

QUESTIONNAIRE – CROSS BORDER INSOLVENCY – NORWAY – RESPONSE AS OF 3 AUGUST 2012

SECTION 1

CROSS-BORDER MARITIME INSOLVENCY ISSUES

Part 1 – General Insolvency Principles Applicable to Foreign Creditors

1. Has your country adopted any specific rules on cross-border insolvency (such as the UNICITRAL Model Law or any specific domestic, bilateral or multilateral instrument)? If so, please provide a general description based on the topics discussed in this questionnaire.

Norway is party to the *Nordic Bankruptcy Convention of 7 November 1933*, pursuant to which insolvency issues regarding individuals or companies within the Nordic countries are governed. The other signatory parties include Finland, Iceland, Sweden and Denmark, but Iceland has not ratified the revised version of the convention of 1982. The Nordic Bankruptcy Convention gives extraterritorial effect to the decision of a court in another member state to commence bankruptcy proceedings and requires the same member state's bankruptcy legislation to apply in subsequent proceedings.

The Nordic Bankruptcy Convention is the only specific rules on cross-border insolvency adopted by Norway. In addition, Directive 2001/24/EC on reorganization and winding up of credit institutions (Credit Institution Directive) and Directive 2002/47/EC as amended by Directive 2009/44/EC on financial collateral arrangements (Collateral Directive) have been implemented in Norwegian law.

Norway has not adopted legislation based on the *UNICITRAL Model Law on Cross-Border Insolvency*, nor implemented The *Council Regulation (EC) No 1346/2000 of 29 May 2000 on insolvency proceedings*. As the latter regulation is not part of the Agreement on the European Economic Area, Norway is not obliged to adopt it. There is, however, an ongoing public consultation process on such rules.

Under Norwegian law, insolvency proceedings are governed by the Bankruptcy Act of 8 June 1984 No. 58 (No: *konkursloven*) and the Creditors Recovery Act of 8 June 1984 No. 58 (No: *dekningsloven*). In general, the acts also apply to cross border insolvency, as the domestic legislation aims to treat local and foreign creditors equally.

The Bankruptcy Act regulates issues both regarding debt settlement (*gjeldsforhandling*) and insolvency (*konkurs*). In the following, it is mainly the rules regarding insolvency proceedings that will be dealt with.

2. Do your laws recognize the standing of a foreign creditor or other person (such as a foreign flag authority of a locally domiciled shipowner or a foreign administrator of insolvency proceedings) to start or oppose an insolvency proceeding in respect of a local ship operator or in respect of assets located locally? If so, describe in detail those rights or restrictions

upon such rights of such foreign entities which differ from those of local creditors, insolvency administrators or public authorities.

There is in principle no difference between the rights of a foreign creditor and a local creditor during the bankruptcy proceedings. However, tax and other public law claims of foreign governments are not treated with the same priority (as preferred claims) as those of Norwegian tax authorities and as Norwegian courts do not have jurisdiction in disputes regarding foreign tax claims it is disputed to what extent foreign tax claims should be accepted in Norwegian bankruptcy proceedings.

The Bankruptcy Act recognizes a foreign creditor's right to start an insolvency proceeding, as the provisions regarding the commencement of such proceeding also apply to foreign creditors. According to section 60 of the Bankruptcy Act, the insolvency (*konkurs*) proceedings can either be initiated by the debtor or by the debtor's creditors. If the creditor (local or foreign) has a claim, in which entitles him to a dividend of the debtor's assets in the event of a bankruptcy, he has the right to petition for insolvency proceedings to be started. It is a requirement for opening of bankruptcy proceedings that the substantive test is met; see details under our answer to question 36 below.

3. Do your laws have a procedure for supervising the activities in your country of a foreign insolvency administrator?

Norwegian law does not include a procedure for supervising the activities in Norway of a foreign (non-Nordic) administrator. In practice, protection against creditors filing for bankruptcy in Norway must therefore be established and sanctioned by the foreign court where the foreign insolvency proceedings are opened. When it comes to the following of single claims in Norway, a foreign administrator must apply directly to the Norwegian courts and it will be up to the courts to decide whether the foreign administrator has authority to follow the relevant claim or whether the creditors must seek recovery on an individual basis. There are some older court decisions, as well as a discussion in legal theory, about the possibility of opening an assisting insolvency in Norway (No: *underkonkurs*). However, no formal set of rules are developed for such procedure.

4. If an administrator is unwilling to pursue a claim by the insolvent ship operator, can foreign creditors apply to an insolvency tribunal for a transfer of the subject matter of the claim from the estate of the insolvent ship operator to a creditor or group of creditors?

Yes, such option exists pursuant to section 118 of the Bankruptcy Act.

5. Do your laws permit foreign creditors to apply to a court for supervisory orders if they consider the administrator is acting inefficiently or wrongly? If so, describe the procedure generally.

Section 99 (2) of the Bankruptcy Act permits creditors to apply to the court for supervisory orders. According to the provision in section 99 (2) the court may on petition from a creditor (including a foreign creditor) declare void or alter by decree a decision made by the bankruptcy estate or the administrators if the decision is (i) conflicting with any rights of the creditor, (ii) is unlawful in any other respect or (iii) is obviously unreasonable.

6. **Do your laws permit foreign creditors to commence legal proceedings against the administrator if it has acted negligently or wrongly?**

Please see our answer to question 5 above. In addition the administrator of the bankruptcy estate could in certain circumstances also be subject to liability under the general laws on damages.

7. **If a foreign creditor or claimant against a ship operator foresees it will suffer a loss or commercial disadvantage because of the appointment of a private receiver or the way a private receiver is acting, does such a foreign claimant have any legal remedies against the receiver, such as applying to a court for supervisory orders or to put the ship operator into bankruptcy?**

Appointment of a private receiver is not a known concept under Norwegian law. See answer to question 36 regarding the requirement to open bankruptcy proceedings.

