ultimately that's what we're here for, to make some money. To go back to your question, Tork, about the €200million—I think the yacht market has a certain amount of capacity. It doesn't have infinite capacity, and certainly on the bigger boats now we need the commercial hull market to fill some of that. It certainly happens in London and I underwrite on behalf of Lloyds underwriters, a big London company and a couple of European companies as well, so I have a reasonably good spread in terms of what I do. But the capacity at some point—when you get to €300million, €500million, you need the commercial market to come into that. And the problem with the commercial market is—it isn't making any money at the moment. You look at some of the big claims that are out there on commercial side of things and there are some huge claims. I mean enormous claims that 3 years ago would have cost €50million and are now costing €150million. That's the sort of problem the commercial market has got. And I think, to some extent, potentially we've got it in the yacht market, we just haven't had one yet. It'll come at some point.

### **Tork**

Ayuk, sorry.

Ayuk Ntuiabane

A question for Simon, and Paul, you can come in if you like, as well. The U.S. Federal Government is propping up AIG at the moment, and as you know there are quite a few yachts in the industry which are underwritten by AIG. Now, as a broker,

Simon, what are you advising your clients? Are you asking them to put in place a fail safe option should they have an incident and AIG can't pay?

**Simon**

Well, yes. Basically, we held a cover with a company called Independent some years ago now, it seems like a distant memory, and we were reasonably large in the superyacht side and they went, pop, pretty quickly, within the space of a week. And I had the unfortunate instance of actually replacing all of our clients that week, so they lost money, and personally, I've said it—I've been there, and I don't want to do it again. Now, could anybody have foreseen where AIG are going? No, of course not. Can anybody see anything in this financial market we're in at the moment. But as a broker to a client, I'd say look at your risk. Look—we've too much within our industry where brokers have put up quotes with security their client hasn't understood, the client doesn't look into and the broker doesn't explain it properly to the client. So I think the client needs to take a little bit—whether it's a management company or the owner himself—and I think ultimately, it's got to go back to the owner or the owner's representative—they need to actually look into the security that's being offered and that's why I think Lloyds is a very safe home at the moment. But back to your question—would we suggest to clients a replacement from AIG—it really depends on that client. There's got to be two views—I think AIG's European book wasn't big, their U.S. book is very big. And you're going to have clients that are very patriotic, U.S. guys, that say actually it's good paper and you'll have overseas clients that don't want to pay money to the U.S. Government, so I think, ultimately, it will be a decision that you will have to put to the client and I think it'd be a difficult one for a broker to actually recommend on. But if I had a big book with AIG, I'd be giving every single one of my clients an alternative. Fortis, again, we never placed any business with Fortis at all, but you can't guess the future—you'd give the clients an option, spread the risk. Why place a €40million boat with Fortis 100%? There's a lot of them—RBS went in and bought the market and they offered very good no-claims bonuses, which make it in 4 years time you don't have to pay any premiums at all, they pay you to have the business, and that's not sustainable. And as a broker, it's our job to look at that in the first place and say 'you can't keep writing business on that basis'. So why would we recommend it to the client? But ultimately, I think options. It's the client's decision, you've got to give him options and information about the security that you're offering.

**Martin**

Simon, how many options are there?

**Simon**

Not many.

**Paul**

Well, there are a few.

**Simon**

There are enough options—but any more than 3 quotes and you're overdoing the market, but I think there's certainly option for 3 quotes.

**Martin**

And how many get 3 quotes?

**Simon**

Not many.

**Paul**

It all depends on the size of the boat. I mean, at €40million you'll get a choice. At €100million, it narrows because capacity starts to get utilised. I think in answer to your question—the question to probably ask your broker is—I've got a client with a \$50million yacht, would you place it with AIG? And see what he says. Because, at the end of the day, it comes back on his E&O.

**Simon**

I mean, that's a good question—would you recommend AIG security or would you put up an AIG quote to a client.

Ayuk

I think to be fair, most of the clients in the market aren't sophisticated enough in insurance matters to be able to make an informed judgement on that question. Let me put the question a different way. Do you presently have clients whose yachts are underwritten by AIG?

**Simon**

No, we don't place any business with AIG.

Ayuk

Because I was going to ask you what are you actually telling your clients.

**Simon**

Nothing, because we didn't place any with AIG.

Ayuk

Lucky for you!

