

No. 12 2009/2010 - 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 2009

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 the legislative dossiers that constitute the Third EU Maritime Safety Package (3rd MSP) entered into force on 17 June 2009, although they will not have effect in EU Member States until they have either been implemented into the domestic law of Member States (where the legislation has been agreed in the form of a Directive) or their agreed application date has passed (where the legislation has been agreed in the form of a Regulation).

The Insurance Directive is one of the eight Regulations and Directives that collectively make up the 3rd MSP and is of direct interest to the International Group of P&I Clubs (the IG). It 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.

Initial discussions with a number of EU Member States indicate that they will enforce the Directive through Port State Control and will accept a standard 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. The IG is continuing discussions with other EU Member States to ensure that they follow the same approach and that the Directive is implemented in a uniform manner across the EU.

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.

Changes will therefore be necessary to the certificates of entry issued by the IG Clubs to ensure that the above mentioned information is included on the certificates in order to comply with the Directive.

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.

Member States are required to bring into force the laws, regulations and administrative provisions necessary to comply with the Directive before 1 January 2012. The IG understands that some Member States may give effect to the Directive towards the end of the 2010-2011 policy year. In order to take account of this possibility, the necessary changes to the certificates of entry will be made by the IG Clubs as soon as possible to ensure that they are compliant on the date the Directive becomes effective in the Member States.

The IG will continue to liaise with EU Member States 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**
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(As Managers)

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