Part 2 – Subject Matter or Territorial Jurisdiction

8. **Do your laws permit assertion of insolvency jurisdiction generally over any asset of an insolvent ship operator domiciled in your country, regardless of the location of the asset within or outside your country? Please comment whether this scope of jurisdiction differs between a ship of your country's registry owned by persons domiciled in your country, or a ship of another flag owned by persons domiciled in your country.**

Where insolvency proceedings are subject to the jurisdiction of the Norwegian courts, the debtor's assets will be available to the creditors regardless of the location of the assets (within or outside of Norwegian jurisdiction). According to section 2-2 of the Creditors Recovery Act, the creditors have the right to seek recovery in any assets belonging to the debtor at the time of the attachment, provide that the assets can be sold, leased or otherwise converted into money. Consequently, the main rule concerning attachment also includes assets located outside Norway. Thus such assets must be registered and validated in accordance with the conditions set out in section 80 of the Bankruptcy Act. Whether such general attachment will be effective and enforceable for assets located abroad will depend on whether the Norwegian insolvency proceedings are respected by the courts in the country where the assets are located. Except for the Nordic Bankruptcy Convention (described in item 1 above), Norway has not entered into any agreements with other countries in order to ensure such effectiveness.

The conditions for determining the scope of the Norwegian court's insolvency jurisdiction are set in the Bankruptcy Act section 146. Where the debtor is registered in the Norwegian

Register of Business Enterprises, the Norwegian court has jurisdiction to open insolvency proceedings if the debtor's principle place of business is located within Norway. The principle place of business is determined by considering factors such as the nature and scope of the activity and the location of the administration and production. If the debtor is not registered in the Norwegian Register of Business Enterprises, the jurisdiction is dependent on the ordinary venue. According to section 4-4 (2), Act of 17 June 2005 no. 90 relating to mediation and procedure in civil disputes (The Dispute Act) (No: *tvisteloven*), the ordinary venue of natural persons is the place of their habitual residence. In this regard the domestic legislation treats Norwegian flagged ships and foreign flagged ships equally, as the scope of the insolvency jurisdiction only depends on the debtor's principle place of business or his place of habitual residence.

Within the countries signatory to the Nordic Bankruptcy Convention, an insolvency proceeding has immediate recognition and effect. All assets belonging to the debtor will be included in the allotment, provided that the assets are located within the Nordic territory.

Part 3 – Notice to Foreign Creditors

- 9. Do any legal procedural requirements have to be followed to ensure the insolvent ship operator or the insolvency administrator identifies all known foreign creditors**

Pursuant to section 101 of the Bankruptcy Act, the management of the insolvent ship operator has a duty to assist the bankruptcy estate in obtaining information about its assets and obligations. See also answer to question 10 below.

- 10. Do your laws require administrators of insolvency proceedings to give notice of the proceedings to foreign creditors? As a general practice, how is such notice given to foreign creditors?**

The Norwegian system is based on both public and individual notification of creditors, see the Bankruptcy Act section 78. The court is responsible for issuing the announcement of the proceedings. Public notification is given by publishing the announcement in the electronic public record (Norwegian Gazette) of the Brønnøysund Register Centre and in a local newspaper. As for the individual notification, it is required that the announcement must be forwarded to each known creditor. The Bankruptcy Act does not distinguish between foreign and local creditors, and consequently the rule also is applicable with regards to foreign creditors. Foreign creditors might, however, experience difficulties with understanding and keeping itself update on the proceedings as the reports of the bankruptcy estate is often only distributed in the Norwegian language.

- 11. Do your laws require administrators of insolvency proceedings to give notice of time bars for filing of claims to foreign creditors? As a general practice, how is such notice given to foreign creditors?**

Section 78 (1) no. 4 of the Bankruptcy Act requires that the court-issued announcement of the proceedings contains a request to the creditors to report their claims to the trustee

within a specified time limit (which according to Section 109 of the Bankruptcy Act should be minimum three weeks and maximum six weeks). Notice of such time bars for filing claims is provided by giving public and individual notice of the proceedings in accordance with the provision in section 78 (3) of the Bankruptcy Act. Notice of time bars etc. would usually also be included in the notice sent to each known creditor (see answer to question 10).

12. If the insolvent business is a shipowner, do your laws require notice of insolvency proceedings to be given to the ship registrar for domestically registered vessels?

Section 79 of the Bankruptcy Act requires that the commencement of an insolvency proceeding is notified in the Register of Bankruptcies. Additionally, such notice must be given to any other domestic assets register in which the debtor has registered assets. For domestically registered vessels, it is mandatory to register the notice of the insolvency proceeding in the Norwegian Ship Registers (NOR (the *Norwegian Ordinary Ship Register*) and NIS (the *Norwegian International Ship Register*). Such notice must be given to ensure publicity about the bankruptcy, but is not necessary to prevent legally binding sales of the vessels owned by the insolvent shipowner to uninformed buyers.

13. Do your laws require notice of insolvency proceedings to be given to diplomatic or consular officials of the flag states of foreign registered vessels which are assets of a local insolvent ship operator?

There is currently no obligation to make such notice so this will be up to the discretion of the administrator of the bankruptcy estate except pursuant to the Nordic Bankruptcy Convention.

14. If a foreign creditor later learns of the existence of insolvency proceedings, is the foreign creditor permitted to file late claims or have a right to claim against any of the assets of the insolvent ship operator which have not yet been distributed to creditors?

The time bar for filing claims, set out by the court in the announcement of the proceedings, is not preclusive. Thus a creditor is permitted to file late claims (as long as the claim is not time barred). Such claims will be taken into account, provided that they are filed before the court commences the allotment. However, the creditor might not receive payment after the procedure of preliminary allotment (the Bankruptcy Act section 127) and he may be held responsible for compensating the costs occurred due to the late filing (the Bankruptcy Act section 115).

Part 4 – Recognition of Foreign Claims

15. Please describe the conflict of laws rules for recognition of foreign maritime claims in insolvency proceedings. For example, if the claim is a maritime lien under the laws of the place where the claim arose but not in the country where the insolvency proceeding is being conducted, will the insolvency administrator or tribunal recognize the foreign maritime lien?

In cases where the Norwegian court has jurisdiction over the insolvency proceeding, the general rule is that the proceeding and allotment is subject to Norwegian law. The courts will apply the Norwegian legislation in this respect, also with regard to claims of foreign creditors and assets located outside Norway.

The individual claims may be governed by foreign law pursuant to ordinary Norwegian choice of law rules or rules of recognition of foreign judgements.

The Nordic Bankruptcy Convention provides its own set of rules regarding conflict of law. As a general rule, the applicable law is the law of the jurisdiction in which the insolvency was declared, unless otherwise provided in the Convention. Several exceptions are made from this general rule, in order to protect the interests of creditors situated in the other Nordic countries.

When it comes to maritime liens, the Norwegian Maritime Code of 24 June 1994 no. 39 (*No: Sjøloven*) has its own set of rules for recognition of foreign maritime claims. Pursuant to section 75 of the Maritime Code, maritime liens recognized by the registration state of the vessel will also be accepted as maritime claims under Norwegian law. However, they will only be given priority after claims recognized as maritime liens under Norwegian law and registered mortgages.