**Simon**

But if we had, I'd be giving them two options and letting them make up their own mind. Ultimately, I think it's a very difficult one, the fact that it's still secure paper, and it will still be secure paper. But one thing all our owners share is that they are all businessmen, so I think they'd all understand the inherent risk of someone like AIG, that's so big. And they will make—I agree with you, they're not sophisticated insurance buyers at all. But I think they will have enough gut instinct to say 'yes, I want to be with AIG', or 'no, I don't'. And as a broker, everybody that was in there should be given options.

**Paul**

I think some of the question is, given the sale of assets that's going on, you may be with AIG today but you don't know who you'll be with tomorrow. If you're part of the book that gets sold off to someone else, you may not know where you're going to be tomorrow. And I think brokers will be cautious at the moment over whether they place business with AIG or not. You've got to take a view—AIG is still fairly good security, it got downgraded, but it's still reasonably good. Fortis is still there, they got downgraded. But we don't actually know yet where it's going to go. There are just questions and it may turn out to be lovely, a bed of roses.

**Chris**

Getting away from the hulls and that, how do you both see and work on the trend towards more and more exotic toys? I mean, more and more of the owners want a submarine—I actually saw the other week a comment being made that he was looking for a wing effect aircraft—I mean these are scary in some ways. How do you, as underwriters, handle this sort of thing with the potential claims?

**Paul**

Carefully! Submarines—we don't underwrite submarines as part of the vessel. There is a specific—in London, there is one market called Leviathan, and one I think in Europe. And that's it. The subs, the RIVs for the offshore industry, all that kind of stuff is a very niche, specialist market which has limited capacity. That's where it would go. We would cover it once it's on board and locked down, we'd cover it as part of the vessel's inventory at that point. But once it's in the slings and going over the side, it would come off my policy and fall into the specialist policy for that.

**Simon**

That's the broker's job again, to make sure they've got the right underwriter for the right job, really. And Paul was saying Leviathan—we did one last week and they are the experts in what they do. And again, it's Lloyds security—they're a cover holder on their behalf. Interestingly enough, and I know Paul was going to come on to it, I've recently broached something to Paul with a hovercraft—that takes different issues as far as on land—you've got risks on land—it's something people need to be aware of. There are other legal issues here. It's not only the insurers saying no, it's the insured not being able to write on land risks in far away countries. It just is not possible.

**Paul**

I mean, hovercrafts are unique—I can't remember that case, but I think I agreed to cover it 50metres up the beach and that was it. Beyond 50 metres, it wasn't my risk. But if someone wants to go somewhere in their hovercraft, they're quite capable of getting there but what you don't want to do is be driving there on the highway and suddenly find a hovercraft coming the other way. That's definitely not on my yacht policy. You're right though—the areas of concern are these dolphin-type submarine things that are out there—these more advanced, propelled, diving units—we're trying to approach it, particularly with charter boats where they want to have all the toys on the charter boat—I think there's more risk there to some extent, because the water sports risk often stays in the hull with the hull underwriters but the main liability goes

to the P&I Club. And they're the areas of concern where potentially we're going down the route of no operators under 16, that kind of stuff. Certainly, in my experience, the water sports operations of the boats—whether it's water skiing, or windsurfing, or whatever it might be, generally are pretty safe, well-controlled activities and generally always have been. We've rarely had any incidents from that kind of thing. The crew are out there, they're on the water, they're policing it.

**Tork**

But there was a notable one the other day, on a jet-ski?

**Paul**

But they are few and far between. Most jet-ski claims are normally the passenger on the back. Same as a motor bike—it's the girlfriend on the back who doesn't see it coming is the one that gets hurt, not the guy actually driving the jetski.

**Simon**

And again, you'd look at anything with a helicopter or whatever—you look at the aviation market, you look at a specific helicopter market. Again, the problem with them, to a degree, is that a helicopter on board a superyacht is *oh my god*. And they charge for it. And it's not a big enough market to branch off and actually do anything on their own. So ultimately, people will pay for it. But helicopters are high risk. And any other aviation risk on board a yacht is going to be so as well.

**Tork**

Have you ever encountered a tilt rotor yet? They're special.

**Paul**

Long may shadow boats continue, and they can stick all that stuff on the shadow boat and keep it off the main boat, it's a lot easier and a lot cheaper.

