



Ship Type: All

Trade Area: Worldwide

Bulletin 193 - 06/01 - Letters of Undertaking Issued by Members

Sometimes Members themselves, instead of the Club, issue letters of undertaking / guarantees under pressure from claimants and agree to compensate claimants for their loss.

There are some dangers in Members providing such letters:

- 1 If the letter is given without the prior written consent of the managers and amounts to an admission of liability and then the Member will be in breach of the Club's Rule 5N(iv). In such a case the Club's Directors may, in their discretion, reject any claim or reduce the sum payable by the Club.
- 2 The letter may contractually bind the Member in such a way that they are unable to limit their liability in accordance with the applicable Limitation Convention and instead may be liable to compensate the claimant for the full value of their loss. This problem can be overcome if the letter expressly reserves the Members' right to limit liability.
- 3 The letter itself may become admissible as evidence of the terms of an agreement to settle even though it is written 'without prejudice'.

Members who experience such requests are advised always to seek advice from the managers before giving such letters.

Source of Information : Rod Lingard (Specialist)