Global limitation is also subject to lex fori or rules of recognition of foreign judgements.

Ship mortgages registered in a foreign register will be recognized on certain conditions (section 74 of the Maritime Code).

16. Apart from the characterisation and priority of claims, are there any other procedural differences in handling of claims between those by foreign creditors and those by local creditors?

There are no procedural differences in the handling of claims between those asserted by foreign creditors and those asserted by local creditors. The procedure, as described in the Bankruptcy Act, regarding secured claims, preferred claims, unsecured claims and exempt claims is applicable to both types of creditors.

17. Does your law recognize rights of claims to property rights, sale or enforcement given by foreign law to particular types of creditors, such as, for example, to finance institutions or spouses for their entitlement to business property interests of the other spouse on separation or divorce?

This would depend of the type of asset, the location of the asset, conflict of laws rules in Norway and whether a similar right is accepted under Norwegian law. As an example, a foreign registered mortgage in a vessel would generally be recognized in the same way as a Norwegian registered mortgage.

- 18. Is the recognition of foreign arbitral awards for purposes of proof of claim in insolvency proceedings different from the recognition of foreign arbitral awards for general legal purposes? Please explain any differences.**

Norway is party to the New York Arbitration Convention of 1958. The recognition of foreign arbitral awards for purposes of proof of claim in insolvency proceedings is not different from the recognition of foreign arbitral awards for general legal purposes. According to section 45 of the Norwegian Arbitration Act of 14 May 2004 no. 25 (No: *voldgiftsloven*), an arbitral award is to be recognized, regardless of the country in which it has been passed. None of the Arbitration Act, the Dispute Act, the Enforcement Act or the Bankruptcy Act provides a set of rules specific to recognition of arbitral awards in relation to insolvency proceedings. Hence, foreign arbitral awards will be recognized as proof of claims in insolvency proceedings, in the same way as for legal purposes in general. However, if the arbitration proceedings (or other legal procedures) have not been finalized prior to the opening of the bankruptcy estate, the proceedings will be stayed.

- 19. If the insolvent ship operator is a state-owned enterprise, are there any differences in the rights or procedures available to a foreign creditor under your country's insolvency law?**

The Norwegian insolvency legislation does not distinguish between state-owned and privately owned enterprises (typically limited liability companies). In both cases, the foreign creditors have the same rights and procedures available as provided in the Bankruptcy Act and the Creditors Recovery Act. However, there are special regulations for banks, insurance companies and other financial institutions who will not be subject to bankruptcy proceedings, but placed under public administration (No: *offentlig administrasjon*).

Part 5 Recognition of Foreign Insolvency Proceedings

- 20. Do your laws permit the administrator of a foreign insolvency proceeding to publish notices of such proceedings in local news media or to communicate directly with local creditors concerning proofs of claims and payment of any recoveries in the insolvency proceedings? If there are any legal restrictions on direct handling of claims by foreign administrators, please provide details.**

Yes, the foreign administrator would be free to communicate and make agreements with local creditors on the basis of principles of freedom of contract. However, foreign insolvency proceedings do not have immediate recognition or effect in Norway and thus it will be more difficult for a foreign administrator of foreign insolvency proceedings to get the Norwegian court's help to enforce rights as part of the foreign proceedings. Further, it is not clarified under Norwegian law whether a foreign insolvency administrator will have the right to follow the rights of a group of creditors before the Norwegian courts without separate insolvency proceedings having been opened in Norway.

21. Will your country's court recognize a request for recognition of foreign insolvency proceedings?

In accordance with the *Nordic Bankruptcy Convention*, insolvency proceedings in any Nordic country are immediately recognized in all of the other contracting states, see article 1 of the Convention. As proceedings in Sweden, Denmark, Finland and Iceland have immediate effect in Norway and further procedures are not required, recognition of such proceedings is not necessary.

As set out in the answer to question 20 above, foreign insolvency proceedings are not immediately recognized in Norway, and the Norwegian Courts are not obliged to recognize a request for recognition of such proceedings. An arrangement (No: "*underkonkurs*") has been developed (and debated) in legal theory (based on some older court decisions) in order to prevent the creditors from being deprived of assets located in Norway. In the event of a foreign bankruptcy, the idea of an "*underkonkurs*" is that insolvency proceedings will commence in Norway, with the aim of assisting the foreign proceedings. If accepted, it is assumed that the announcement of the proceedings in Norway will be given in accordance with the procedure in section 78 of the Bankruptcy Act. Consequently, the announcement will be published on the website of the Brønnøysund Register Centre and in a commonly read newspaper. The announcement will also be forwarded to each known creditor. The provision in section 78 of the Bankruptcy Act states that the Norwegian court is responsible for the notification, meaning that the administrator of the foreign insolvency proceeding is not directly permitted to make the announcements.

A similar issue is how Norwegian courts will deal with foreign (non-Nordic) proceedings aiming to collect/sell assets or enforce claims in Norway, where Norwegian courts are not considered to have jurisdiction (home or main seat is not located in Norway). There are examples of Norwegian case law supporting the notion that Norwegian courts could potentially recognize foreign (that is, non-Nordic) proceedings (for example, the Supreme Court's decision in *Rt. 1996 s. 25 (Hydro vs. Alumix)* and *Rt. 1887 s. 465*). The position is, however, at this point unclear, and there are sources of law that supports the opposite (for example, the preparatory work of the Bankruptcy Act, *NOU 1972:20 s. 243*, and legal theory; *Brækus, Omsetning og Kreditt 1 s. 93* and *Huser 2 s. 460-461*).

As an alternative, foreign liquidators or insolvency estates may try to seek assets through separate debt recovery proceedings in accordance with Norwegian law. In this context, however, it is also unclear whether a foreign liquidator will be recognized to have legal competence on behalf of a debtor's creditors to seek such separate debt recovery in Norway, or if creditors must seek recovery on an individual basis.

22. Will such a request be recognized if it comes directly from a foreign trustee in bankruptcy, liquidator or administrator, or does the request have to be in the form of a letter of request issued by the foreign bankruptcy tribunal?

We refer to our answers under questions 20 and 21. As no such system is formally established, there are also no formal set of procedures.

23. What legal standards do your country's courts apply for the purpose of recognition of foreign insolvency proceedings? Please provide details.

We refer to our answer under question 21. It is unclear if Norwegian courts recognize foreign (non-Nordic) insolvency proceedings aiming to collect/sell assets or enforce claims in Norway.