**Simon**

What it does highlight a little bit is the fact that risks are becoming a lot more complex, they're becoming a multi-insurance class, they're becoming more complex with the issues of what they're used for. I think Paul obviously touched on the water sports but something that's overlooked within a lot of insurance policies is diving cover. Anybody asks us, we kind of go grey a little bit. It's one of those—well, what do you do—because there are different levels of diving within boats. Some are very light and some are very heavy. And that all needs to be declared to insurers. And I would always say to anybody in the management side, don't presume they're all the same. They're not. You really need to speak to the broker and actually discuss what the operations of the boat are. Seabobs or things like that are the prime example. They've cropped up and everyone presumes it all OK, and in fact it's a material fact to insurers that they're on there. So I'd say just use a little bit of caution—it doesn't affect Chris too much—but if you have got anything that you think is anything near slightly out of the ordinary on board, just declare it to the insurance broker. Let them deal with it. That's what they're there for.

**Paul**

You may not like the answer! But better to declare it than not.

I don't want to run out of time—builders' risk was the next one on our list, and I know we touched on that this morning. I think you heard some of my views about the new yards that are appearing overnight at the moment. I do honestly think it's risky. We don't sit there and do financial audits of the yards and whatever—we go in and do what we would view as risk management surveys of the yard—make sure that they have actually got a fire policy, that they know what's going on, the fire brigade down the road. We often find—so where's your fire policy? Oh yes, the ink's still wet. It's just come off the printer. And we all sit in buildings and have a fire alarm test every quarter, and you do what you have to do, you go out of the building—we go into these yards and ask 'when is the last time you did a fire test? Sorry?' One yard refused point blank to do it because it would interrupt production. They didn't get insured, you might like to know.

### **Simon**

We've had yachts that go in and the captain has to write the fire procedures. I'm not joking.

### **Paul**

Some of it is pretty lax. You've got to look at it and say 'well, you, as managers, are putting the owner's asset in there' or whatever it is, but some of this stuff is quite scary at times.

The other issue we want to touch on—Simon called it under-insurance. It's not under-insurance; I think it's insuring the potential market value of your build. There is a market for it—if you contracted to build something for €50million and you've waited 3 years for it, there's a pretty good chance it's going to be worth €60million when it comes out. There is potential to buy total-loss only insurance for that during the build—what I would call a top-up layer, but it's total-loss only. It's in the event of the vessel being destroyed completely. But you can buy it, it is there now, there's a market for it, to buy that as part of the build process. What I think the market won't go to is pie in the sky numbers. Most people—I certainly am, from my perspective, comfortable with—we would look at the build, see what it is, see what type of boat it is, and up to 20% over contract price, probably not unreasonable on a lengthy build in this current market. How long that will continue is all part of what today is about, to some extent. I don't really know how long that will continue. It's better that owners come in and do it from the beginning rather than try and do it at the end. When you try and do it the last month of the build, it just isn't going to happen. You've got to think about it and do it early on.

### **Simon**

I mean, where we've seen it, and I was talking to Paul this morning, is where a buyer has come in and purchased, whether it's got 6 months to go, or whatever it might be. And then they just actually say—oh, the yard have insured, the builders' risk is insured—yes, but it's still insured for €50million and you've just paid €90million for it, or whatever it might be. That was a case we were involved with. But ultimately, builders' risk insurance isn't thought about all the time, and if on the last couple of weeks of the build there is a problem, is the owner insured properly? I know it's the

lawyers' remit to have a look at that, but there are products there and we are seeing it more and more and it is quite a straightforward process I think, at our level.

### **Martin**

Jay, what do you think?

Jay Tooker

It's a problem we've encountered in the commercial market, not currently but in the past couple of years, where people were just trading in new build orders in China and Korea and you'd get something that was ordered for \$30million and then it would be flipped for \$40million, \$50million, and sometimes you'd get the same contract flipped twice before the ship was delivered. Of course, in the commercial sector you've got refund guarantees covering the initial build—the other thing that was happening was, traditionally you'd do that and the seller would take his premium on delivery so he'd take the delivery risk, but more recently you've got sellers demanding their premium up front, which means that the buyer of that contract is covered by the refund guarantees up to the original contract price but then exposed on the premium he's paying in case the ship is never delivered. And I've seen in some cases products that will cover that premium on the same terms as a refund guarantee, and all the same circumstances like late delivery, failure to achieve performance characteristics, all of that. It's been a mixed bag of policies that—if you read them with a cold towel round your head—seem to add up to the full range of cover but the premium has been very low, so I'm not sure that underwriters have fully understood that that's what they're covering. You're in for a fight if ever the loss occurs. Is there any sort of product—it's a significant factor in cases like that?

