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BRIDGE LOOK-OUT

CYBER RISKS – AN UPDATE ON NEW REGULATIONS

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Over recent years, crises and conflicts have gradually developed, with psychological warfare gaining momentum and attacks increasingly being launched on infrastructure, financial systems and information technology. While modern technology makes our lives easier, our jobs more efficient, and our services more flexible, it also bears increasing exposure to malicious actors such as hostile regimes, criminals, and terrorists.

Consequently, regulators are trying to adapt to new environments by adjusting regulations to the threats ahead of us. In our Bridge Look-Out edition 01/20, we highlighted the IMO requirements for cyber risks. We would like to follow up on the cyber topic by raising awareness of two newer cyber regulations in our current Bridge Look-Out edition.

With the NIS2 Directive ((EU) 2022/2555), the European Union aims to bolster the resilience to cyber threats in the EU and to create a common level of cyber security amongst the member states. The NIS2 will replace the previous NIS regulation ((EU) 2016/1148). It should be noted that the NIS2 directive is not a regulation which would be regarded as common law, such as the GDPR, but shall be converted to local law whilst the legislation of the member states has, of course, the freedom to regulate stronger than the directive itself. The deadline for this process is 17th October 2024 for all member states.

It remains to be seen which entities will be considered Essential Entities (EE) or Important Entities (IE). Still, shipping generally falls under the category of Essential Entities under the directive. As the NIS2 directive is significantly stricter, monitoring closely which measures need to be taken to comply with the requirements is recommended. There are some thresholds in size and volume to identify whether an entity is essential, but an entity may be regarded as “essential” or “important” if it provides critical service, e.g. when it is the sole provider.

Not complying with the regulations may result in significant fines of up to EUR 10 m or 2% of the global revenue for essential entities and EUR 7 m or

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1,4% of global revenue. Furthermore, a breach may also lead to accountability of an organisation's top management, including publishing violations and even temporary banning of individuals from holding senior management positions (under certain circumstances).

Another regulation has been released, and the Biden/Harris Executive Order on Amending Regulations Relating to the Safeguarding of Vessels, Harbors, Ports, and Waterfront Facilities of the United States amended 33 CFR Part 6. The U.S. Coast Guard has been given express authority to respond to malicious cyber activities and, consequently, issued a Notice of Proposed Rulemaking on Cybersecurity for U.S.-flagged vessels, Outer Continental Shelf facilities, and U.S. facilities to establish minimum cybersecurity requirements.

According to the ENISA report (ENISA THREAT LANDSCAPE 2023), the transport sector ranks high, with 6% of all reported incidents alone, while the total number of incidents is still increasing. The highest risk remains business interruption. Therefore, vigilance and awareness remain key to being prepared for potential challenges ahead of us.

Although the final versions of the above-mentioned new regulations are to be awaited, it is already clear that Cyber Insurance will become an even more important element of business insurance.

Cyber insurers are not only confronted with a growing number of incidents but also the increasing complexity of technology, and therefore, frequently review their policies and conditions to elaborate amendments catering to their clients, such as, for example, new regulations as outlined above.

Should you have any further questions, please feel free to contact your designated Broker at GEORG DUNCKER.

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