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The Global Maritime Industry Approaches a Financial Storm

The troubled economy has not only affected real estate, but now the shipping industry faces troubled waters. In recent months, shipping industries' profits continue to diminish due in part to excess capacity triggered by a pre-slowdown building spree and lowered demand for goods. In this *Maritime Alert*, we consider issues in the news regarding the problems facing the shipping industry as well as possible approaches to navigate rough seas.

- A *Wall Street Journal* article published November 13, 2009 reviewed A.P. Moller-Maersk AS' startling loss of US\$778 million during the first nine months of 2009 with an expectation of losses of more than US\$1 billion in 2009. According to the article, the Maersk's troubles are due to over-capacity in the container shipping business. Moving a 40-foot container in September 2009 averaged about US\$2,000, down 17 percent from a year earlier. Shipping volume has not declined as substantially.¹
- *The New York Times* carried a November 12, 2009 article on how banks are fearing the collapse of carriers, especially Europe's banks hold shipping industry loans worth more than US\$350 billion. According to *the New York Times*, banks have not taken write-downs for their portfolios, which, if predictions are to be believed, may cause trouble down the line. As the shipping industry was still in the midst of a shipbuilding frenzy two years ago, diminished shipping rates are beginning to affect companies' ability to repay the loans they took out

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to order new ships. Banks with large shipping portfolios may soon face another crisis when their borrowers can no longer repay their loans.²

- Two articles in the *Financial Times* highlighted the effect the downturn has had on Germany's shipowners. Peter Döhle Schiffahrts, one of the world's largest container shipowners, requested money from Germany's fund established to assist companies suffering through the global economic crisis. With owners in Germany accounting for about a third of the world's container ships, many Germany-based companies may soon resort to asking Berlin for their own version of a bailout. In addition, Germany's KG funds allow ordinary investors to purchase shares in ships. As the industry continues to suffer, Germany's professionals who invested in the tax-efficient KG funds may be asked to cough up valuable assets to support their investments.³
- A *Lloyd's List* article suggested shipowners use Chapter 11 to rework their loans as well as bargain with shipyards. The article suggested smart shipyards and banks will work with shipowners to resolve disputes before shipowners use Chapter 11 protection for stays against lenders and to break shipyard contracts.⁴

We have a team of experienced maritime, trial, finance and bankruptcy lawyers to assist clients with critical, time sensitive concerns arising from the recent volatility in the shipping and financial markets. Drawing upon this collective experience, we are well prepared to assist clients in even the most challenging situations. We have been successful in using Chapter 15 and Chapter 11 of the Bankruptcy Code both to get claims against our clients heard in forums that may be more favorable to their interests and to use the power of the bankruptcy court to vacate Rule B attachments and enjoin prosecution of lawsuits. In addition, Squire Sanders, with our global footprint, we can assist our maritime clients with cross-border insolvencies by offering seamless representation from country to country. If you would like to learn more about our maritime or bankruptcy & restructuring practices, please contact your principal Squire Sanders lawyer or one of the lawyers listed in this Alert.

¹ John W. Miller, [Maersk Signals Slow Sailing Ahead](#), *The Wall Street Journal*, Nov. 13, 2009.

² Landon Thomas Jr., [As Shipping Slows, Banks and Carriers Fear Loan Defaults](#), *The New York Times*, Nov. 12, 2009.

³ Robert Wright, [Funds Facing Shipping Crisis](#), *Financial Times*, Oct. 19, 2009 and [Bail-out Request Highlights Shipping Crisis](#), *Financial Times*, Oct.

26, 2009.

⁴ Rajesh Joshi, [Warning of Wave of Bankruptcies to Come](#), *Lloyd's List*, October 16, 2009.

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