

HANJIN SHIPPING CO., LTD.'S RECEIVERSHIP EXECUTIVE SUMMARY*

As a service to the firm's clients, Roberts & Kehagiaras LLP ("R&K") has prepared an executive summary of issues arising out of Hanjin Shipping Co., Ltd.'s filing for receivership:

- Hanjin Shipping Co., Ltd. ("Hanjin") filed for receivership or bankruptcy in Seoul Central District Court on Wednesday, August 31, 2016.
- Hanjin sent the attached notice to its customers.
- Fuel suppliers, charterers, and other vendors have filed complaints for arrest of Hanjin vessels and garnishment in courts in California and around the world.
- Creditors are seeking to enforce maritime liens in order to establish a preference over other creditors.
- Ocean transportation intermediaries and other service providers have been named as garnishees in actions in actions against Hanjin in which the plaintiffs are seeking to redirect the garnishees' payments due to Hanjin to the plaintiffs.
- Many marine terminal operators ("MTOs") and railroads are refusing to deliver Hanjin containers. Whether MTOs or railroads will assess demurrage is unclear at this point. In some cases, MTOs are willing to deliver containers in exchange for payment of miscellaneous tariff charges that may not be valid under the Shipping Act.
- Many MTOs are refusing to accept the return of Hanjin containers. Whether equipment providers will be accessing detention is unclear at this point.
- The Federal Maritime Commission ("FMC") has issued guidance to the shipping public and received informal complaints that MTOs and steamship lines are in possible violation of the Shipping Act. The FMC Established Protocol for all Public Communications Related to Hanjin Shipping Disruptions at <http://www.fmc.gov/NR16-18/>.
- The terms of Hanjin's bill of lading and waybill contain language, such as in the "Liberties" clause, that permits the unilateral termination of the carriage. Under those terms, "Merchants" may have liability for the on-carriage and delivery of their cargoes.
- Customs and Border Protection ("CBP") regulations require entry of cargo with fifteen days of importation or there is a risk General Order (abandonment) proceedings.
- Merchants should review their service contracts for dead freight commitments, etc.
- On September 2, 2016, Hanjin filed a Chapter 15 bankruptcy petition with the U.S. Bankruptcy Court for the District of New Jersey, case number 16-27041-JKS.
- Hanjin's appointed representative is expected to apply for a "stay" order to stop the arrest of vessels and may direct creditors to file claims in the foreign proceeding, not the Chapter 15 case filed in New Jersey.
- Hanjin's creditors need to confirm where claims should be filed and provide enough delivery time for timely filing, especially if filed overseas.
- Hanjin's creditors may be subject to actions arising under foreign law and not the typical preference suits.

R&K is monitoring Hanjin's receivership proceeding and its effects. The situation is fluid and changing. Managing the impact of "cargo on the water" will require knowledge of FMC and CBP regulations, as well as maritime and bankruptcy law. Our firm works collaboratively with maritime counsel around the world, including in Seoul, Korea, and with the bankruptcy law firm of Hinds & Shankman to efficiently resolve those issues.



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