### **Paul**

I don't know any yacht that's been delivered on time that I can think of in the last few years. We touched on it this morning, but to me what seems to be the most regular cause of delay is the owner changing his wife or girlfriend mid-build. And it's sort of—change of colour, change of this, change of that. It happens, and it may sound a bit facetious but it does happen. And nothing is getting delivered on time.

### **Tork**

Actually, believe it or not, there was one. I went to a yard to see a yacht that was going to be there, and it had left early! I was gobsmacked.

### **Paul**

It had left already on the basis of how quickly was it going back to have the warranty work done! Some people will take it on the basis of 'well, we'll come back and get the warranty work done in 6 months' time'.

### **Simon**

But to go back to what Jay was saying, yes, I think it's a very simple product to go for total loss—I think if people are trying to sell refund guarantee insurance and everything else matched up with it, again, yes, it's got to be something that you must really look at. Because I don't think most insurers know what they're doing. We're dealing with some refund guarantee just on one that we're looking at, and the figures

are astronomical. And if insurers do write that business, they really need to understand that.

**Tork**

Can you just define refund guarantee?

**Simon**

Well, Jay probably can.

Jay

The refund guarantees you get in commercial ship-building contracts simply guarantee the buyer his money back plus interest in any of the situations where the buyer is entitled to terminate, which could be for delay or builder insolvency or if the speed is more than 2 knots down, that sort of thing. So when you're looking at a policy that replicates that, it's a very broad ranging policy and it cuts across the typical boundaries that you get in marine cover.

**Paul**

I would agree with that, but to go back to the sausage machine example, there are no change orders during the build. This is what you started with, this is what you get at the other end. Whereas there are so many changes on yacht builds. For the yards to even offer refund guarantees I think is potentially commercial suicide on the yacht side of it.

Jay

Well, some do— there are yards that do offer refund guarantees, but even then they're for the full pre-delivery in some cases, but even that is limited cover, because whereas in the commercial sector you're happy to take your money or you're not happy but you will take your money back and you can buy the same product somewhere else. Particularly in a rising market, when the yacht is almost there, because the defaults usually happen in the latter stages when the yacht is basically there and possibly in the water—you don't want your money back, you want the increased value if not just the yacht itself. So the refund guarantee is not necessarily the answer.

**Simon**

To go back to it, it's a very complex issue that I don't think any insurers will ever get their heads around, really. And it's a bit like paying guarantee, to a degree. There is insurance for paying guarantee at build stage, but claims—you're going to be employing lawyers for years to sort some of these things out. But I think from the point of what we're looking at, if the thing burns down and a yard policy said 'oh yes, we covered it' but only to €50million where in fact the new buyer has paid €70million or €90million or whatever, that's a very defined—going into lots of other things and adding lots of bits in is just impossible in the current market. And also to go back a little step, you're only ever going to sell one or two policies a year, so no one is actually going to invest a lot of time and money in creating a product because it's just not going to sell that well. That's the economics of it really.

**Paul**

The argument being that the lawyers are the ones who will earn the money out of it at the end of the day.

The next bit was yard liability, and I know there was an article in The Yacht Report recently on various things, but one of the things for insurance, particularly when a vessel is going in for maintenance, refit work, and so forth—is yard liability. Or lack of, come to that. We have areas where the yards offer no cover at all, or extremely limited cover, and owners are expected to either sign waivers and carry the risk on their own policy. I'm firmly of the belief that the yards should be carrying sufficient liability to at least cover certain eventualities—a lot of them don't and I think it's a pretty poor reflection of this industry in that we will build very expensive boats for owners but when you take it back for some warranty work they want a complete waiver of liability while it's in their yard. I won't name them but there are several big builders who do that. It's pretty poor.

**Tork**

Paul, what's a ballpark for what you feel they should carry?

