

# IUMI brands call for hull leaders' code 'impractical'

Key committee rejects Jonathan Jones's proposal and warns that it might lead to antitrust action

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A call for a code of conduct to ensure there is a level playing field between leading and following underwriters in the hull insurance market has been rejected by a key International Union of Marine Insurance (IUMI) committee.

The proposal put forward by underwriting agent Jonathan Jones has been dismissed as commercially and legally impractical by senior IUMI figures at the organisation's annual conference in Hong Kong this week.

The idea was discussed by IUMI's Ocean Hull Committee but chairman Lars Rhodin warns that such a code could be contrary to antitrust laws, while information that Jones wanted disclosed was regarded as commercially confidential by many insurers.

Jones, a former Lloyd's underwriter who now runs his own un-

derwriting agency in Greece and Hong Kong, JIJ Maritime, proposed the code in an open letter in TradeWinds last month.

He tells TradeWinds that there has been a groundswell of support from other underwriters who support his call for more transparency in the relationship between the various hull insurers who share the risk of insuring a ship or a fleet.

## ISSUE OF MULTIPLE LEADERS

Rhodin argues that, nowadays, there are often multiple leaders insuring a fleet, so following underwriters might well have the choice of putting down a line on a London, Scandinavian or French subscription slip or, if none was to their liking, standing aside from that risk.

Jones is critical that leading Scandinavian underwriters charge following underwriters claims handling fees but Rhodin

points out that claims have to be adjusted and, however it is done, this can be expensive.

The Scandinavian model is that claims handling is carried out by in-house experts, while in London external adjusters, technical people and lawyers are used.

"Either way they have to be paid," noted Rhodin, who suggests that internal claims handling expertise works out cheaper than delegating the task to external professionals.

The managing director of the Swedish Club, has replied to Jones in an open letter (*see below*) in this week's edition of TradeWinds.

In his response, Rhodin points out that it is the shipowner who decides what kind of emergency response and claims leading capability is required through their choice of underwriter.

Claims handling has become very demanding and, while there



► JONATHAN JONES: Failed to convince IUMI committee.

Photo: JIM MULRENAN

is no shortage of underwriting capital cover, there are not so many insurers with the organisation, expertise and experience on the adjusting side.

Jones, a 40-year veteran of the marine insurance market, was in Hong Kong this week although not a delegate to the IUMI conference.

IUMI leaders were, however, hoping to make contact with Jones to explain the problems they see in a leaders' code.

A key argument of Jones is that following underwriters may well be unaware of the context in which the leading underwriter is underwriting a risk.

This could include the leader being paid a higher premium or writing hull cover at a low rate as a loss leader to bring in other business, such as loss of hire, war risks

or the protection-and-indemnity (P&I) cover.

In the case of one-stop shops selling both hull and P&I, only a modest share of the former would typically be written but 100% of the latter, so moving collision liabilities from the P&I to the hull policy would be advantageous if premiums were not adjusted to reflect the changed risk balance.

A further concern of Jones was that a leader might have obtained a big deductible to take a share of the hull cover or reinsured much of the risk without following underwriters realising little exposure to a casualty remained.

## CONFIDENTIAL INFORMATION

But Rhodin says many underwriters would regard details of how they structured cover, laid off risk and details of their reinsurance protection as sensitive commercially confidential information, so would not be prepared to disclose it to rival underwriters.

Jones has linked the lack of a level playing field between leading and following underwriters to an allegation reported in TradeWinds last week that Gard and the Norwegian Hull Club recently extended the cover on the fleet of a prominent Norwegian owner for a "suicidally" low rate of 0.07% of the insured value.

This would mean that more than 1,400 years of premium is required on a vessel to cover a total loss.

## WHAT THE IMCC CLAIMS CODE CONTAINS

An attempt to draw up a leaders' code of conduct was made by the International Marine Claims Conference (IMCC), a get-together of adjusters, claims handlers, surveyors and lawyers held annually in Dublin since 2004.

A draft protocol was one of the first initiatives of the IMCC but mutated into a series of claims handling guidelines that were fi-

nally agreed in 2009. They aim to promote the efficient handling of hull claims by setting out what is regarded as best market practice.

The focus is, however, on claims handling rather than the wider underwriting issues raised by Jonathan Jones of JIJ Maritime.

The IMCC code says the claim's leader shall act expeditiously and be responsible for instructing

surveyors and other experts to act on behalf of all underwriters and for agreeing interim and final settlements.

But the "agreement" only amounts to a recommendation to following underwriters; the leader is not responsible for paying followers' share of the claim and if there is a compromised settlement it is not binding on

following underwriters.

The code requires claims leaders to endeavour to provide following underwriters with comprehensive casualty information.

Claims leaders are entitled to recover a proportionate share of claims handling disbursements or charge a reasonable fee for adjusting the claim if it is carried out in-house.

## OPINION

# Rhodin sees problems with full disclosure of terms

Swedish club managing director and chairman of the International Union of Marine Insurance (IUMI)'s Ocean Hull Committee, **Lars Rhodin**, responds to an open letter by Jonathan Jones of JIJ Maritime — 'Ensuring fair leadership in hull insurance market' — published in TradeWinds last month (8 August, Opinion page 10)



► LARS RHODIN: "It is essential for the assured to have one decision maker to relate to..." Photo: SWEDISH CLUB

Hull and machinery insurances are normally placed with a group of insurers. The assured will often employ a broker to assist with negotiation and contract administration. A central feature of claims administration is to give one of the insurers the power to act on behalf of all the insurers involved in matters relating to claims — the claims leader. Casualty handling, in particular, has become very demanding due to the increasing technical complexity of vessels, media attention and the need to deal with authorities in a wide variety of jurisdictions. It is essential for the assured to have one decision maker to relate to in respect of the many complex

insurance issues that arise in an emergency and during the subsequent claims settlement process. Today there is no shortage of capital willing to provide marine insurance cover but there are not many insurers who have the organisation, expertise and experience needed to support the assured and to create confidence and trust among all the other participants involved.

It is possible to outsource many functions associated with emergency response and claims handling generally. In practice, a good claims leader must have considerable in-house expertise and capacity in a wide range of disciplines, in my opinion. Today we see many

variations of claims lead underwriters in the market; comprehensive claims lead companies eg some Scandinavian companies and "light" versions where practically all functions are outsourced. Whatever version is chosen, services provided in the process will form part of the adjustments. It is the choice of the shipowner what kind of emergency response and claims leading capabilities that are required. Equally, following capacity signs up on the basis of the quality of the claims leader. That is to say, the following underwriters have a choice — to participate or not to participate.

The rights and obligations of the claims leader follow from the

law applicable to the policy, as well as the terms of the agreed claims lead clause. I cannot see the benefit in full disclosure of all participating underwriters' terms and conditions, nor do I think this would be allowed under anticompetitive legislations. Again, we all have a choice; to write the risk or not, whether we are claims leader or followers on the slip.

Incidentally, The International Marine Claims Conference (in Dublin) drafted a "Leaders' Code of Conduct" some years back, initiated by the Scandinavian participants. Regrettably, the protocol was not met with enthusiasm in hull circles and thus not accepted in the market.