

January 2009

**Notice to Members No. 14 2008/2009**

**Notice to All Class 2 Members**

NOTICE is hereby given that an Extraordinary General Meeting of the Members of Class 2 of the Association will be held on Wednesday, 4 February 2009 at 0930 hours or as soon thereafter as the business of the Extraordinary General Meeting of the Members of Class 1 of the Association has been completed, in The Dolder Grand Hotel, Kurhausstrasse 65, 8032 Zurich, Switzerland for the purpose of considering, and if thought fit, passing the following SPECIAL Resolution:

**SPECIAL RESOLUTION**

THAT alterations to certain Rules of Class 2 (as hereafter set out with commentary) be made to take effect from noon GMT on 20 February 2009:-

**INTRODUCTION**

Those parts of the 2008 Rules where it is proposed that changes are made are attached with the changes marked. A proposed deletion from the 2008 Rules is identified by striking through the text to be deleted. Proposed additions are underlined. All proposed changes are accompanied by a vertical mark in the margin for ease of identification. Pages headers and page numbering of the Rules will be adjusted once the changes are adopted and prior to printing for the 2009 policy year.

**1. RULES 3 AND 11 - EXTENT OF COVER AND DEDUCTIBLES**

The rules currently set a maximum deductible of US\$50,000. Cases involving new buildings are usually agreed with a Member in the terms of entry to be subject to a limit of cover of US\$2 million in line with Notice to Members No. 17 of 2004/2005 and an unlimited deductible. It is proposed that these requirements become part of the Class 2 Rules.

The proposed text change is as follows:

### **3. EXTENT OF COVER.**

Subject to any special terms which may be agreed a Member is entitled:-

- (a) to recover from the Association the costs and expenses incurred in connection with any of the claims, disputes and proceedings described in Rule 2, (including costs and expenses payable to other parties to such proceedings under any judgement or order therein), but only if the Committee has determined that the case merits the support of the Association and has not withdrawn that support;
- (b) to receive legal advice from the Association in connection with any of the claims, disputes and proceedings described in Rule 2 or the possibility thereof;
- (c) to recover from the Association the costs and expenses incurred in obtaining advice in connection with the claims, disputes and proceedings aforesaid or the possibility thereof from lawyers, surveyors, representatives and other persons (other than employees of the Member or of the Association or Managers), where the Managers have consented to the obtaining of such advice.

*PROVIDED THAT :-*

No costs or expenses shall be recoverable from the Association unless:-

- a) they have been incurred with the prior consent in writing of the Managers; or
- b) they have been incurred by the Association on behalf of the Member in accordance with Rule 9 (Employment of Lawyers and others); or
- c) the Committee shall determine that they were reasonably incurred and ought in all the circumstances to be borne by the Association, and
- d) they are not excluded by any proviso, warranty, condition, exemption, limitation, deductible or other term contained in these Rules or in the terms of entry, and
- e) they were incurred by the Member in the capacity in which the Member has entered the insured vessel in the Association.

There shall be no recovery from the Association in excess of US\$5 million in the aggregate in respect of any case as defined in Rule 55 and where such case relates to the building of an insured vessel, there shall be no recovery from the Association in excess of US\$ 2 million in the aggregate.

### **11. DEDUCTIBLES AND PARTY AND PARTY COSTS.**

- (1) Unless otherwise agreed in writing, and subject to Rule 5 (discretion to support a case), each Member shall bear 25% of the costs and expenses in respect of each claim covered under Rule 3, provided that the minimum sum that the Member shall bear shall be US\$5,000 and the maximum sum shall be US\$50,000.

The said minimum sum of US\$5,000 shall be payable by the Member forthwith upon demand by the Managers whenever, in accordance with Rule 9, any lawyer, surveyor or other person is appointed and employed by the Managers on behalf of the Member or appointed and employed by the Member with the prior consent of the Managers. In the event that the costs and expenses in any case which the Association supports are less than US\$5,000, and the Member has paid that sum to the Association, the difference between the costs and expenses which the Association has made itself liable for to any such lawyer, surveyor or other person and the said sum of US\$5,000 will be refunded to the Member without interest.

PROVIDED THAT:

The maximum sum of US\$50,000 set out in this Rule 11(1) shall not apply in respect of claims relating to a contract for the building of an insured vessel.

**2. LAID-UP RETURNS – RULE 44**

Few other Clubs now offer a laid-up return in Class 2. It is proposed to bring the Club's practice into line with this market and delete the Rule.

~~**44. LAID-UP RETURNS.**~~

- ~~— (1) If an insured vessel shall be laid up in any safe port for a period of ninety or more consecutive days after finally mooring there (such period being computed from the day of arrival to the day of departure, one only of such days being included) the Member concerned shall be allowed a return of Calls calculated at the rate of 50 per cent of his total Calls payable in respect of such vessel for the period of lay up. From that return there shall be deducted 50 per cent of the reinsurance premiums which the Association remains liable to pay to reinsurance underwriters in respect of the insured vessel for the period of lay up.~~
- ~~— (2) For the purpose of this Rule a vessel shall not be treated as laid up if she had either crew members (other than for her maintenance or security) or cargo on board.~~
- ~~— (3) Unless agreed in writing by the Managers no claim for laid up returns relating to any Policy Year shall be recoverable from the Association unless written notice thereof has been given to the Association within six months of the end of the Policy Year concerned, and a Member shall not be entitled to laid up returns in respect of an insured vessel as from the time such vessel shall have been agreed by Hull Underwriters as constituting a constructive total loss or a compromised total loss (whether or not subject to production to Hull Underwriters of further evidence concerning the casualty) or shall have become a commercial total loss.~~

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

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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.