

No. 7 - Class 1: Rule Changes for 2001

November 2000

Notice to All Class I Members

NOTICE is hereby given that an Extraordinary General Meeting of the Members of Class I of the Association will be held on Wednesday, 6 December 2000 at 1000 hours in the Hotel Le Bristol, 112 Rue du Faubourg St. Honoré, 75008 Paris, France, for the purpose of considering and, if thought fit, passing the following SPECIAL Resolution:

SPECIAL RESOLUTION

THAT alterations to certain of the Rules of Class I (as hereafter set out with commentary) be made to take effect from noon GMT on 20 February 2001:-

CLASS 1 - RULE CHANGES FOR 2001 COMMENTARY

INTRODUCTION

There are both major and minor changes proposed to the Rules for 2001. Major changes or re-drafting of a whole Rule are covered by a full commentary. Where there is a minor change comment is brief. Legal advice on major changes has, where appropriate, been taken.

FORMAT

Those parts of the 2000 Rules where it is proposed that changes are made are attached with the changes marked. A proposed deletion from the 2000 Rules is identified by striking through the text to be deleted. Proposed additions are marked in bold type, except where changes are proposed to Rule headings, where the change is identified with ordinary text. All proposed changes are accompanied by a vertical mark in the margin for ease of identification. Page headers and number of the Rules and pages will be adjusted once changes are adopted and prior to printing for the 2001 policy year.

CHANGE TO SPECIFIC RULES:-

1. Rule 2 section 1 - Injury, Illness and Death of Seamen.
It is proposed to amend paragraph (A) of this Rule so that cover is not available in respect of injury to seamen under or pursuant to the terms of the contract of employment between the Member and that seamen, where the seamen have suffered injury whilst on leave, except where the claim on the Club is made under the entry of the last vessel on which the seamen served prior to suffering the injury. This amendment is required to align the Club Rules with the Pooling Agreement.
2. Rule 2 section 2 - Injury, Illness and Death - Persons other than Seamen and Passengers.
The proposed change recognises that for practical reasons not all visits can be subject to terms previously approved by the Managers. Accordingly, liability visitors will be covered unless the Managers require a particular visit or type or series of visits to be subject to approved terms.
3. Rule 2 section 3 - Repatriation and Substitutes Expenses.

The proposal is to extend cover to include repatriation costs of seamen who have to return home because a close relative has died. The change would also provide cover for the costs of sending a close relative abroad to be with a seamen who is taken ill or injured or who has died.

4. Rule 2 section 10 - Loss or Damage to Property.

The main body of that section reads that cover is for liability to pay damages or compensation for any loss of or any damage to any property (including infringement of rights) whether on land or water and whether fixed or moveable. It is intended to clarify the position under this section, so that cover for liability for infringement of rights is not restricted to situations where there has been physical loss of or damage to property.

5. Rule 2 section 11 and Rule 15.

Occasionally, ship owners may face claims in respect of pollution from or remediation of landfill sites where waste oil or other pollutants taken from an entered vessel have been dumped (for example following an oil spill) with or without the intervention of the ship owner. Such claims usually arise in circumstances where the entity owning or running the land-based site or dump is not in existence to meet the liabilities. In line with the recommendation to Clubs by the International Group Managers to adopt a unified approach, the West of England Board has agreed that the Rules be changed to make it possible for such risks to be covered by the Club in appropriate circumstances, but to avoid giving cover to such risks automatically. As a result, it is proposed that Rule 2 section 11 and Rule 15 are amended so that pollution by waste previously carried in the insured vessel shall only be covered on a discretionary basis.

6. Rule 2 section 16 - Cargo (late or non-arrival at a load port).

It is proposed to modify the exclusion from cover of liabilities arising out of late arrival or non arrival of the insured vessel at a port or place of loading or failure to load a particular cargo. As a result of the modification the exclusion would not apply where a bill of lading has already been issued.

