

No. 27 2011/2012 - Directive 2009/20/EC of the European Parliament and of the Council of 23 April 2009 on the Insurance of Shipowners for Maritime Claims ("Insurance Directive")

December 2011

Translations: Chinese  Vietnamese 

Dear Sirs,

Directive 2009/20/EC of the European Parliament and of the Council of 23 April 2009 on the Insurance of Shipowners for Maritime Claims ("Insurance Directive")

Members have previously been advised that EU Member States are required to bring into force the laws, regulations and administrative provisions necessary to comply with the EU Insurance Directive before 1 January 2012.

The Insurance Directive requires shipowners of ships having a gross tonnage (gt) of 300 or greater to maintain insurance to cover maritime claims subject to limitation under the Protocol of 1996 to Amend the International Convention on Limitation of Liability for Maritime Claims (LLMC Protocol) and up to the relevant maximum limits laid down in it. The Directive requires that this cover is evidenced by a certificate or certificates of insurance when entering an EU port, or flying the flag of a Member State.

'Insurance' is defined in the Directive itself as "insurance with or without deductibles, and comprises, for example, indemnity insurance of the type currently provided by members of the International Group of P & I Clubs, and other effective forms of insurance (including proved self insurance) and financial security offering similar conditions of cover."

The IG has liaised with each EU Member State to determine whether they will accept an IG Club issued certificate of entry as evidence of compliance with the Directive for both Port State and Flag State purposes.

The Directive requires that the certificates issued by the insurance provider shall include the following information:

- a. name of ship, its IMO number, and port of registry;
- b. shipowner's name and principal place of business;
- c. type and duration of the insurance;
- d. name and principal place of business of the provider of the insurance and, where appropriate, the place of business where the insurance is established.

This information is already contained in the certificates of entry issued by all IG Clubs.

A significant number of EU Member States have indicated that they will accept a standard IG Club issued P&I certificate of entry carried on board ships of 300gt or more as evidence that the necessary insurance cover is in place under the Directive. Vessels entered in IG Clubs calling at ports in these States will therefore not require any additional evidence of financial security in order to comply with the Directive.

The IG understands that some EU Member States will not meet the 1 January 2012 transposition deadline and will not, therefore, be in a position to enforce the Directive on this date. The IG is continuing discussions with these EU Member States to ensure that they follow the same approach as those States that will meet the transposition date and that the Directive is implemented in a uniform manner across the EU.

The Directive defines the 'shipowner' as the registered owner of a seagoing ship, or any other person such as the bareboat charterer who is responsible for the operation of the ship. To ensure consistency with the approach taken by the IG Clubs with the financial guarantee certificates (the blue cards) issued for the purposes of the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001 (the Bunkers Convention), the IG Clubs will insert the address of the registered office of the registered owner as the relevant address where this has already been obtained for the Bunkers Convention blue cards.

The IG will continue to liaise with those EU Member States that will not meet the 1 January 2012 transposition deadline to determine exactly when they will give effect to the Directive.

All Clubs in the International Group of P&I Clubs have issued similar circulars.

Yours faithfully

For: **West of England Insurance Services (Luxembourg) S.A.**
(As Managers)

R J B Searle
Director