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February 12, 2010

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FEDERAL MARITIME COMMISSION

J. Michael Cavanaugh
202 828 5084
michael.cavanaugh@hklaw.com

Honorable Karen V. Gregory
Secretary
Federal Maritime Commission
800 North Capitol Street, N.W.
Washington, D.C. 20573

Re: CLIA Statement

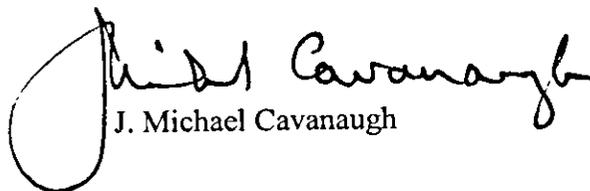
Dear Ms. Gregory:

Pursuant to the Notice of Inquiry regarding Passenger Vessel Financial Responsibility published by the Federal Maritime Commission on December 3, 2009, enclosed please find the responses of the Cruise Lines International Association.

Thank you for the opportunity to respond to the Commission's inquiry. If you have additional questions or require additional information, please do not hesitate to contact me.

Sincerely yours,

HOLLAND & KNIGHT LLP


J. Michael Cavanaugh

Enclosure

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BEFORE THE FEDERAL MARITIME COMMISSION

Washington, DC

Passenger Vessel Financial Responsibility - Notice of Inquiry

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FEDERAL MARITIME COMMISSION

COMMENTS OF THE CRUISE LINES INTERNATIONAL ASSOCIATION

INTRODUCTION

Cruise Lines International Association (CLIA), which has existed pursuant to Agreement No. 010071 and a predecessor agreement for over 35 years, is North America's largest cruise industry organization. CLIA represents the vast majority of cruise lines embarking passengers in the United States and subject to passenger vessel operator financial responsibility requirements under Public Law 89-777 (46 U.S.C. 44101-44106) and the Commission's regulations (46 CFR Section 540). With a membership of 25 cruise lines, and 16,000 affiliated travel agencies, CLIA is the voice of the cruise industry in the United States. CLIA member lines include U.S. and foreign-flag operators with vessels ranging in size from 50 to 5,400 passengers. CLIA estimates that the North American cruise industry in 2008 generated \$40.2 billion in total economic benefits including \$19.07 billion in direct spending by the cruise lines and passengers on U.S. goods and services, with 357,710 total U.S. jobs generated and \$16.18 billion in total wages for U.S. employees.

SUMMARY OF POSITION

The purpose of Public Law 89-777 has been realized in that passengers' deposits are protected in the event of nonperformance by any cruise line that embarks passengers at U.S. ports. The current regulatory arrangement, with a \$15 million cap on each line's security requirement, is adequate to cover actual nonperformance risks.

Congress amended the statutory requirement to clarify that 100 percent coverage of fare deposits was neither necessary nor intended. As shown in past situations, a panoply of other legal protections work in concert with Public Law 89-777 to mitigate the risk of loss. These protections include credit card issuer refunds, a bankruptcy priority for deposit refunds, and the fact that a large portion of the market is represented by public companies whose financial statements are available online through the Securities and Exchange Commission ("SEC"). It should be noted that the industry survived two separate "stress tests" (9/11 and the 2009 recession) with no loss of passenger deposits.

Accordingly, CLIA believes that the current arrangement and levels of coverage are adequate. Incremental increases in required coverage, at a time when the economic downturn is already having an effect, would significantly and negatively impact individual lines, causing increases in fares with no meaningful benefit.

BACKGROUND

At its inception, the cruise industry was very different than it is today. In the late 1950's and early 1960's, following establishment of jet air service to Europe, passenger ship travel began to change from a mere means of transportation from point A to point B, especially in the Transatlantic liner service, to a mode of entertainment and vacation. In its nascence, the cruise industry was plagued with old ships and small, undercapitalized operators. Cruises did not occur as promised, operators went out of business and passengers sometimes lost deposits. In 1966, Congress established financial responsibility requirements by enacting Public Law 89-777. That legislation has played a role in keeping undercapitalized operators out of the industry and instilled confidence that deposits are safe.

The original statute was somewhat ambiguous but a literal reading seemed to require that “total” revenue be covered by some type of security. In 1993, the Commission asked Congress to clarify that the statute did not require 100 percent, dollar-for-dollar coverage. Congress agreed with the Commission and amended the law to delete the language (Public Law 103-206, Title III, Section 320, 107 Stat. 2427 (1993)). Since that time, it has been clear that coverage of 100 percent of UPR is not required. The statutory language simply requires a “person” to file “information the Commission considers necessary; or a copy of a bond or other security, in such form as the Commission by regulation may require” (46 U.S. Code §44102 (b)).

Originally, the Commission set a coverage ceiling of \$5M, when it imposed its 1967 regulations implementing Public Law 89-777. The amount was raised to \$10M in 1981 and to \$15M in 1991.

Despite the events of 9/11, which led to several cruise line bankruptcies, and despite the recent economic downturn, passengers have not lost deposits due to any cruise line’s nonperformance or financial distress.

DISCUSSION

The Notice of Inquiry invites comments on twelve questions. The first three questions are specific as to individual lines’ practices. Questions 10-12 pertain to the practices of sureties and credit card companies and are best answered by those entities. CLIA addresses questions 4-9 in its comments below.