**Paul**

Well, I think €10million is more than sufficient. If you look at the big boats. You can't expect a yard to carry €200million of liability. That's fair enough. And quite frankly, the majority of yards can potentially limit their liability to the value of the contract anyway. Hence why you should be keeping your boat insured while it's in the yard, and the yard wants to make sure you've got it insured while it's in there for the same reason. In general, the Spanish yards are pretty good, partly because of the way their law is structured, and they get employers' liability built into their liability limits so they all buy sufficient, you have pretty high numbers. Some of the French yards are good, some aren't. The Italian yards are pretty abysmal all round. Greek yards are pretty much non-existent. And I think the issues that come with that, particularly for the managers—don't know how many managers we've got here—but what we're starting to see is the vessel being contracted to go into the yard, have a certain amount of work done. What the managers are then doing is actually directly contracting with other people to come on board the boat and do work. At that point, you lose the benefit of the yard policy. And if you're contracting directly, you need to make sure these people have sufficient liability. If it's a French polisher coming on to do the tables, fine. We understand, he's not exactly high risk. But certainly there's a lot of stuff going on where people are being contracted directly by the managers—you are going to have an issue down the road if you're letting people on the boat that are not covered by a policy. Whereas if you stick it into the yard, everything is sub-contracted through the yard, you have the benefit of the yard policy and everything will be covered under the yard. If they've got one, that is. Make sure they've got one. Otherwise you're going to be coming back to us and we're going to be charging additional premiums to carry that liability on the vessel policy. Because I write the vessel policy, I don't write the yard policy. I'm not here to take on the commercial risk of the yard.

**Simon**

I think that's essentially the point about waivers. People say 'oh, it doesn't really happen', or whatever. I've had four in the last two weeks where the owners or

managers have come to us a day before it's in the yard. One was that night. Now, we went back and said 'what work are you having done?' 'Oh, I don't know'. And the value of this work is €1million.

**Martin**

Can you name names?

**Simon**

Yes, if you want me to. Italians are absolutely terrible for it. They really are. And ultimately, for me, as a broker, sitting in an office in London, it's illogical to me that you didn't know that the boat was going into the yard, that you didn't ask for the waiver beforehand. It's in the contract. As I say, there's a large Italian sail boat manufacturer that is great at it, and ultimately you have to run around to get this for the owner and then you get no information. We've got a big one going in. So what's happening? Hot work. Oh, yes, yes, we're having hot works. Don't know what. Well, if you look at it from the perspective as to how I'm going to go and discuss it with the insurers, I'm going to the insurers to say look, you cover the boat in a moment for sailing around and maintenance work and hauling out, which is fine. But they want you to cover the yard, not the owner and not the boat, but they actually want you to cover the yard. The insurers. OK, fine. What information have you got? What are they going to do to it? I don't know. It doesn't work as a broker—it's very hard. And however many times we say it, however many times we tell people. We get it every single time.

**Tork**

I find myself particularly worried that the yacht manager doesn't know what work is being done on the yacht.

**Simon**

Well, that's a little bit unfair because one of them was kind of a bit more direct and the owner had a bit more involvement and the other one—it was taking them two weeks to get us a brief spec.

**Paul**

What the brokers suffer from is an email from the owner's office or from the manager saying 'I need a waiver of liability, the vessel is going in the yard tomorrow'. And that's it, no more information comes with it. And the first thing I ask is 'well, what are they doing? Is it just a haul out to do the anti-fouling? Are they cutting the stem off, what are they doing?' Because my premiums are going to be directly related to the exposure that's going to occur while the vessel is out of the water.

**Simon**

And again—and we do bang on about this— as a broker, I can be really pessimistic about this—but we're asking an insurer to insure the yard. It's not the owner. The owner is covered. But what the yards are asking for is for them to not be able to buy insurance. And that's basically what it is. For them not having the liability insurance to take on their own risks, and wanting to pass that on to the yacht. And why should the

owner have to pay for that? It's a problem within our industry. It is getting better but there are still areas that need to get better.

**Paul**

When he takes his Rolls-Royce or his Lamborghini to the garage, they don't actually say 'can you sign this waiver while it's here because we want it on your policy?' In principle it's the same thing. I know we're talking about numbers, but it's crazy. It's wrong.

**Ayuk**

Just a comment on that, Simon. I think the difficulty that you're having is to do with the way the industry works. In many other walks of life, when you want work done on something like that, the shipyard should actually be doing an assessment of the work. What the problem is, and providing a quote for that, you get that in other trades. Unfortunately, in the yachting industry, the shipyards wouldn't actually do that without threatening to charge you so much for just assessing what work needs to be done—

**Simon**

But we don't even get a brief spec. All we'd need is a very simple thing. And we've got it down to a reasonably fine art with underwriters I think—we need four or five bullet points. Just to get an idea of what he's doing. As Paul said, we don't know whether it's going in for anti-fouling, in which case very simple, or it's going in for full stern increasing, or absolutely major hot works—new engines, for all we know. And somebody at that point—I totally agree with you, there's work that crops up and there's other bits and pieces, but very often we just get—can we have our waiver. With some of the clients, we have to do it three times.

