

AMENDMENTS TO THE RULES

TO BE CONSIDERED BY THE MEMBERS OF THE ASSOCIATION AT THE SPECIAL GENERAL MEETING OF THE ASSOCIATION TO BE HELD IN BERMUDA ON 20th JANUARY, 2011

AMENDMENTS TO RULES	EXPLANATORY NOTES
<p><u>RULE 2, SECTION 17, PROVISIO (D) – AD VALOREM BILLS OF LADING</u></p> <p><i>Amend proviso (d) of Section 17 of Rule 2 by addition of the words in bold type and deletion of words as indicated below:</i></p> <p>d Ad Valorem Bills of Lading</p> <p>Unless and to the extent that special cover has been agreed in writing by the Managers, the Association shall not pay for liability arising from carriage under an ad valorem bill of lading or other document of title, waybill or other contract of carriage in which a value of more than (US \$2,500) (or the equivalent in any other currency) is declared and/or inserted by reference to a unit, piece, package or otherwise, where the effect of such a declaration/insertion is to deprive the carrier of any right or rights of limitation to which he would otherwise have been entitled and cause him to incur a greater liability than he would have done but for such declaration/insertion, to the extent that such liability thereby exceeds (US \$2,500) (or the equivalent in any other currency) in respect of any such unit piece or package. be liable for payments to cargo claimants of amounts exceeding whichever is the higher of US\$2,500 per unit, piece or package or the limitation per unit, piece or package specified in the standard terms of carriage, in respect of shipments of goods carried under an ad valorem bill of lading, waybill or other document containing or evidencing the contract of carriage in which the value of the relevant unit, piece or package has been stated to be in excess of US\$2,500.</p>	<p><u>RULE 2, SECTION 17, PROVISIO (D) – AD VALOREM BILLS OF LADING</u></p> <p><i>The effect of the amendment is twofold: (i) to exclude from cover any liability to the extent that it exceeds US \$2,500 per package, piece or unit, when such liability arises from carriage under an ad valorem bill of lading or other document in which a value of more than US \$2,500 is declared by reference to a package, unit or piece or otherwise; (ii) to ensure that this exclusion operates only where there is a causal link between the declaration of value and the loss of the carrier's right to limit and not where there is no such causal link. The proposed amendment reflects a similar amendment that is being made to the International Group Pooling Agreement.</i></p>
<p><u>RULE 5 – CONDITIONS, EXCEPTIONS AND LIMITATIONS</u></p> <p><i>Amend Rule 5 by addition of a new paragraph (V), subparagraph (i) in bold type below:</i></p> <p>(V) - Sanctions Risks</p> <p>(i) The Association shall not indemnify an Owner against any liabilities, costs or expenses where the provision of cover, the payment of any claim or the provision of any benefit in respect of those liabilities, costs or expenses may expose the Association to any sanction, prohibition, restriction or adverse action by any competent authority or government.</p>	<p><u>RULE 5 – CONDITIONS, EXCEPTIONS AND LIMITATIONS</u></p> <p><i>The purpose of this Rule change is to exclude from cover a Member's claim where payment of such claim may expose the Association to any risk of sanction.</i></p>
<p><u>RULE 5 – CONDITIONS, EXCEPTIONS AND LIMITATIONS</u></p> <p><i>Amend Rule 5 by addition of a new paragraph (V), subparagraph (ii) in bold type below:</i></p> <p>(V) - Sanctions Risks</p> <p>(ii) The Owner shall in no circumstances be entitled to recover from the Association that part of any liabilities, costs or expenses which is not recovered by the Association from any party to the Pooling Agreement and/or from any reinsurer because of a shortfall in recovery from such party or reinsurer by reason of any sanction, prohibition or adverse action by a competent authority or government or the risk</p>	<p><u>RULE 5 – CONDITIONS, EXCEPTIONS AND LIMITATIONS</u></p> <p><i>The purpose of this Rule change is to protect the Association from any shortfall of recovery from the Pool or reinsurers in respect of sanction risks. This deals with the situation where payment of a claim or provision of cover by the Association does not expose the Association itself to a sanction risk and therefore the exclusion under the new Rule 5(V)(i) is not triggered, but another IG club or reinsurer refuses to pay by reason of a sanction risk to which it is exposed (eg. in another jurisdiction).</i></p>

thereof if payment were to be made by such party or reinsurer. For the purposes of this paragraph, “shortfall” includes, but is not limited to, any failure or delay in recovery by the Association by reason of the said party or reinsurer making payment into a designated account in compliance with the requirements of any competent authority or government.

RULE 5(U) – CONDITIONS, EXCEPTIONS AND LIMITATIONS – CERTIFICATES AND UNDERTAKINGS

Amend paragraph U of Rule 5 by addition of the words in bold type below:

Notwithstanding the exclusions in Rule 5(E), 5(F) and 5(V), the Association will discharge on behalf of the Owner liabilities, costs, expenses arising under a demand made pursuant to the issue by the Association on behalf of the Owner of

- a) a guarantee or other undertaking given by the Association to the Federal Maritime Commission under Section 2 of US Public Law 89-777, or
- b) a certificate issued by the Association in compliance with Article VII of the International Conventions on Civil Liability for Oil Pollution Damage 1969 or 1992 or any amendments thereof, or
- c) an undertaking given by the Association to the International Oil Compensation Funds in connection with the Small Tanker Oil Pollution Indemnification Agreement (STOPIA) or, **except where such liabilities, costs or expenses arise from or are caused by an act of terrorism, the Tanker Oil Pollution Indemnification Agreement (TOPIA) , or**
- d) a certificate issued by an Association in compliance with Article 7 of the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001

PROVIDED ALWAYS THAT:

i The Owner shall indemnify the Association to the extent that any payment under any such guarantee, undertaking or certificate in discharge of the said liabilities, costs and expenses is or would have been recoverable in whole or in part under a standard P&I war risk policy had the Owner complied with the terms and conditions thereof, and

ii The Owner agrees that:

- (a) any payment by the Association under any such guarantee, undertaking or certificate in discharge of the said liabilities, costs and expenses shall, to the extent of any amount recovered under any policy of insurance or extension to the cover provided by the Association, be by way of loan; and
- (b) there shall be assigned to the Association to the extent and on the terms that it determines in its discretion to be practicable all the rights of the Insured Owner under any other insurance and against any third party.

For the purpose of this Rule 5(U), the Directors shall have the sole discretion to determine what constitutes a standard war risk policy.

RULE 5(U) – CONDITIONS, EXCEPTIONS AND LIMITATIONS – CERTIFICATES AND UNDERTAKINGS

The existing Rule 5(U) provides that if the Association discharges direct certified liabilities on behalf of the Owner in circumstances where cover has been lost by reason of Rule 5(E) and 5(F), the Owner must indemnify the Association to the extent that any such direct liability payment is or would have been recoverable in whole or in part by the Owner under a standard P&I war risk policy. The proposed amendment applies the same principle in cases where cover is lost by reason of Rule 5(V).

This Rule change deals with the remote possibility that P&I claims arise in circumstances where both war and sanction exclusions apply and it maintains consistency in the treatment of certified liabilities that fall within the scope of an exclusion.

The proposed additional reference to TOPIA within subparagraph (c) is not particularly related to sanctions, but reflects an amendment to the Pooling Agreement and makes clear that in the event that the Club pays directly under TOPIA, when cover is excluded by reason of 5(E) war risks, 5(F) nuclear risks, or 5(V) sanction risks, the Owner is responsible for indemnifying the Club to the extent that the payment would be covered under a standard P&I war risk policy.