24. Do your laws have a procedure for a request for the recognition by a foreign insolvency administrator or insolvency court of a local insolvency proceeding? Are such requests generally made by the administrator or the insolvency court? Generally describe the procedure.

As stated above, Norwegian law does not have special procedures for this.

25. Can an administrator of insolvency proceedings request the courts of your country for assistance in obtaining recognition of insolvency proceedings of foreign insolvency administrators or foreign courts? Generally describe this procedure.

Norwegian bankruptcy law does not have any special procedures regarding this.

26. Will your courts enforce any compulsory transfer of a contractual obligation involving a vessel formerly owned by an insolvent ship operator, if this contractual obligation affects parties located in your country?

There is no authority on the matter, but there is no reason why they would not recognise the de facto situation.

27. Does your legal system have a procedure for the coordination of concurrent insolvency proceedings involving maritime assets, involving ship operators or creditors in your country and abroad? Is this procedure set out in laws or regulations or has it been developed through practice of insolvency tribunals? Please provide details including any generally used precedent forms of procedural orders.

As stated above no such procedure exists apart from the regulation in the Nordic Bankruptcy Convention.

The jurisdictional test for determining whether a Norwegian court will be considered to have jurisdiction is whether the person's home or company's main seat is considered to be in Norway. This means that if a company's main seat is considered to be in another jurisdiction, a Norwegian court will not open debt settlement or insolvency proceedings. At the same time, if a petition for bankruptcy is filed in Norway, the court cannot refrain from opening bankruptcy proceedings (if the jurisdictional and the substantive tests are met) simply by

referring to foreign (non-Nordic) proceedings having been initiated. The latter means that if the jurisdictional and substantive test is met, Norwegian proceedings will commence according to Norwegian law, regardless of foreign (non-Nordic) proceedings. In practice, protection against creditors filing for bankruptcy in Norway must be established and sanctioned by the foreign court where the foreign insolvency proceedings are opened.

28. Is your country party to any bilateral or multilateral agreements for the coordination of multi-country insolvency proceedings or the recognition of foreign insolvency proceedings? Please list such agreements.

Norway is only party to the *Nordic Bankruptcy Convention*. In addition, Directive 2001/24/EC on the reorganization and winding up of credit institutions and Directive 2002/47/EC as amended by Directive 2009/44/ EC on financial collateral arrangements have been implemented into Norwegian law.

Part 6 Need for Reform

29. Have any provisions of your insolvency law created legal uncertainty or difficulties in the administration of cross-border maritime insolvencies? Please refer to any legal commentary or case law.

Professor Mads Henry Andenæs has upon appointment as counsel issued a report to the Ministry of Justice titled “Norwegian international insolvency law”. The report was issued in October 2010.

Chapter 3.4 of the report deals with the need for reform. According to Andenæs the rules regarding Norwegian insolvency jurisdiction and choice of law, are not clear as you will also have learned from reading answers to the other questions in this questionnaire. Norway has only to a limited extent (through the Nordic Bankruptcy Convention) sought to secure through conventions that Norwegian insolvency proceedings are recognized in other countries.

Further, Norway’s stand on recognizing foreign insolvency proceedings is not clear. Also, there are no rules which permit Norwegian insolvency proceedings limited to the debtor’s assets in Norway. Andenæs also mentions that there are no rules regarding the coordination of insolvency proceedings commenced in different states.

In light of the increase of cross-border insolvencies, there is need for reform. There is an ongoing process to modernize the legislation, but there is no certainty as to when and how such modernization will be implemented.

SECTION II

GENERAL MARITIME INSOLVENCY ISSUES

Part 7 General Insolvency issues Applicable to Ship Operators and Maritime Property

30. Are ships registered in your country or ship operators incorporated in your country subject to insolvency laws of general application or do your laws provide for specific rules relating to the administration of the businesses of insolvent ship operators?

Ships registered in Norway or ship operators incorporated in Norway are subject to the Bankruptcy Act and Creditors Recovery Act. The acts have general application, also in terms of the administration of the businesses of insolvent ship operators.

However, the procedure for granting security over ships is regulated in the Norwegian Maritime Code and the Maritime Code also sets out the procedure for registering a mortgage of a vessel, the priority of maritime claims etc. See also our answer to question 15 above.

31. If your laws provide for specific rules relating to the administration of the business of insolvent ship operators or ships under your registry as distinct from assets of commercial enterprises generally, please provide details of how these rules applying to ships or ship operators differ from general insolvency administration.

As set out above, there are no specific rules relating to the administration of the businesses of insolvent ship operators or ships registered in the Norwegian Ship Registries (NOR and NIS).

32. Is there any monetary or asset value threshold for the application of various forms of insolvency procedure? For example, is there a form of simplified insolvency administration for ship operators with assets of limited value.

The Bankruptcy Act does not set out a monetary or asset value threshold for the application of insolvency procedures, but the extent of the work carried out by the bankruptcy estate will be limited depending on the resources (unencumbered assets) available to the creditors and the bankruptcy estate. It may occur that the bankruptcy estate does not have sufficient funds to cover the costs of the insolvency proceedings. In such cases, the person who petitioned the proceedings is responsible for compensating the excess amount up to a limit of 50 times the court fee (No: *rettsgebyr*) (which at present means a maximum amount of NOK 43,000) in accordance with the section 73 of the Bankruptcy Act.

33. Do rights to commence insolvency proceedings/procedures differ if the debtor ship operator is a natural person or legal entity? Describe any differences generally.

The Bankruptcy Act does not distinguish between natural persons and legal entities, but a separate law regulates in more detail the possibility for debt settlement proceedings for natural persons (the Debt Settlement Act of 17 July 1992 no. 99 (No: *Gjeldsordningsloven*)) whereunder the aim is to bring severely indebted persons in a position to manage their debt. However, this act does not apply to natural persons carrying out business and thus the general rule is that the debtor ship operator will be treated pursuant to the same set of rules independent of him being a natural person or a legal entity.

Although the Norwegian insolvency law treats natural persons and legal entities equally, insolvency proceedings are often not cost-efficient in cases where the debtor is unincorporated. Consequently, debt settlement can be preferred in such cases.

34. If creditors are asserting claims against all or substantially all the assets of an insolvent ship operator, does this result in distinct or additional procedural or legal requirements?

Not in principle, but if substantially all of the assets of the insolvent ship operator are pledged or mortgaged in the full value of the assets, a simplified bankruptcy proceeding would usually be the result.