**Tork**

How does it work in the commercial shipping sector?

**Simon**

They don't offer waivers. The yard will buy ship repair general liability. They charge it back to the owner, within the quote.

**Michael**

Tork, I want to say something about the commercial sector. There is a big difference between the commercial sector and the yachting sector. Only because yachts are, nowadays, not ten years ago, as big as commercials we always compare them. But you cannot compare this market with the yacht market. Every commercial has a sense that he has to make money. A yacht is 100% irrational from A to Z. And this industry is very, very young—it exists only for ten to twenty years. So never, ever can we compare the problems we are discussing here at great length with a commercial situation.

**Tork**

It's interesting to note that you just said the commercial yard essentially charges the client for the insurance as part of the bill, albeit invisibly.

**Simon**

The same as your garage does, the same as your builder does.

**Paul**

If you go into a U.S. yard, you'll normally get your list of repair works, and at the bottom it will say 1½% insurance premium.

**Tork**

So given that, why do you have such resistance from certain Italian yards?

**Simon**

Because they've got away with it for free for so many years. That one on Friday, we're going into this yard and do you know what? He got it.

**Paul**

I've got a very long story but I'll do it very briefly. Many years ago, you may recall down here there used to be a big storage yard in the south of France, and it caught fire when the caretaker was entertaining one of his lady friends in there one night, and he dropped his cigar in a moment of passion and set the whole thing alight. And I think it was when they were run by Rolls-Royce at the time, but the claim was way over 10 million and this was probably twenty years ago. The Italians then basically realised they had all this exposure and started asking for waivers for fire—you get yacht owners who put their boats into storage and ask for waivers for fire. The problem is, now that has extended into blanket waivers on everything else, and when you put your vessel in to have work done you're being asked to sign blanket waivers. But that actually is what triggered it—the event when the yard went up many, many years ago and they only had about a million in cover and had to fork out ten million. Because the collective group of owners was a fairly powerful bunch at the time and got themselves a good lawyer who sued the owners. *[I don't know who is in control of my buttons here?]*

We're going to talk about piracy. You may be interested to see this. Piracy is clearly an issue at the moment—this is a report which I got in this morning, which is an assessment of what has been going on recently. They've analysed over the last two months in which there have been a fairly big number of incidents and what they refer to as suspicious approaches. Basically, all but one occurred during daylight hours and the exception took place at 4:30 local time. As you see, 94% lunar illumination, so it was fairly good visibility. It relates to service speed of vessels. The average service speed of vessels that were fired upon but not boarded was 15 knots, the average speed of the eleven vessels that were successfully boarded by pirates was 14 knots—if we could scroll down, please Martin, to the next one—I mean what is occurring currently is that these attacks are taking place further and further from the Somali coast. What we are seeing is the concept of mother ships. It's basically fishing vessels they've captured—they're sticking 3 or 4 ribs or skiffs on the back, they're able to launch them very easily, they abandon the fishing vessel once they've got a target. The estimated time at the moment between them spotting a target and

