

No. 11 2012/2013 - Privately Contracted Armed Security Personnel: IMO Guidance and Vetting Arrangement with "Flag Victor"

August 2012

Translations: Chinese  Vietnamese 

Dear Sirs

PRIVATELY CONTRACTED ARMED SECURITY PERSONNEL: IMO GUIDANCE AND VETTING ARRANGEMENTS WITH "FLAG VICTOR"

The Managers are pleased to announce that preferential terms for Members have been agreed with maritime security experts Flag Victor to vet potential providers of Privately Contracted Armed Security Personnel (PCASP) against the criteria set out in IMO's interim guidance to shipowners.

IMO Guidance

Members employing armed guards aboard their vessels as an additional anti-piracy precaution will be familiar with MSC.1/Circ.1405 "*Interim Guidance to Shipowners, Ship operators and Shipmasters on the Use of Privately Contracted Armed Security Personnel on Board Ships in the High Risk Area*". This document was updated in September 2011 and was recently revised again (MSC.1/Circ.1405/Rev.2).

IMO has also reissued "*Revised Interim Recommendations for Flag States Regarding the Use of Privately Contracted Armed Security Personnel on Board Ships in the High Risk Area*" (MSC.1/Circ.1406/Rev.2) and "*Revised Interim Recommendations for Port and Coastal States Regarding the Use of Privately Contracted Armed Security Personnel on Board Ships in the High Risk Area*" (MSC.1/Circ.1408/Rev.1).

IMO acknowledges that the increased threat to shipping has resulted in the growing use of armed guards, although it does not endorse this practice. IMO also recognises that the rapidly expanding maritime security industry is largely unregulated at present and has expressed concern as to the capabilities of some of these companies. MSC.1/Circ.1405 was published to provide guidance to shipowners when considering the many Private Maritime Security Companies (PMSC) offering such services.

As in previous versions, MSC.1/Circ.1405/Rev.2 includes a section entitled "PMSC Selection Criteria" which states that "*As with any other type of contractor it is important to undertake the usual due diligence, which normally includes investigation and enquiries...*" and "*To assess the capability of the PMSC to carry out a proposed task, a thorough enquiry regarding the prospective PMSC should be undertaken...*".

Pending the development of an international standard for PMSCs, IMO has issued MSC.1/Circ.1443 "*Interim Guidance to Private Maritime Security Companies Providing Privately Contracted Armed Security Personnel on Board Ships in the*

High Risk Area", adding to the range of checks that need to be incorporated into the vetting process. Particular account should be taken of MSC.1/Circ.1443, Section 3.5 which states that "As firearms and other security-related equipment are to be part of the contracted plan, PMSC should insure their personnel to carry and use firearms on such voyages for accident, injury and damage arising from the use of firearms and liability for any claim that might arise from the carriage and/or negligent or intentional misuse of firearms".

Flag Victor

In order to assist Members exercise due diligence when seeking to appoint a suitable IMO compliant PMSC, the Managers have agreed preferential terms with security experts Flag Victor. Flag Victor's management team includes a number of highly experienced maritime security professionals and the company has vetted many PMSCs in the recent past.

Members may wish to instruct Flag Victor to vet potential PMSCs for a specially reduced fee which is less than that offered to other parties and at a significant discount compared with current market rates.

Once initial compliance has been confirmed, Members may opt to receive monthly updates regarding the compliance status of their PMSCs for a small, specially discounted monthly fee. For this service, Flag Victor will monitor the PMSCs concerned and carry out regular checks to verify that certification, permissions and other key criteria remain valid and in force.

Members may take advantage of this arrangement by clicking on the "Maritime Security Audit Services" caption listed under "Popular Links" on the Club's home page, or via a designated section for West of England Members on Flag Victor's website.

Important

Members are reminded that MSC.1/Circ.1405 states that the use of PCASP should not be considered as an alternative to Best Management Practices (BMP) and other protective measures. Armed guards should only be placed on board as a means to secure and protect the ship and its crew and should only be considered after a risk assessment has been carried out. The Master should also be involved in the decision making process.

In addition, Members are reminded that employing a vetting company does not relieve them of their obligation to ensure that the terms of any contract proposed by a PMSC will not prejudice Club cover. Unless Bimco's standard GUARDCON is used, Members should verify that the liability and indemnity provisions in the contract are based on knock for knock principles reflecting those set out in Section 15 of GUARDCON. Members should also ensure that the PMSC's insurances are compatible with the risks for which they are liable.

Members requiring further information should contact:

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Yours faithfully

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

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