35. Are insolvency procedures administrated by courts of general jurisdictions, or by specialized courts or tribunals exercising commercial or insolvency jurisdiction?

No specialized courts or tribunals exercising commercial or insolvency jurisdiction have been established in Norway. Insolvency procedures are therefore administrated by the courts of first instance (the District courts).

36. Describe generally the threshold tests set out in your law for the status of insolvency

The threshold tests for the status of insolvency are described in the Bankruptcy Act section 61. A status of insolvency is dependent on the fulfilment of two requirements; insufficiency and illiquidity. Consequently, the threshold test is firstly that the debtor's debts exceeds his assets (insufficiency (balance sheet insolvency)), and secondly that he is unable to pay his obligations as they fall due, provided that the situation is not temporary (illiquidity).

If the debtor's insolvency is proved to the satisfaction of the court, the creditors are generally entitled to commence the insolvency proceedings in accordance with the procedures specified in the Bankruptcy Act.

37. If the threshold tests for insolvency proceedings in your country differ for a foreign ship operator with assets in your country which wishes to begin insolvency proceedings in your country, describe these differences in detail.

The threshold tests for commencing insolvency proceedings do not differ for a foreign ship operator with assets in Norway. Provided that the Norwegian courts have jurisdiction (see our answer to question 8), the requirement of insolvency also applies to foreign debtors. If the substantive test is met and the insolvent ship operator is a company, its board of directors have duty to file for debt settlement or insolvency proceedings under Norwegian law.

38. Do your laws permit a private creditor to obtain a court order to begin insolvency proceedings against a ship operator? If so, describe generally what facts or legal grounds the creditor must show to obtain such an order.

The insolvency proceedings is in the hands of the court, but can be initiated on the initiative of a private creditor alleging to have a claim which entitles him to a dividend of the debtor's assets. .The claim does not have to be proven or adjudicated in advance.

39. Do your laws permit a public authority to obtain a court order or exercise its own jurisdiction to begin insolvency proceedings against a ship operator other than procedures available to private creditors? If so, describe generally what are the factual or legal grounds for such public authority to begin such insolvency process?

A public authority can be a creditor, and thereby entitled to obtain a court order to begin insolvency proceedings in accordance with the requirements in section 60 of the Bankruptcy Act. The procedures will be the same as those available to private creditors. However, there is a slight procedural difference in section 67 of the Bankruptcy Act. In general, the creditor who initiates insolvency proceedings is obliged to pay an amount as collateral, to cover the costs of administrating the estate. According to section 67 (3) public authorities may be made exempt from having to pay such collateral.

40. Does a ship operator have rights to defend or oppose an insolvency proceeding begun by private creditors. If so, describe generally what defences are available.

The debtor can demonstrate that he is not insolvent, that the creditor does not have a claim and certain other defences. He will usually be allowed ample time to make his case, if necessary by a short stay in the proceedings. Often, he will get an advance warning, as the creditor may wish to issue one, as the debtor's failure to respond to it by payment creates a presumption that the debtor is insolvent.

41. Do our laws permit a ship operator to voluntarily begin an insolvency proceeding? If so, describe generally what facts or legal grounds a ship operator must demonstrate to begin voluntary insolvency proceedings.

The Bankruptcy Act section 60 permits the debtor to voluntarily petition for the commencement of an insolvency proceeding, provided that he is deemed insolvent. The requirements for obtaining such a court order are similar to the ones that apply when a private creditor petition for bankruptcy (section 66 of the Bankruptcy Act). However, it is additionally required that the debtor must attach to the petition (1) a statement of his assets and liabilities entered with a statement of the creditors names, addresses, outstanding claims, security for the debt, and if the creditor has a collateral security; the time for the establishment of the security as well as the debt, (2) an account of how the registration and documentation of financial information is arranged.

An alternative to insolvency, and a more practical example of voluntary proceedings, would be debt settlement proceedings as further described under question 52.

Please also note that the directors of a company can also face (civil and criminal) liability for not filing for insolvency or debt settlement if the company is insolvent.

42. Do creditors or any other persons with legal standing (such as public authorities, shareholders or employees of a ship operator) have right to oppose a ship operators' voluntary insolvency proceeding? If so, describe generally what classes of persons other than creditors have such legal standing and what grounds of opposition are available.

A creditor or other persons with legal standing cannot oppose a ship operators' voluntary insolvency proceeding, but in order for debt settlement to be concluded a certain number of the unsecured creditors must consent (see more detailed description in our answer to question 52 below). Once the debtor has initiated insolvency proceedings, the court must preliminary decide if the conditions for the commencement of such proceedings are satisfied, prior to the opening of a bankruptcy. Hence, the court is given the power to decide on the debtor's petition regardless of whether the creditors are opposed to the proceedings.

43. Do your laws provide for a time bar for filing of claims in insolvency proceedings which is different from limitation periods or prescription for commencement of maritime claims generally? If insolvency proceedings have different time bars for filing of claims, are these time bars set out in the legislation or are they decided by the insolvency administrators or tribunals on a case-by-case basis?

A maritime lien becomes time-barred one year from the day the claim in question arose, cf. section 55 of the Norwegian Maritime Code. The only way of stopping the maritime lien from becoming time-barred is by an arrest of the vessel. The period would pause if the claimant is "legally prevented" from arresting the vessel which would be the case if bankruptcy proceedings are opened. The standard period of limitation for other monetary claims is three years (section 2 of the Norwegian Limitation Act of 18 May 1979 no. 18 (No: *foreldelsesloven*)). The limitation period is paused when bankruptcy is opened pursuant to section 18 of the Limitation Act.

In insolvency proceedings, the deadline for filing claims will be set by the court. According to the Bankruptcy Act section 109, the deadline shall be at least three weeks and no more than six weeks from the date the commencement of insolvency proceedings was announced in Brønnøysund Register Center's electronic publication. However, claims filed after the deadline is not barred from allotment. Only claims filed after the estate has been wound up will not take part in the allotment. See also our answer to question 14 above.

44. Do your laws permit the insolvency administrator to carry out the ship operator's business for a temporary period in order, for example, to complete voyage or charter party commitments?

Under the Norwegian insolvency legislation, the insolvency administrator is generally permitted to carry out the debtor's business. However, there are exceptions for contracts that require particular skills, etc. and the other party objects. Ship operating is thought to be

one of them, so the charterer may cancel in order to prevent the insolvency administrator to carry out the business.

