



SPECIALIST  
PROFESSIONAL  
INDEMNITY  
INSURANCE

# Superyacht Broker

Specialist professional indemnity insurance



ITIC  
IS MANAGED  
BY **THOMAS  
MILLER**

# Professional indemnity insurance for superyacht professionals

## Expert View

Yacht broking is highly seasonal, high value and fast-paced. Extreme levels of detail need to be passed on accurately in a short amount of time with the inherent risk of errors and omissions. Checks and controls always help reduce risk but the odd email can always go unnoticed leading to expensive claims. ITIC, as the leading yacht and shipbroker insurer, has the experience to support your business.

Examples of claims include:

- **Misrepresentation of ship and equipment** – both in charter and sale and purchase scenarios small details can make a significant price difference.
- **Errors in the negotiated price and contractual terms** – negotiations can be fast-paced and spread between email, messaging services and verbal communication. Not having a comprehensive written record of what the client agreed can potentially lead to claims.
- **Misdirected claims from the counterparties' failure to perform according to the charter agreement** – the broker is often held accountable for the actions of the charterer or owner on the misguided basis that being appointed as the broker of one of the two means they recommend them as a firm or person to do business with.

## Why choose **ITIC**?

<b>ITIC provides professional indemnity insurance at cost</b>	ITIC is the mutual insurer of the transport industry with no external shareholders to take a profit from the business.
<b>ITIC will provide a sympathetic approach</b>	ITIC understands that you will often have commercial relationships which will need preserving if a claim arises and we will work with you to allow that business association to continue. ITIC's unique insurance cover allows some discretion and could support a claim which may not normally be paid by another professional indemnity insurer.
<b>ITIC understands your business</b>	ITIC's specialist knowledge of your business will make it quicker and easier for you to obtain advice and support on a claim under your professional indemnity insurance.
<b>ITIC is more than just insurance</b>	As an assured at ITIC you will receive support from a team who understand the unique situations and liabilities that your business faces.
<b>ITIC pays dividends annually</b>	Surplus funds have been paid out to the members in the form of continuity credit since 1994.

## Paradise is not twice as nice

*The name of the yacht has been changed to a fictional name.*

A banker wished to charter a yacht for a holiday. ITIC insured the yacht broker acting for the charterer who provided details of a yacht MY PARADISE to them, which had been received from the yacht's central agent.

Unfortunately, the information provided by the broker to the charterer included pictures and details for a more expensive yacht called PARADISE. The central agent had provided the correct information to the charterer's broker, but it was solely the charterer's broker's error to include the incorrect PARADISE information in the details to the charterer.

Based on the incorrect information the charterer entered into a charter agreement for the MY PARADISE – thinking they were getting the PARADISE. After the charter agreement was executed and US\$ 455,000 was paid by the charterer, the broker provided them with a promotional video of the MY PARADISE. It was at this point the charterer realised there had been a mistake and demanded the contract be cancelled alleging it was legally invalid and the money paid should be returned. The charter agreement was cancelled and US\$ 353,000 was returned but US\$ 102,000 was kept by the owners of the MY PARADISE in accordance with the terms of the charter.

It was clear that the broker had made an error in sending the wrong details. This was a negligent misrepresentation which the charterer claimed induced them into transaction. Therefore, there was no defence and the claim of US\$ 102,000 was settled in full.

## Helicopter hiccup

A film production company chartered a yacht for a one-day photo shoot.

The charterer needed to land a helicopter on the yacht as part of the filming requirements. Unfortunately, the yacht's helicopter operations certification was out of date. A compromise was reached to use a helicopter, but not to actually land it on the yacht.

ITIC's member was the central agent for the yacht owner. The charterer brought a claim against the owner and the central agent for EUR 73,000 plus their legal costs, alleging that the yacht had been misrepresented to them. They alleged they had specifically requested a yacht capable of allowing a helicopter to land and the broker had confirmed that this yacht was suitable. A representative of the charterer brought their claim against the broker in France. ITIC paid for the costs of a lawyer to defend the broker's position.

It was argued that, as their claim was based on the terms of the charter party which provided for arbitration in London, the court should decline jurisdiction.

The court did rule that the arbitration clause was applicable and declined jurisdiction. They also awarded the central agent EUR 8,000 in costs. As a result, the claimant decided to completely drop their claim.

## A burn out case

After a survey on her electrics, a yacht was purchased and taken to a yard to be refurbished. After further inspection, the yard reported that there was in fact substantial damage to her wiring and that a complete rewiring was required. While this was being carried out, the yard discovered structural damage, which seemed to have been caused by a previous fire, or fires. Gutting would be necessary for repairs, but this could cost more than the yacht was worth.

The electrical surveyor was uninsured, and the claim against them was settled for a small sum. The purchaser then claimed against the yacht broker, alleging misrepresentation and breach of fiduciary duty on the basis that the broker had been aware of the fire damage and had failed to disclose it to the buyer. It became clear that there were significant disagreements between the seller, who maintained that the broker had been informed about the fire damage, and the broker, who maintained that the sellers had not told them. Either way, the purchaser had not been informed.

Unfortunately there was no written evidence to support the broker's position. There was, therefore, a significant risk in litigating the matter, not only on liability but also because the very substantial legal costs in doing so would not be recoverable in the US courts even if the broker successfully defended the buyer's claim. It was, therefore, decided to make an offer of partial settlement, of US\$ 925,000 without any admission of liability. There were also legal costs incurred and the total amount of this claim was US\$ 1,400,000.

**It is important for brokers to maintain, in their daybooks, detailed written logs of conversations with clients, and that anything of importance is committed to writing.**



# ITIC facts & figures at a glance

All figures US\$  
All facts and figures correct as of 31st January 2024

Fact  
Sheet  
Series

Superyacht broker

## Gross premium

\$69m

for the year

## Claims paid

\$465m

since 1992

## Members

3,616

## Security rating

Backed by at least "A-" rated reinsurance programme



## Worldwide insurance cover

ITIC is able to provide professional indemnity insurance, without restrictions, worldwide. An ITIC account executive is responsible for each country and will be your first point of contact. The ITIC team speaks French, German, Greek, Japanese, Mandarin and Spanish.

## Credits paid

\$189m

surplus funds have been paid out to the members in the form of continuity credit since 1994

## Disbursements & commissions

\$240m

of disbursements and commissions collected for members since 1992

## Free reserves

\$243m

for ITIC and TIMIA combined

## Annual premium

from **\$1,500**  **\$1.8m** or more

ITIC is committed to consistently providing competitively priced professional indemnity insurance (and related insurance covers) with valuable and high quality loss prevention advice to businesses servicing the marine, aviation, rail and general transport industry. The ITIC team have a wealth of experience and knowledge.

24

Staff

A full time team to provide you with the best service possible.

19

Years

Average staff member's experience in the insurance/transport industry.

12

Years

Average staff member's time with ITIC. Several staff have over 25 years of service.

6

Lawyers

6 lawyers and a dedicated claims team.

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