taking over a vessel is 15 minutes. So unless you've got a big powerful warship and a very fast helicopter nearby, you're not going to stop it. Yachts going through—we've seen a lot of owners taking on board armed ex-services personnel, that kind of stuff. They're trying to protect the crew more than anything, as well as the assets, but a number of people are deciding not to go through that area. But it is an issue. From the insurance perspective, there are some moves towards adding the Gulf of Aden as an area to the excluded areas in institute warranties, which are basically the navigation areas you can go, in the same way as ice. Above certain latitudes at certain times of the year, you can't go there because of ice. There's talk of them doing that. The alternative is to exclude piracy completely from the hull policy and stick it in the war policy. The problem, I think, the insurance industry has with it at the moment is that the majority of policies include piracy in the hull. But terrorism is in the war. So if a pirate comes on board and you go *what are you doing here* and he says *I'm here in the name of Allah*, is it a piracy attack or is it a terrorism attack? And it's a really fine line, a very grey area between the two. The current going rate to get a vessel back is €1million ransom, plus about €1million expenses. And some of the stuff is being split between the P&I clubs because they protect the crew, the hull insurers and all the war insurers, depending on where it's going. And on commercial vessels, obviously, the cargo owners have a big part to play in that as well and I'm sure you're aware of the one—there's a RoRo with a lot of tanks on it at the moment being detained. There's another vessel there with a lot of soya oil that's worth about €80million for the cargo alone. It's been there for a couple of months. And unless that is kept at a particular temperature, it goes off and I think the view is it's pretty solid by now and gone off. But it is a problem. Interpreting the words "violent theft" as well to be included within this—for the yacht market this is a difficult one because the Tiara incident that occurred not long ago off Corsica where, let's say, some local bandits appeared in an inflatable, jumped on board the vessel, threatened the crew and the charter guests on board and basically just took all their valuables—it lasted about 5 minutes and they disappeared with €160,000 —violent theft—yes, we would view that as violent theft, and I'm sure the lawyers in here would give an opinion on that but we would certainly view it as violent theft. Violent theft on a commercial vessel is not what it is on a yacht. It's a very different thing. A lot of this change in the policy conditions is driven by the commercial market. We're fighting hard from the yacht side—and for my sins, I sit on one committee in London, called the Joint Hull Committee, that tries to drive some of these changes and we're fighting hard to get the yacht market involved because commercial vessels don't have PA policies for the crew. That's a good example, because PA policies will often include at times the crew's valuables. So we then have another element of insurance involved, and if the crew is injured while he's on board is it a P&I issue, is it a PA, a crew personal accident issue, where does it fall? And you end up with a multitude of policies and it becomes even more confusing probably than it is now. But piracy is a real risk, and I think we're strongly of the hope that the Tiara incident is a one-off and will not be something we see regularly. Because if you look at it that way, yachts are a soft target. Piracy in the Gulf of Aden—if you're on a rib and you've got a motor in front of you, what would you do other than drive a rib straight up the bathing platform and leave it there and get on board. I mean, it's not difficult when you've got a Gone with the Wind staircase down the back to get on board as opposed to trying to get on a RoRo. Yachts are pretty soft targets. And it is a major area of concern for insurers and for crews, and for everybody at the moment. But you need to be aware that there is a lot of activity out there, it is going on big time at the moment.

[From the floor]

Just a quick question. When does violent theft become piracy in the insurance world?

**Paul**

I wish I knew is the answer to that. I don't know. Barratry is barratry, that's the crew taking over the vessel and doing whatever. So barratry is clear.

**Tork**

Fairly rare, I'd say?

**Paul**

Piracy and violent theft. I guess to try and differentiate, violent theft would be like the Tiara-type incident where the vessel was at anchor, people came on board, and effectively robbed the crew and the guests. Piracy would be where someone took over the ship and tried to divert it somewhere else.

**Tork**

Isn't it on the high seas?

[From the floor]

I think piracy is just doing it on a ship without a national flag

**Simon**

I think actually it's an interesting point. People should be looking at their cover as well, that, OK, piracy should be in there, and if you haven't got cover against piracy in there you really do need to look at it.

**Paul**

Or you need to make sure it's in the war cover. If it's in the hull, you need to make sure it's in the war cover.

**Simon**

But effectively what you need to look at is, well, is stuff like the Tiara incident, where there was cash on board, you've got to make sure you've got a decent cash on board clause because it might not matter if you haven't got any cover for cash, it might not matter if it's a piracy incident or not. You might not get anything out of the insurance. So it's a case of little bits like that, you still need to look for within the policy. And going back to the same thing, we were talking about, with waivers, if the Gulf of Aden can be covered, it's not cheap, but ultimately you've got to let the broker know. We have stuff that goes through all the time and never tells us, again. Even if you tell people, not within the last couple of months, but we've had it on a lot of occasions. So again, if you got anything in the area you need to tell your insurance brokers. And there might be an additional premium for it.

**Paul**

And actually, providing additional info in respect of what precautions you're taking, if you are taking, shall we say, additional armed personnel on board—talking to the guys at Monaco last week, I think their intention is not to use the arms they're taking

but they work on the basis that they get the biggest guns they can on board and show them to the pirates on the basis of a deterrent—mine's bigger than yours, sort of argument, rather than try and engage the pirates in a fire fight of any sort.

**Tork**

What's the insurers' perspective on the use of armed personnel?

**Paul**

If the liability is on the P&I club, I'd encourage it! If it's not with me, I think it's difficult. I think the P&I Clubs are aware of some of this—I think their view is that people should not put their lives at risk and it should be that you do everything to avoid the situation.

**Tork**

The classic example is Sir Peter Blake—because the reason he died was because he got the gun out and waved it.

**Simon**

It will happen. And you also will get a liability effect of the guy shooting a gun off and hitting someone else. And then, therefore, you're going to have a whole new case study.

