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**MARINE INSURANCE
DENYING COVER AS A MARINE INSURER:
PLAIN SAILING OR DEAD IN THE WATER?**

Please find below the answers regarding the marine insurance regulation in the jurisdiction of the Republic of Latvia:

1. Which laws and rules govern contracts of insurance, including H&M and P&I insurance, in your jurisdiction?

There are no specific laws and rules on H&M and P&I insurance. Contracts of insurance are governed by Law on Insurance Contracts.

(http://www.vvc.gov.lv/export/sites/default/docs/LRTA/Likumi/On_Insurance_Contracts.doc).

2. Do the laws and rules governing contracts of H&M and P&I insurance prescribe any post-inception warranties or other terms, which – if breached by the insured – may allow the insurer to deny or limit coverage of an insured event? If so, please identify such warranties and terms and state specifically whether (i) unseaworthiness, (ii) deviation from the agreed vessel trading area or route, (iii) violation of safety rules and/or (iv) negligence, gross negligence or wilful misconduct of the insured may cause loss or limitation of coverage.

The Latvian Law on Insurance Contracts provides general conditions for denial of coverage of an insured event.

Insurer may deny coverage of an insured event if it has been caused by wilful misconduct of the insured person, beneficiary or a third person. If the insurance contract expressly provides so, the same applies to minor negligence.

Contract may also hold certain provisions that on certain conditions (for example failure to comply with warranties or other terms provided in the contract) insurer may deny coverage, but insurer holds the burden of proof to prove that these conditions have occurred. Insurer also has rights to inspect whether the insured person has fulfilled the requirements set in the provisions of the contract.

Insurer may deny coverage also if the insured after an occurrence of an insured event has failed to immediately inform the insurer and send all requested documents. This applies only if such actions are done with gross negligence or wilful misconduct. If insured has not fulfilled these obligations due to negligence, insurer may limit the coverage, but not more than 50% of the amount.

Thus, in respect to (i), (ii), (iii) – it can be stated in the contract that payment of the coverage may be denied/limited if these rules are not followed, but it is not directly regulated in the law.

3. Under which conditions may a breach of the warranties or other terms identified in reply to question 2 cause loss or limitation of coverage? As part of your answer, please describe how the burden of proof is allocated.

This question is answered in the answer to the previous question.

- 4. Are the warranties or other terms identified in reply to question 2 mandatory, or may they be deviated from by contract either to the advantage of the insurer or to the advantage of the insured, or both. Is the insurer allowed to incorporate additional warranties or terms in contracts of H&M and P&I insurance, a breach of which may cause loss or limitation of coverage?**

Law on Insurance Contracts provides parties a wide margin of discretion to provide their own warranties or terms in contracts, a breach of which may cause loss or limitation of coverage.

- 5. Will a choice of law clause in the H&M policy or P&I club's rules be recognised in your jurisdiction to the effect that the existence of such warranties and terms as are mentioned in question 2 and the consequences of their breach will be governed by the law chosen?**

Parties have the freedom of choice of the law applicable to the contract and its provisions, following with the provisions of the Regulation (EC) No 593/2008 on the law applicable to contractual obligations (Rome I).

- 6. Unless covered by your replies above, is there any case law in your jurisdiction which considers an H&M insurer's or P&I club's right to deny coverage, in accordance with the H&M policy or the P&I club's rules or otherwise, as a result of an insurance event having been caused by (i) unseaworthiness, (ii) deviation from the agreed vessel trading area or route, (iii) violation of safety rules or (iv) negligence, gross negligence or wilful misconduct of the insured?**

No case-law available.

Respectfully,

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