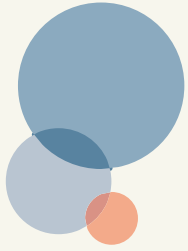




LIMITATION OF LIABILITY
- THE SWEDISH PERSPECTIVE

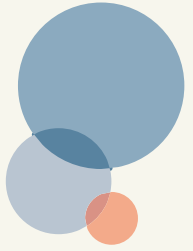
Jonas Rosengren, Werks Advokater





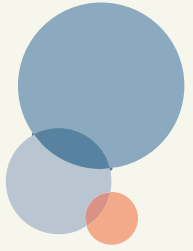
AN OVERVIEW OF THE SWEDISH RULES

- Sweden is a party to the 1976 LLMC and the 1996 Protocol (increased limits 2015) and member of the European Union
- The Swedish legislation broadly corresponds to the rules in the Norwegian Maritime Code (prepared in Nordic co-operation) but
 - no separate wreck removal fund in Sweden!



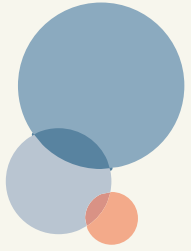
CASE LAW

- About eight limitation funds constituted in Sweden between 1985-2022
- No limitation fund set up after the entry into force of the 1996 Protocol in Sweden (20 October, 2004)
- Some interesting litigation relating to limitation procedure and jurisdiction in Sweden (notably Baltic Cable case concerning jurisdiction issues)
- Difficult to say how the Norwegian case law on limitation funds/procedure will be considered by Swedish courts



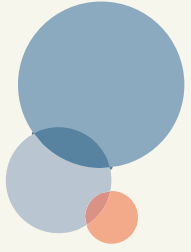
PRACTICAL EXPERIENCE

- Funds are constituted quickly (*ex parte*)
- In practice, most funds have been dissolved after settlement between claimants / insurers (often after the insurers have purchased the claims)
- Active involvement of court appointed fund administrator can speed up settlement and closure
- Funds can take a long time to wind up when there are contested claims / litigation outside of the fund

