



TECHNICAL CIRCULAR No. 344 of 14<sup>th</sup> June 2016

To:	All Surveyors/Auditors
Applicable to flag:	All Flags
Subject:	<b>Protecting Against MARPOL Annex I Breaches</b>
Reference:	<b>MARPOL Annex 1</b>

### **Protecting Against MARPOL Annex I Breaches**

MARPOL Annex 1 represents one of the biggest potentially uninsured liabilities in today's shipping industry.

MARPOL Annex I is a key regulatory driver supporting the delivery of the shipping industry's sustainability transition. As efforts continue to 'clean up' vessel performance, so too will work to clamp down on polluters.

The majority of the shipping industry strives for compliance.

No matter the size of the oil pollution discharge, and regardless of whether it is deliberate, inadvertent, or caused by poor risk management, all instances of oil pollution are liable for prosecution under MARPOL Annex I.

For shipowners, non-compliance comes with severe consequences, including fines that can reach tens of millions of dollars, further loss of earnings due to vessel time spent off hire and considerable reputational damage.

Furthermore, in the event of prosecution for intentional pollution discharge under MARPOL Annex I, P&I clubs have the option to walk away from the incident, leaving the shipowner exposed to the considerable financial impact of prosecution. In such incidences, prosecution under MARPOL Annex I is potentially one of the most costly uninsured liabilities in today's maritime industry.

#### *Effective risk management*

Risk management should not only help shipowners maintain effective pre-emptive MARPOL Annex I anti-breach measures, it must also document and record the measures taken in sufficient detail to satisfy authorities in the event of a suspected pollution incident. For example, as well as physically restricting the ability to manipulate overboard valves, pipelines, the oily water separator and oil content monitor, sound risk management should also involve the verification of these preventative measures.

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For accusations of intentional discharge, the need for robust policy and procedures with adequate measures for recordability and traceability is even more essential. For example, in cases where a rogue crew member has caused a breach, the shipowner must satisfy its P&I Club that it has taken all reasonable measures to avoid intentional discharges, to increase the likelihood of maintaining insurance cover for the incident.

*Mitigating fines and legal penalties*

When confronted with a MARPOL Annex I breach allegation, it is critical that shipowners and operators make informed and correct decisions on how best to position themselves. By taking a thorough pre-emptive approach it is possible to mitigate exposure to the fines and legal implications of MARPOL Annex I breaches.

REFERENCES:

- MARPOL Annex 1

ATTACHMENTS: No.

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