If the insolvency administrator is carrying out the business in respect of a particular contract, the estate is liable for the obligations under it. It is therefore necessary to clarify whether or not the administrator has taken over. The main rule is that a clear statement or a clear act to this effect is necessary.

As the liquidator can be liable for incurring unnecessary costs and losses, he will normally, on the opening of insolvency proceedings (i) cease all business operations and (ii) freeze all payments with immediate effect. Typically, there will also be insufficient funds to finance continued business operations (which to a large extent must be based on upfront payments if no trade credits are available). Therefore, continuance of the business, in whole or in part, can only take place for a very limited period of time, and only to the extent the liquidator can secure significant gains at limited cost and risk for the creditors. The insolvency estate may, however, elect to continue certain profitable parts of the debtor's profitable contracts (cherry picking). In that case, all new obligations that the estate enters into under these contracts are first priority claims with a right to receive full payment. The decision on whether to continue the debtor's business and to what extent shall be made by the bankruptcy estate (through the insolvency administrator or the creditors' committee) as soon as possible, c.f. section 119 of the Bankruptcy Act.

See also our answers to questions 45 and 46 below.

45. Do your laws permit an insolvency administrator to disclaim or otherwise set aside future contractual obligations such as charter parties or contracts of affreightment?

The Creditors Recovery Act provides the estate with a *right* to enter into the debtor's contractual obligations, but does not imply an obligation to do so. Thus, the estate can choose which contracts to enter into. If the bankruptcy estate does not wish to continue the contractual relationship (which would usually be the case) the former contractual party of the insolvent ship operator can file its claim for termination of the contract with the estate as a normal claim giving right to dividend, but will have duty to limit its loss (e.g. enter into an alternative charter contract) to the extent possible.

46. Do your laws permit or require an insolvency administrator to compulsorily transfer contractual obligations such as contracts of affreightment or employment agreements with crew from the insolvent ship operator to the purchaser of the vessel from the estate of the insolvent owner?

A bankruptcy estate does not have wider powers to assign contracts than other contractual parties, and is unlikely to do so due to the liabilities that may incur.

Part 8 Acceleration of Remedies

47. Do your laws permit a creditor to contract for immediate repayment of an entire debt, such as future obligations under a ship mortgage, if a shipowner becomes insolvent?

For ship mortgages, the procedure for granting security for the repayment of a debt is regulated in the Norwegian Maritime Code. The creditor's claim is secured in the event of a bankruptcy through the grant of a mortgage and pursuant to section 44 of the Maritime Code the debt secured by the mortgage will become immediately payable in certain events, including if bankruptcy or debt settlement proceedings are initiated.

48. If there are any differences in the application of these laws to acceleration remedies by foreign creditors as distinct from local creditors, describe these in detail.

Local and foreign creditor are treated equally also in this respect.

Part 9 Classes of Claims and Creditors

49. Do your insolvency laws apply differently to differing types of claims or creditors? Please respond to this question using the attached table. For example, is a bank or financial institution permitted to enforce a ship mortgage by procedures outside of an insolvency which would not be available to a ship mortgagee other than a bank or financial institution?

Through the insolvency proceedings the debtor's assets are liquidated, and distributed among the creditors. The distribution is primarily dependent on the priority of the creditors' claims, as the Norwegian insolvency legislation does not distinguish between different types of creditors.

Creditors with *secured claims* are not part of the insolvency proceeding provided that the security covers the value of the claims, however, so that secured creditors must usually wait six months before enforcing their claim unless the bankruptcy estate has consented to an earlier enforcement. An exception for this applies to financial institutions where the Financial Security Act of 26 March 2004 No. 17 (No: *lov om finansiell sikkerhetsstillelse*) applies to the security. This Act is based on Directive 2002/47/EC as amended by Directive 2009/44/EC and allows financial institutions and legal entities to enter into separate agreement on enforcement of financial security. Where such agreement has been entered into, the 6 months' "freezing period" will not apply. Financial security under the Act is, however, limited to security over cash, financial instruments or credit claims (and not, for example, ship mortgages).

The priority of claims is further regulated in the Creditors Recovery Act. According to section 9-2 the following claims are to be paid in full in priority to all other claims: (1) costs in connection with the debtor's funeral if the death occurred before the proceedings were initiated, (2) cost in connection with the administration of the bankruptcy estate, (3) other commitments incurred on the debtor's estate during the administration of the estate, (4) the costs of an immediate preceding debt negotiation or of public administration of the deceased debtor's estate, (5) other claims brought against the debtor's estate with consent of the administrators during an immediately preceding debt negotiation or with the consent

of the Probate court during public administration of a decedent estate and (6) claims as referred in section 9-4 (see below) which are brought against the debtor's estate during an immediately preceding debt negotiation or during public administration of the estate, and claims which have arisen at such time in connection with consumer purchase or other agreements with the consumers during the continued operation of the debtor's business.

After these costs have been paid in full, the funds are distributed according to a set of *preferred claims*:

- Class 1 preferential claims: regarding employees; (1) wages and salaries, (2) holiday payment, (3) pension entitlements and (4) any deductions made from the employees' salaries (see the Creditors Recovery Act section 9-3)
- Class 2 preferential claims: regarding claims of the authorities for (1) capital and income taxes, (2) taxes deducted from employees' pay but not accounted for and (3) value added tax and investment tax (see the Creditors Recovery Act section 9-4).

After the preferred claims have been discharged, the unsecured claims are to be paid. These claims are administrated as a part of the insolvency process with the same ranking as other claims.

Please also find attached the table with our comments in respect of the various types of claims.

50. Does the existence of an insolvency proceeding under your country's law alter the priority of creditors' claims against a ship owned or operated by an insolvent person? Please respond to this question with references to the types of claims listed in the attached table.

BAHR: In principle no, but the costs of the bankruptcy estate and certain other costs will be given priority above other claims. As mentioned above, secured creditors will not be regarded as part of the insolvency proceedings to the extent their claim is covered by the value of the security.

Please also find attached the table with our comments in respect of the various types of claims.

51. If a shipowner commences proceedings to establish a limitation fund under the LLMC Convention or to establish a limitation fund under domestic law, describe the relationship between such fund and any insolvency proceedings involving that shipowner. For example, can creditors begin insolvency proceedings if a limitation fund has been established? Can an insolvent shipowner establish a limitation fund?

For all practical purposes, limitation funds will be established by insurers, and will be kept out of the shipowner's bankruptcy (section 7-8 of the Insurance Contracts Act of 16 June 1989 no. 69 (No: *forsikringsavtaleloven*)).