7. Rule 2 section 16 - Cargo (disposal).

The Rule presently provides cover for disposal of damaged or worthless cargo. It is proposed to extend this Rule to cover additional costs and expenses in handling cargo which result from damage to that cargo or damage to the ship which would have been insured by a standard hull and machinery policy. It is also proposed to provide cover for discharging or disposing of cargo which has been rejected by a consignee. The extension of cover would be subject to a proviso that the Member has no recourse against another party, that the costs and expenses are not recoverable in General Average and that the costs and expenses are not required to make the vessel seaworthy to receive cargo.

8. Rule 2 section 20 - Salvors' expenses under standard forms of salvage agreement.

It is proposed to amend this Rule to include cover for liabilities under LOF 2000 and SCOPIC 2000.

9. Rule 3A - Special Cover for Charterers and Related Parties.

For the current year the Managers were able to obtain a higher limit of reinsurance cover of US\$500m instead of US\$300m. Last year the Board agreed that cover up to US\$500m would be provided to Members under Rule 3A for the 2000 policy year. Pending a Rule change, this upper limit is currently reflected in the terms of entry for the individual Members who have been offered a limit in accordance with the Rules of US\$300m or the higher limit of US\$500m against a nominal additional premium. These limits apply in respect to all parties in respect of any one vessel under any one contract of insurance in respect of any one accident. It is proposed that proviso (g) to Rule 3A be amended to provide that the limit of cover under this Rule should be US\$500m or such other sum as the Board may from time to time determine. Such a Rule change would permit the Board to vary the limit of cover in the same way as it can in respect of oil pollution ie. by means of a bye-law.

10. Rule 5 - Omnibus Rule.

At present, the Omnibus Rule only permits the Board to determine that the Club will pay an amount incidental to the business of ship owning, operating or managing vessels. It is proposed to extend the Board's powers under this Rule to allow the Board to declare that a risk incidental to the business of owning, operating or managing vessels is covered. It is intended that such power may be exercised on a majority decision of the Board where cover is not provided by any other Rule and is not expressly excluded. Where a risk is expressly excluded, it is proposed that the Board would have to be unanimous in its decision in the same way as unanimity is required to pay a claim under the existing Omnibus Rule.

11. Rule 17 - Exclusion of Certain Liabilities, Costs and Expenses of Salvage Vessels and Special Cover for Salvors.

It is proposed to make a small amendment to each Rule to indicate that although certain liabilities relating to vessels used or intended to be used for salvage operations are excluded under Rule 17, special cover is available to professional salvors under Rule 4.

12. Rule 19 - Year 2000 and Date Compliance & Exclusion of Cover if Adventure Illegal, Hazardous or Improper.
For the sake of consistency the term Committee is substituted for Directors.

13. Rule 30 - Eligibility for Insurance.

The proposed change would allow the Managers to deem that any of the persons described in Rule 30 may have an interest in a vessel even though at the time an application is made to enter that vessel such person has not yet become the owner or charterer, operator, manager of such vessel. The purpose of this change is to allow the Club to provide cover to owners and, more particularly, charterers who may have entered in to contractual engagements to carry cargoes before having become owners or charterers of one or more vessels intended to perform such cargo contracts. The most typical circumstance would be a tonnage contract, a contract of afreightment or a joint venture to operate a new or new part of a liner service. A similar amendment will be proposed to Rule 23 of Class II - where situations covered by this amendment would be more likely to arise.

14. Rule 33 - Certificates of Entry and Endorsement Slip.

This Rule describes the procedures for issuing insurance documents to Members and states which documents are conclusive evidence of the contract of insurance between Club and Member. It is proposed to delete that part of the Rule which is merely descriptive of procedures, because the description is no longer wholly accurate and because the Club now issues more documentation (such as evidence of insurance for COFRS or Blue Cards) than the Rule describes. The amended Rule will describe the key documents, ie. the Certificate of Entry and notification and, as now, state that they are conclusive evidence of the contract of insurance.

[link to detailed changes in Adobe Acrobat format](#)

By order of the Board
P A Aspden
Secretary
33 Boulevard Prince Henri
1724 Luxembourg

10 November 2000

A Member entitled to attend and vote is entitled to appoint a proxy (who need not be a Member of the Association) to attend and on a poll vote instead of him. The instrument appointing a proxy shall be left with the Secretary not less than 48 hours before the holding of the Meeting.