**Paul**

Then is that violent theft and not piracy? Technically.

**Simon**

But it is a big liability issue. When you are looking at guns on board, you do have to take into consideration the liability of what happens in the event of an incident. We live in a world where, if you shoot a pirate, they'll probably sue you.

**Paul**

He's probably got legal expenses on his home policy to do it!

[From the floor]

Simon—it gives you something to use the fishing chair for— you have a general purpose machine gun linked up to the fishing chair.

**Simon**

Well, I will tell you a very quick one—I'm trying to finish on a funny note really, because it's all been doom and gloom. I remember when I was pretty young in this industry and I went to Fort Lauderdale Boat Show and wandered around—and there was a sailing boat up for sale, and I can't remember but the guy used to be incredibly paranoid about piracy attacks and everything. And he'd electrified all of the railings? Do you know this boat? It's an odd shape. It was about ten years ago. And he'd electrified all the hand railings, there were holes like this all the way around and I said

to the broker, who I think was Mark Curry or someone—what are they for? He said guns. So it was literally for the guns to stick out to shoot people. And he had a full safe room on board. And yet that hasn't moved on from ten years ago. But it was a funny-looking boat.

**Paul**

It also sat 6" below its natural water line!

**Simon**

And at some point, we will come to that stage again.

**Paul**

I know we're virtually done now, but the final point really was just to—ILO, IMO, all the international regulations that are going on—we're trying to persuade Martin to get somebody to talk at GSF about this. The lawyers amongst us will know really where this all comes from, but I'm on a little bit of a mission just to raise peoples' awareness of where all this legislation comes from, how it works, what is going on. You cannot sit with your heads in the sand about it. It's coming. You've got to deal with it. Unfortunately it's—in a way it's getting nearer to the commercial world. A lot of yachts, if they're on charter, they're registered as commercial. These regs come in, it doesn't matter whether you're the Queen Mary II or a 150-foot sailboat. You've got the same regulations to comply with and you've got to deal with it. And some of it is a real pain for the yachting industry, it doesn't suit what we want. I mean, ILO is, I think, going to be a nightmare for the industry to deal with on stuff where keels are laid beyond 2010 if that's the date it occurs—

**Tork**

Funnily enough, we're actually talking about putting together a meeting about that.

**Paul**

Great. The sooner the better.

**Tork**

Well, we already did it at the Captains' Breakfast at Monaco, but we're going to expand that and take it further forward to flag and various stakeholders in the industry.

**Paul**

Yes. And it works in a very different way, it works by the IMO—the way things get voted through, but I'm sure the flag states here can comment on this. But it's done on tonnage. So Liberia will command a huge chunk of what goes on. But we don't see many Liberian flagged yachts sitting in Monaco or Cannes or Antibes. But in the commercial world, Panama etc have huge chunks of tonnage. And I think, interestingly, we said at Superyacht UK meeting the other week, Martin wasn't there, and the MCA chap who was there, you know who I mean, said 'oh, the UK flags are up, we've got 15 million tons' and I said 'how many of those are yachts?' And he didn't know the answer. And he's sitting on the Superyacht UK Committee. The

British flag. A reasonable chunk I would think out of that, British flag yachts. But it is a tonnage-driven thing. Therefore, you will have countries that bear no relation to the yachting industry forcing through, voting for, legislation that will impact on you. And people need to be much more aware and you have, I think, via flag state is probably the route to go.

**Tork**

It's too late to go any other way. I mean we've missed ILO so—

**Paul**

Well, when the negotiations with ILO started—I'll give you an example. They started before this megayacht industry really took off. The negotiations started, I think it was 9 years ago. It's a tripartite agreement between the ship owners, the unions and flag state, about crew accommodation, size of crew accommodation, and it's now just coming into force in 2010. Things take a long time to happen but it's however many countries sign up to it and once there are so many there, it's so much tonnage, bang, it's law and you're up and running and you've now got to hand over a lot more of the vote to crew accommodation than you would have done before. And people just need to be aware of it. It does have insurance impacts to some extent—particularly within the P&I Clubs because they're formed from the commercial world, and the regulations and rules that they run in are very much driven by a lot of this regulation. So we didn't finish on a happy note, sorry.

**Simon**

I could tell a joke but—

**Martin**

Anything else? Any comments? Thank you. We'll see you back in half an hour. We'll finish up with the legal session for our final session of the day.

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