If a limitation fund has been constituted by the shipowner before the bankruptcy, it generally follows from the relevant Conventions on limitation that the fund is available only for the claimants of the fund, and not for the general creditors of the shipowner. However, the payment into the fund can perhaps be declared void in bankruptcy.

The estate of a bankrupt shipowner can in principle constitute a limitation fund. However, it is much more likely that limitation will be invoked without establishing a fund in such cases.

A bankrupt shipowner cannot make dispositions in respect of his assets, including paying them into a limitation fund.

A claim can in principle be pursued outside the fund also in bankruptcy. The claimant will then be considered a secured creditor, and will only have a claim in the bankruptcy for the unsecured part of his claim (which is nil).

Part 10 Proposals for Reorganization or Compromise

52. Do your laws permit an insolvent ship operator to make a proposal for the reorganization of its business or compromise of claims in which the ship operator would continue to operate into the future if the proposal is approved?

An alternative to insolvency proceedings is debt settlement proceedings. Debt settlement proceedings are regulated in the Bankruptcy Act and the Debt Settlement Act (the latter is not applicable to companies or natural persons carrying out business, see answer to question 33 above).

During a debt settlement procedure, the company will continue to operate under its management. However, the creditor's committee will have an important role. Its consent is required for important transactions such as (i) borrowing, (ii) granting security, (iii) selling assets, (iv) acquiring property and (v) letting certain important assets.

The aim of debt settlement proceedings is for a company that is (or may become) insolvent to reach a debt settlement scheme with its creditors. The debtor shall prepare a proposal for the settlement of the debt. This proposal may include a reorganization of the business or a compromise of claims. The proposal is subject to approval by the relevant creditors.

In practice, debt settlement is normally not practical as it has limited flexibility, arising from:

- Strict requirements for creditor consent and minimum dividends for unsecured creditors.
- Insufficient legal protection to secure financing for the business to continue while the debt settlement is negotiated (because the legislation does not provide means to grant security to a lender during the debt settlement period).
- Lack of powers for the estate to seek debt-to-equity solutions (such as writing off debt against receipt of shares).
- Lack of involvement of shareholders.

Therefore, debt settlement proceedings are only used when the debt structure is reasonably controllable.

If the debt settlement is not successful (and provided that the substantive test is met), insolvency proceedings would usually be started.

Upon commencement of insolvency proceedings, the insolvency estate confiscates all assets and the shipowner is not entitled to make any disposals of its assets. The objective of insolvency proceedings is to liquidate the debtor's assets for the benefit of its creditors, and distribute the proceedings among the creditors according to the order of repayment rules. Accordingly, it will not be possible for the shipowner to continue operation into the future.

The liquidator may continue to operate the business for a limited period during the insolvency proceedings, but typically there will also be insufficient funds to finance continued business operations (which to a large extent must be based on upfront payments if no trade credit is available). Therefore, continuing the business in whole or in part can only take place for a very limited period of time, and only where the liquidator can secure significant gains at limited cost and risk for the creditors.

See also our answers to questions 44-47 above.

53. Do your laws permit such proposals to be conducted through private contractual arrangements between an insolvent ship operator and some of its creditors, or do such proposals need to be conducted under supervision of a court or with approval of all identifiable creditors?

A privately initiated arrangement (typically a so-called "stand-still" arrangement) would be accepted under Norwegian law, but there are no special laws setting out the procedures for this and the success of the arrangement is dependent on whether it is possible to reach an agreement between the relevant creditors.

The only alternative regulated by law is debt settlement proceedings where the court will be involved, see description in the answer to question 52 above.

54. If it is lawful to conduct a proposal through private contractual arrangements, are such private contractual arrangements affecting a ship legally binding on other claimants against that ship who have not participated in such private contractual arrangements?

A private agreement can only bind the parties to it (but will usually also bind their successors). In order to secure priority or rights in respect of the vessel towards other claimants the normal rules will have to be followed (e.g. registration of a mortgage).

55. If a proposal is required to be conducted under supervision of a court or approval of all known creditors, please provide a general description of the reorganization procedure.

We refer to the answers to questions 52 and 53 regarding the debt settlement procedure.

56. Are secured creditors of an insolvent shipowner subject to court orders approving a reorganization or compromise?

Only the consent of the unsecured creditors will be required for the carrying out of debt settlement procedures. A certain “peace” will be granted from the secured creditors as these will be prevented from enforcing their security for the first six months from the petition to commence insolvency proceedings was received by the court, unless they obtain the insolvency estate’s consent. Consent is usually not granted if the assets relate to the core business of the company. As set out in our answer to question 49 above, the six month restriction period does not apply to financial security where enforcement procedures have been agreed in the security agreement and the security falls under the Financial Security Act based on Directive 2002/47/EC as amended by Directive 2009/44/EC.

The court has general supervision of the insolvency proceedings. The court can overrule a decision taken by the liquidator, the creditors' committee or the creditors' meeting, if the decision is evidently unreasonable, illegal or in conflict with the rights of the debtor, a creditor or a third party.

57. Do your laws permit an insolvent ship operator to transfer an insolvency proceeding into a proceeding for reorganization or compromise?

It is possible to go from insolvency proceedings to a compulsory debt settlement (No: *tvangsakkord*). However, as compulsory debt settlement requires a super majority of the unsecured creditors (that is, at least 75% in number and in outstanding debt) to approve the debt settlement scheme and that all unsecured creditors must receive at least 25% dividend (with certain exceptions), this would usually not be possible for an insolvent ship operator to ask for as a dividend of 25% to all unsecured creditors would be unusual considering the fact that the most valuable assets of a ship operator (the ships) are usually mortgaged.

Part 11 Receiverships

58. Does your law permit a private creditor such as a ship mortgagee to take over the business of a ship operator or to sell part or all of its fleet or generally to act to recover a debt without needing to commence insolvency proceedings for the benefit of all creditors?

The Enforcement Act of 26 June 1992 no. 86 (No: *tvangsfullbyrdelsesloven*) regulates creditor's right to recover debt outside insolvency proceedings. In addition, the Financial Security Act allows for a financial institution and legal entity debtors to enter into binding agreements on enforcement of financial security.

If the ship mortgage is registered (either in one of the Norwegian ship registers or other registry, provided that such registry is equivalent to the Norwegian registry and that the registered right constitute a mortgage), the mortgagee may submit an application to the District Court for the forced sale of forced posession of the secured vessel, see section 11-2 of the Enforcement Act.