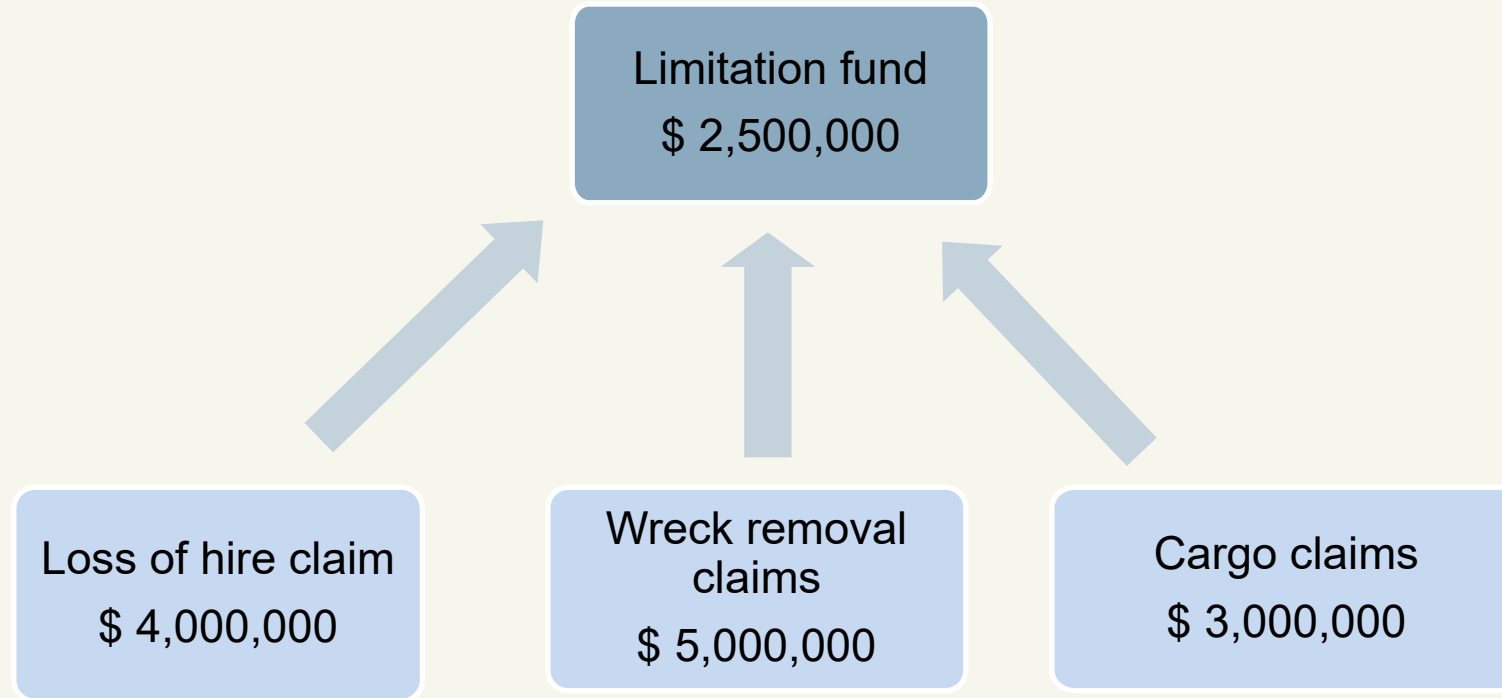


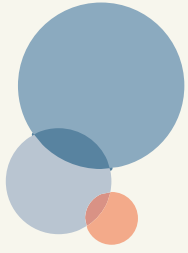
PROBLEM AREAS

- Few judges have experience of maritime law – proceedings tend to be slow
- Default interest is not subject to limitation
 - payable in addition to the fund amount (interest rate: 8% plus Swedish reference rate (0,5 % today))
 - Simple interest – not compound
- Can be difficult for the owners/insurers to speed up the closure of the fund



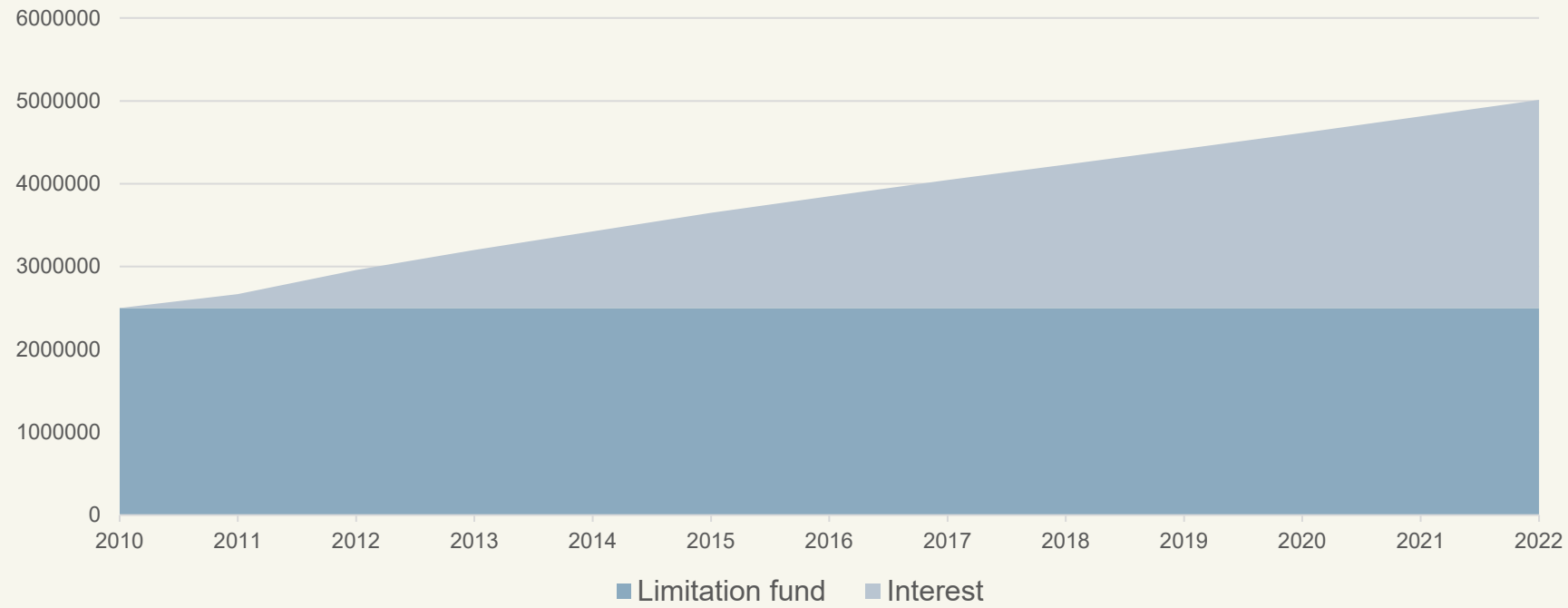
”CAN’T WE JUST PAY OUT THE FUND?”