B. Adequacy of Nonperformance Coverage

4. What is your position with regard to the adequacy of the current ceiling of \$15 million?

It is the position of CLIA that the existing regulatory arrangement, requiring 110 percent coverage up to a cap of \$15 million, is adequate to protect against the risks addressed by Public Law 89-777. We also believe that it would be counterproductive to overburden companies with unnecessary increased regulatory costs that may cause higher fare prices.

There is no current indication that deposits are at risk.

Despite the 9/11-induced failures of American Classic Voyages, Commodore and Premier in the early 2000s, or the more recent economic downturn, no passengers have lost their cruise deposits due to nonperformance or failure of a cruise line.

Approximately 80 percent of berths on cruises offered by CLIA member lines serving U.S. ports that have UPR exceeding the \$15M cap are provided by large companies that file audited financial statements that are posted on the SEC's EDGAR website, and can be viewed by the Commission and the financial press. Some of these companies are also monitored periodically and rated by S&P and Moody's. Any significant deterioration in the financial health of such a publicly-traded company would be clear to those in the financial community and the Commission.

The FCBA provides for refunds by credit card issuers.

Under the Fair Credit Billing Act, 15 U.S. Code §1666(b)(3) (the "FCBA"), credit card issuers must refund fares paid on cards they have issued if the passenger notifies the issuer of the cruise line's nonperformance within 60 days of the billing statement

covering the fare payment. Nearly 90 percent of all cruise fares are charged on credit cards. Approximately half of all fare deposits are paid within the time that would entitle the cardholder to obtain a refund under the FCBA. Thus, without making any change in the existing regulatory system that would increase costs, passengers have very significant protection in the event of nonperformance by the cruise line.

Passenger deposits are given a preference in bankruptcy proceedings.

In the unlikely event that a line declares bankruptcy, passengers have additional refund protection under the Bankruptcy Code (11 U.S. Code §507(a)(7)) for claims for refunds of pre-paid deposits on cancelled cruises. Section 507(a)(7) includes a priority of up to \$2,425 per passenger. This gives cruise passengers a preference over lower priority claims and general unsecured creditors.

5. Should the Commission consider adjusting the \$15 million cap periodically based on an inflation factor (i.e., Consumer Price Index)?

Because there have been no historical instances in which passengers have not been reimbursed for their deposits in the event of nonperformance by a cruise line, CLIA sees no reason to require lines to increase their financial responsibility requirements, either on a one-time or ongoing basis.

6. Should the Commission consider alternatives to the \$15 million cap?

No, CLIA does not believe alternatives to the \$15M cap are necessary. The Commission has considered alternatives to address passenger vessel financial responsibility over the years. The objective is to protect all passenger deposits at risk. The difficulty then becomes how to define which deposits are at "risk." Historically, it has been undercapitalized lines with the lowest UPR that have failed. The current

requirements address that risk directly by requiring 110 percent coverage of those lines with the lowest UPR.

7. If the \$15 million cap is modified, what would be the likely benefits or burdens upon PVOs, related companies and the shipping public?

The burden of increasing the cap on lines could be significant. The cost of securing a bond or guaranty can vary from line to line, and the additional cost of securing a higher amount could dramatically increase the costs of a company's operation, especially for the smaller lines. The response to an increase by P&I clubs and financial institutions that currently provide such guarantees is unknown. In most instances, the cruise lines' P&I clubs provide Public Law 89-777 nonperformance coverage simply as an accommodation to their insureds, as this type of coverage is not their primary business line or focus.

Thus there are questions as to whether increased bonds or guarantees are available, and if so, at what cost. Conversely, as shown above, a very large percentage of all cruises provided by cruise lines with UPR above \$15 million are offered by publicly-traded companies that file financial statements with the SEC. The burdens of increased coverage clearly exist, but the benefits would not be meaningful.

8. What other methodologies could the Commission use to establish adequate coverage amounts as required by current regulations?

CLIA believes the current coverage requirements are adequate, and, therefore other methodologies are not necessary to address coverage at this time.

9. Should the Commission consider legislative alternatives to the current Nonperformance Coverage Requirement?

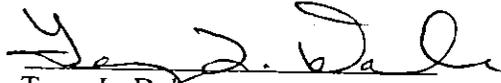
CLIA does not believe that legislation is necessary to address the nonperformance requirements of cruise lines.

CONCLUSION

CLIA respectfully requests that the Commission consider the foregoing comments.

[signature on next page]

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Terry L. Dale". The signature is written in a cursive style with a horizontal line underneath it.

Terry L. Dale
President and CEO
Cruise Lines International Association
910 SE 17th Street, 4th Floor
Fort Lauderdale, FL 33316

Submitted: February 10, 2010

State of Florida

County of Broward ss:

Terry L. Dale, being first duly sworn on oath, deposes and says that he is President and CEO of Cruise Lines International Association and is the person who signed the foregoing Statement and he has read the Statement and the facts stated therein, upon information received from others, affiant believes to be true.

Subscribed and sworn to before me, a notary public in and for the State of Florida, County of Broward this 9th day January, 2010.

 _____

[Seal]

(Notary Public)

My Commission expires June 23, 2012