An unsecured creditor must obtain a basis for enforcement of the debt, e.g. a final judgment for the debt, before bringing legal action against the debtor to force the sale of a vessel. Attachments made less than three months prior to petition for insolvency was received by the bankruptcy court are not binding for the insolvency estate, cf. section 5-8 of the Creditor's Security Act.

- 59. Does your law set out minimum requirements which a private receiver of an insolvent shipowner must follow such as giving notice to other registered ship mortgagees, the procedure for sale, etc.**

Appointment of a private receiver is not a known concept under Norwegian law.

TREATMENT OF CERTAIN CLAIMS UNDER NORWEGIAN LAW

Type of claim:	Secured Claim (enforcement may be continued by claimant outside of bankruptcy administration)	Preferred Claim (administered as part of bankruptcy process but in higher priority to general creditors)	Unsecured Claim (administered as part of bankruptcy process with same ranking as other claims)	Exempt Claim (claim not subject to bankruptcy or continues to be an obligation of ship operator after bankruptcy administration concluded)	Additional comments
Arising:					
Title, possession or ownership of a ship or any part interest in a ship				X	Pursuant to section 2-2 of the Creditors Recovery Act only assets owned by the debtor form part of the insolvency estate. If there is a conflict between the debtor (or, as the case may be, the estate) and the other owner, such dispute must be solved outside of the insolvency proceedings.
Between co-owners of a ship including use or earnings of the ship			X	X	The rights in this respect will depend on the type of claim. If the debtor e.g. holds money on behalf of the co-owner, the right of the co-owner will depend on how the money is held (e.g. whether it is kept separated from the debtor's assets or not).
Mortgages or hypothecs on a ship or share in a ship	X				Subject to a 6-month period where enforcement cannot take place without consent of bankruptcy estate (unless otherwise agreed). See our answers to questions 49 and 56 for further details on the 6-month restriction period.
Bottomry or other contractual liens on a ship			X		Must be registered as mortgage to obtain priority. Exception for a shipbuilder's retention right which will be a secured claim.

Type of claim:	Secured Claim (enforcement may be continued by claimant outside of bankruptcy administration)	Preferred Claim (administered as part of bankruptcy process but in higher priority to general creditors)	Unsecured Claim (administered as part of bankruptcy process with same ranking as other claims)	Exempt Claim (claim not subject to bankruptcy or continues to be an obligation of ship operator after bankruptcy administration concluded)	Additional comments
Arising:					
Wages, benefits, or repatriation of master or crew	X	X			Gives rise to a maritime lien with 1 year limitation period. Subject to a 6-month period where enforcement cannot take place without consent of bankruptcy estate. In addition the Governmental Wage Scheme (<i>Lønnsgarantiordningen</i>) provides state support for employees who have a claim for unpaid wages and holiday allowances against their employer. Generally, the scheme will completely cover wages for a maximum period of six months, and holiday allowance for a maximum period of 30 months. The scheme does usually not apply to managing directors or employees who own 20% or more of the company.
Loss of life or personal injury in connection with operation of a ship	X				Gives rise to a maritime lien with 1 year limitation period. Subject to a 6-month period where enforcement cannot take place without consent of bankruptcy estate.
Salvage awards	X				Gives rise to a maritime lien with 1 year limitation period. Subject to a 6-month period where enforcement cannot take place without consent of bankruptcy estate.
Unpaid supply of goods or services to a ship			X		Exception for a shipbuilder's claim secured by retention right which will be secured claim.
General average					Gives rise to a maritime lien with 1 year limitation

Type of claim:	Secured Claim (enforcement may be continued by claimant outside of bankruptcy administration)	Preferred Claim (administered as part of bankruptcy process but in higher priority to general creditors)	Unsecured Claim (administered as part of bankruptcy process with same ranking as other claims)	Exempt Claim (claim not subject to bankruptcy or continues to be an obligation of ship operator after bankruptcy administration concluded)	Additional comments
Arising:					
	X				period. Subject to a 6-month period where enforcement cannot take place without consent of bankruptcy estate.
Collision	X				Claims for damage to persons or property give rise to a maritime lien with 1 year limitation period. Subject to a 6-month period where enforcement cannot take place without consent of bankruptcy estate.
Other types of tortious or delictual physical damage caused by ship	X				Claims for damage to persons or property give rise to a maritime lien with 1 year limitation period. Subject to a 6-month period where enforcement cannot take place without consent of bankruptcy estate.
Cargo loss or damage			X		
Contracts of carriage, including charterparties, other than for cargo loss or damage			X		
Towage (other than salvage)			X		
Pilotage			X		
Hull insurance			X		

Type of claim:	Secured Claim (enforcement may be continued by claimant outside of bankruptcy administration)	Preferred Claim (administered as part of bankruptcy process but in higher priority to general creditors)	Unsecured Claim (administered as part of bankruptcy process with same ranking as other claims)	Exempt Claim (claim not subject to bankruptcy or continues to be an obligation of ship operator after bankruptcy administration concluded)	Additional comments
Arising:					
P&I Insurance			X		
Port, canal and harbour dues	X				Gives rise to a maritime lien with 1 year limitation period. Subject to a 6-month period where enforcement cannot take place without consent of bankruptcy estate.
Wreck removal by public authorities	X				Gives rise to a maritime lien with 1 year limitation period. Subject to a 6-month period where enforcement cannot take place without consent of bankruptcy estate.
Environmental damage	X				To the extent the environmental damage gives rise to a maritime lien (damage to person or property with exception for nuclear damage). If the claim is secured as maritime lien it will be subject to a 6-month period where enforcement cannot take place without consent of bankruptcy estate.
Unpaid contributions for social benefits programs (workers' compensation, health etc.)		X			May also be considered part of the wages secured by a maritime lien
Criminal or regulatory fines or penalties			X		Will usually be ranked AFTER other unsecured claims. There is a possibility that the directors and/or owners of the insolvent ship operator may be held liable.
Fraud or intentional					There is a possibility that the directors and/or owners of

Type of claim:	Secured Claim (enforcement may be continued by claimant outside of bankruptcy administration)	Preferred Claim (administered as part of bankruptcy process but in higher priority to general creditors)	Unsecured Claim (administered as part of bankruptcy process with same ranking as other claims)	Exempt Claim (claim not subject to bankruptcy or continues to be an obligation of ship operator after bankruptcy administration concluded)	Additional comments
Arising:					
wrongdoing in connection with the operation of ship			X		the insolvent ship operator may be held liable.