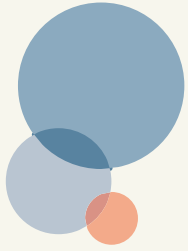




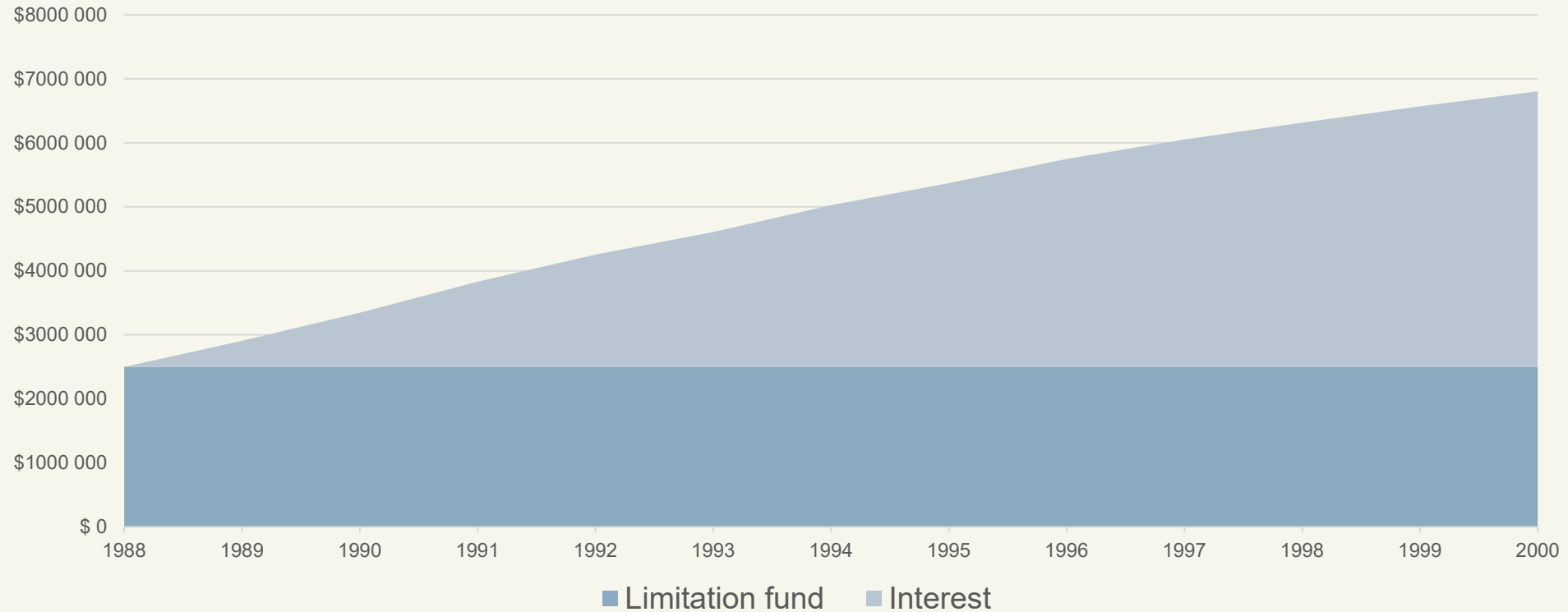
EFFECT OF DEFAULT INTEREST

Limitation fund constituted on 1 January 2010
USD 2,500,000

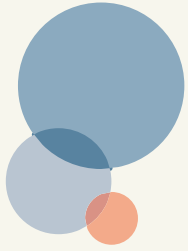




NIGHTMARE DEFAULT INTEREST: VINCA GHORTON LIMITATION FUND (1988-2000)*



(* Ship stranded in Dutch waters on 29 February 1988,
fund constituted 11 March 1988, closed 23 March 2000)



CONCLUSION

- Sweden offers little for limitation forum shoppers (except no separate wreck removal fund)!
- Something should be done about the default interest – easier to close fund /stop interest/ lower interest rate when owners/insurers agree to pay out the fund
- Legislation has been in force since 1985 – time for a Nordic committee / research group to review the Nordic implementation of the LLMC 1976/1996 in light of case law and practical experiences of limitation funds?



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