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Introduction to Collision & FFO Liability Risks in Marine Insurance (Part II)

Based on the introduction of different insurance clauses, collision liability in marine insurance generally has three underwriting models:

Placement of Model	Hull & Machinery (H&M) Coverage	P&I Coverage	Features & Remarks
Model 1: **3/4 RDC**	3/4 Collision Liability, subject to 5 typical exclusions	1/4 Collision Liability, plus 6 named collision liabilities	Traditional placement model corresponding to the standard English ITC Hulls clauses. May involve counter-guarantee requirements when issuing security.
Model 2: **4/4 RDC**	4/4 Collision Liability, subject to 5 typical exclusions	6 named collision liabilities	Widely adopted model. The majority of collision claims are handled under H&M insurance; liabilities regarding crew/personnel, pollution, and wreck removal are borne by P&I cover.
Model 3: **P&I** **4/4 RDC**	Excludes Collision Liability. *Note: H&M still covers "All Risks" physical damage to the insured vessel itself.*	4/4 Collision Liability, plus 6 named collision liabilities	Maximizes avoidance of liability demarcation disputes between H&M and P&I, suitable for major and complex marine casualties. However, even minor incidents will involve both insurance policies.

The underwriting models for FFO liability are similar to those for collision liability, but special attention is required: under the English ITC Hulls insurance clause, FFO liability is typically not included in marine hull insurance and must be entirely covered by P&I insurance or extended through additional clauses; whereas under the PICC Ocean-going Hull Insurance clause, FFO liability is already included within the scope of the collision liability clause.

III. Post-Accident Response and Handling

(1) Standard Post-Accident Handling Procedures

1. Preserve Evidence Comprehensively: Immediately after the incident, promptly secure and extract deck logs, engine room telegraph logs, VHF radio communication records, VDR (Voyage Data Recorder) data, AIS tracks, ECDIS (Electronic Chart) and radar records, and other core technical evidence. The above evidence is of critical importance for accident liability determination, claims defense, and the exercise of limitation of liability. Also preserve any photos and audio/video recordings taken at the time of the incident, as well as weather and sea condition data for the accident area.

2. Prompt Notification and Survey: Immediately report the incident to the insurers (hull insurer and P&I Club) and jointly appoint an independent third-party marine surveyor to conduct on-site loss assessment. The hull insurer and P&I Club can generally appoint suitable surveyors and maritime lawyers on behalf of the shipowner. At the same time, do not sign any liability documents or statements, except for the marine protest.

3. Exercise Maritime Limitation of Liability: If faced with substantial claims from the other party or the risk of vessel arrest, the shipowner may apply to the competent maritime court to establish a maritime limitation of liability fund. For example, under Chapter 12 (Limitation of Liability for Maritime Claims) of Chinese Maritime Code (CMC), the liable party may establish a limitation fund at a court with jurisdiction, with the fund amount calculated according to the statutory limit plus corresponding interest from the date of the incident until the date the fund is established. Once the fund is established, all claims subject to limitation must be filed against the fund, and the shipowner will no longer bear liability exceeding the fund limit for such claims.

It should take note that for the cases involving foreign elements, it is also necessary to verify the applicable international conventions (such as the Convention on Limitation of Liability for

Maritime Claims 1976 and its 1996 Protocol) or specific provisions of local law, to confirm the conditions and limit standards for applying limitation of liability.

(2) Foreign Judicial Environments and Security Risks in Cross-Border Shipping

Shipowners engaged in international and cross-border shipping operations must pay close attention to the special requirements of foreign judicial jurisdictions:

1. Differences in Acceptance of Security Forms: Different judicial jurisdictions have significantly different requirements for the form of security for vessel release. Some jurisdictions, courts, or claimants prefer Letters of Undertaking (LOU) or guarantees issued by International Group of P&I Clubs (IG Club) members; however, certain jurisdictions (such as Egypt, India, Pakistan, etc.) do not accept P&I Club LOUs and instead require bank guarantees, cash security, or other court-approved forms of security. Compared to Club security, other forms of security often increase the time and cost of security arrangements. Shipowners should not assume that any one form of security is accepted in all jurisdictions.

2. Counter-Security Mechanism: When the claimant or foreign court does not accept the security issued by the hull insurer and the P&I Club is required to issue security on its behalf, if the relevant collision or FFO liability falls within the scope of hull insurance rather than P&I insurance, the P&I Club will typically require the shipowner to provide reliable counter-security before agreeing to issue a "non-covered risk" security (non-cover LOU). This counter-security mechanism is also likely to increase the time and cost of accident handling.

3. Pre-Planning Recommendations: At the pre-insurance planning stage, shipowners should work with professional insurance advisors to thoroughly assess the judicial environment of destination countries along the route and proactively streamline the security and counter-security mechanisms. Where conditions permit, the shipowner may consider placing hull insurance with the P&I Club simultaneously, so as to avoid the situation where a foreign claimant or court does not accept the hull insurer's guarantee but does accept the Club's LOU — in which case the shipowner would need to provide counter-security on an ad hoc basis — thereby ensuring that the vessel can be promptly released in the event of an incident.

IV. Pre-Accident Insurance Planning

As can be seen from the above, collision and FFO liabilities in marine insurance involve complex issues across multiple considerations - including insurance definitions, insurance clauses, coverage proportions, exclusions, and cross-border security. It is recommended that shipowners pay attention to the following in their insurance planning:

1. Distinguish Between Hull Clauses: PICC Ocean-going Hull Insurance, PICC Coastal and Inland Vessel Insurance, and English ITC Hulls differ significantly in the scope of coverage, proportion, and exclusions for collision and FFO liability. The appropriate clauses should be selected based on vessel type and navigation area.

2. Scrutinise Insurance Placements: Regardless of the underwriting model adopted, ensure that the coverage between hull insurance and P&I insurance is properly connected, avoiding gaps in protection.

3. Emphasize Pre-Planning: Assess the judicial environment and security requirements of destination countries along the route in advance and study the security and counter-security mechanism with good preparation.

4. Improve Incident Response: Establish the incident handling procedures to ensure timely preservation of key evidence and rapid coordination with relevant insurers and P&I Club.