

INSURANCE

A leading broker has devised an affordable scheme for passengerships.

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A new insurance scheme that should resolve a clash about the practicality of much higher compensation limits for passengerships is ready to be launched and will be much less expensive than had been feared.

A deal between underwriters in the Lloyd's of London insurance market and the Marsh mega-broking group is set to deliver \$500m of cover for terrorist attacks on cruise and ferry vessels for less than \$0.10 per passenger day.

There had been doubts that cover for the terrorist threat to passengerships was available and, even if it was, that it would be unaffordable. Such concerns threatening to scupper a protocol to the Athens Convention introducing much higher levels of compensation for passengers who are killed or injured in shipping casualties.

Previous indications of the cost of terrorist cover have been up to \$0.50 per passenger day so the scheme that Marsh is set to unveil at the International Maritime Organisation (IMO) next month amounts to a significant step forward.

The terrorism-cover scheme has been put together by Nick Taylor of Marsh. He has spent months and battled scepticism to develop a solution to an impasse that has many similarities to the row between the protection-and-indemnity clubs (P&I) and the US authorities over the cover required under the Oil Pollution Act of 1990.

The P&I mutuals, which provide cover for passenger death and injury from the normal perils of the sea such as collisions, capsizes and fires are likely to go along with the idea rather reluctantly.

So cruiseships and ferries will rely on club cover to get the basic certification required under the Athens protocol, with the terrorism cover they had refused to provide separately guaranteed under the Marsh scheme or possibly a rival facility, should one emerge.

Less than \$0.10 per passenger day does not seem a lot in relation to the cost of a cruise or a ferry ticket and fades into insignificance alongside a \$50-per-head tax on cruise passengers planned by the state of Alaska, which also aims to take 33% of the revenues from ships' casinos. But it still adds up to a premium running into tens of millions of dollars a year. This is money that shipowners could have kept in their pockets if they had been able to persuade governments that terrorism should be excluded from the cover required under the Athens protocol.

It is estimated that about 2,000 cruiseships and ferries will need Athens protocol cover. The US is

Will Marsh make terror cover work?

PIONEER: Nick Taylor of Marsh has worked for months on the new scheme while at the same time battling industry scepticism.

unlikely to ratify the move but major US operators such as Carnival and Royal Caribbean will be affected as ships will be subject to the new regime if they fly the flag of a contracting state, depart or arrive from a contracting state, or the contract for carriage is effected in a contracting state.

The outcome that has now emerged is a compromise but it removes the key outstanding obstacle to implementing the Athens protocol, originally agreed at a diplomat-

ic conference in November 2002. The compromise has won the support of key players such as the UK and Norwegian governments — which have taken a lead in the diplomacy surrounding the Athens protocol — the International Chamber of Shipping as well as the International Council of Cruise Lines. It will be discussed and probably endorsed by the International Maritime Organisation (IMO)'s legal committee next month.

Implementation could now move

ahead relatively quickly with the new higher limits of compensation available once 10 countries have ratified the protocol, triggering a 12-month countdown to entry into force.

The P&I clubs have taken a hesitant stance to the new protocol on the basis that the liabilities are high and there is not the usual claims sequence of the shipowner being sued and recovery of the costs subsequently made from the club. There is instead direct action that

gives the passenger or surviving members of his or her family the right to sue the club. Then there are particular concerns about the sustained insurability of terrorist claims on top.

The problem is that a full claim on a large passengership challenges the limits of insurance capacity and would probably result in the P&I clubs imposing an overspill cash call on the world's shipowners.

And there are worries about how ready reinsurers would be to go on

supporting the P&I clubs after a loss on this scale.

For Royal Caribbean's recently delivered, 3,634-passenger *Freedom of the Seas*, a full Athens protocol claim not involving negligence could reach \$1.35bn, while if negligence was a factor, the amount could rise to over \$2bn with the loss of a hull and crew claims adding well over \$1bn to the total bill.

The same owner's *Project Genesis* newbuilding on order at Aker

Yards for delivery in 2009 will be able to carry 5,400 passengers so the limits rise to \$2bn and \$3.2bn, respectively, with the hull value another \$1bn and crew claims again on top.

Ferries could produce claims on almost the same scale with the *Color Fantasy* (built 2004) trading between Oslo and Kiel able to carry 3,000 passengers producing maximum no-fault and with-negligence passenger claims of \$1.1bn and \$1.8bn, respectively.



Photo: Jim Mulrenan