

TEXT OF CHANGES - CLASS 1 RULES

1. RULE 6 - DEDUCTIBLES

In line with Notice to Members No.17 of 2017/2018 (Renewals 2018/2019) as it relates to general increases in standard deductibles, it is proposed to amend Rule 6 to substitute US\$11,000 with US\$12,000.

The proposed change reads as follows:

6. Deductibles

Unless otherwise agreed in writing between a Member and the Managers as part of the terms upon which a vessel is entered in the Association, the Member's recovery from the Association shall be subject to the following deductibles:-

(1) *Cargo claims and cargo's proportion of General Average*

In respect of liabilities, costs and expenses referred to in Rule 2 Sections 16 and 17 and any costs and expenses incurred in connection therewith under Rule 2 Section 24 the first US\$142,000 in respect of one insured vessel in respect of each cargo voyage.

(2) *All other Claims*

In respect of the liabilities costs and expenses referred to in Rule 2 Sections 1 to 15 inclusive and 18 to 23 inclusive and any costs and expenses incurred in connection therewith under Rule 2 Section 24 the first US\$142,000 in respect of one insured vessel in respect of each incident.

PROVIDED THAT:-

Where two or more claims on the Association have arisen out of the same incident and are subject to more than one deductible by reason of this Rule or by reason of any special terms agreed with the Member, the Member's recovery shall be subject to the highest only of such deductibles.

2. RULE 15 - LIABILITY EXCLUDED FOR NUCLEAR RISKS AND IN RESPECT OF POLLUTION BY WASTE AND THE CARRIAGE OF LIVE ANIMALS

It is proposed that the exclusion on the carriage of live animals, which is a historical anomaly, be removed.

The proposed change reads as follows:

15 Liability Excluded for Nuclear Risks and in Respect of Pollution by Waste ~~and the Carriage of Live Animals~~

Except as provided in Rule 14(4) and unless either (1) the Committee otherwise determines or (2) it is otherwise agreed in writing between the Member and the Association, there is no cover in respect of any liability, cost or expense (irrespective of whether a contributory cause of the same being incurred was any neglect on the part of the Member or his servants or agents) when the loss or damage, injury, illness or death or other accident in respect of which such liability arises or cost or expense is incurred, was directly or indirectly caused by or arises from:-

- (a) ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel
- (b) the radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof

- (c) any weapon of war or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter
- (d) the radioactive, toxic, explosive or other hazardous or contaminating properties of any radioactive matter other than liabilities, costs and expenses arising out of carriage of excepted matter (as defined in the Nuclear Installations Act 1965 of the United Kingdom or any regulations made thereunder) as cargo in an Insured Vessel.

~~(e) The intended or actual carriage of live animals.~~

- (fe) The discharge or escape, or the threat of discharge or escape, or the presence of any substance, material, product, or waste determined or deemed to be hazardous, from or in any dump, site, storage or disposal facility, whether or not such substance, material, product or waste was previously carried on an entered ship as cargo, fuel or stores and whether at any time mixed or combined in any way in whole or in part with any other substance whatsoever.

3. **RULE 28 – BAIL, SECURITY AND OTHER CERTIFICATES OF FINANCIAL RESPONSIBILITY**

A small addition is proposed to the deeming provisions in Section 2(c) relating to a Member counter-securing the Club whenever bail is provided. This is intended to reinforce the Club's right to recover uninsured liabilities which it is obliged to pay under its guarantee in the first instance.

The proposed change is as follows:

28 Bail, Security and Certificates of Financial Responsibility

- (2) If it does so agree, then subject to any variation of any of (a) to (g) below by specific agreement between the Association and the Member:
 - (a) the Association shall be entitled to recover from the Member the expenses incurred in connection with providing such bail or security, except insofar as such expenses, if incurred by the Member, would be recoverable from the Association under Section 24 of Rule 2 (sue and labour);
 - (b) the Association shall be entitled to a commission from the Member of 1% per annum on the amount of the bail or security provided, or such other sum as may be considered appropriate by the Managers;
 - (c) the Member shall upon the Association agreeing to provide the bail or security, give to the Association on request an undertaking in the form set out in the Second Schedule (form B3). Whether or not the Member has given such undertaking, if the Association does provide bail or security, with or without the Member's authority, then the provision of such bail or security shall be upon the terms as between the Association and the Member that the terms and conditions contained in that form of undertaking shall be binding on the Member as if such undertaking had been duly given by him to the Association;
 - (d) the Member shall on such date or dates as the Association determines pay the Association the amount of any deductible which the Association determines may apply to any liability, loss, cost or expense in respect of which the bail or other security has been provided and in respect of which the Member may be insured;
 - (e) any payment by the Association under any such guarantee, undertaking or certificate shall, to the extent of any amount recoverable under any policy of insurance or extension to the cover provided by the Association, be by way of loan;

- (f) there shall be assigned to the Association to the extent and on the terms that it determines in its discretion to be practicable all the rights of the Member under any other insurance and against any third party;
- (g) the Association shall in no circumstances provide cash deposits.

(NB: The other provisions of Rule 28 which remain unaltered are not reproduced here for the sake of brevity.)

4. RULE 35 – INCEPTION OF MEMBERSHIP

It is proposed that additional wording be added so that where a Member makes an application for other parties to become Joint Members or Co-Assureds, the Member is explicitly deemed to have the power and authority to act on behalf of those other assured(s) both in relation to the application for entry and for any other applications necessary for the vessel's insurance such as Blue Cards and other trading certificates (e.g. MLC).

The proposed change is as follows:

35 Inception of Membership

If the Managers on behalf of the Association accept an application for the entry of a vessel for insurance in the Association from a person who is not already a Member of the Association, then unless he is to be a Co-Assured that person may, if agreed with the Association or the Managers on its behalf, as from the commencement of the period of insurance of that vessel, be and become a Member or Joint Member of the Association and his name shall be entered in the Register of Members of the Association.

Without prejudice to the provisions of Rule 31 the Managers may accept an application from a Member for another person or persons to become Joint Members or Co-Assured insured in respect of an insured vessel and to provide cover for such persons upon the terms set out in Paragraphs A to E of Rule 36.

The Member who makes such application shall be deemed to have full power and authority to act in the name of and on behalf of the Joint Member and the Co-Assured both in relation to that application and in relation to any other application or request arising under or in connection with the terms and conditions on which the vessel is entered for insurance and neither the Association nor the Managers shall be liable in any manner whatsoever to any Member, Joint Member or Co-Assured in the event that the Member did not, in fact, have such power and authority.

A Joint Member shall become a Member of the Association, shall be named in the Certificate of Entry and his name shall be entered in the Register of Members of the Association. He shall, unless otherwise agreed in writing with the Managers, be jointly and severally liable to the Association with all other Members insured in respect of such entry and in particular shall be jointly and severally liable with such other Members to pay all amounts due to the Association in respect of such entry.

5. RULE 39 – TERMINATION OF INSURANCE FOR NON-PAYMENT

Amendments are proposed to this Rule to make clear that where a Member is cancelled for non-payment, all sums – both those unpaid to-date and those relating to the remainder of the Policy Year – become payable immediately.

The proposed change is as follows:

39 Termination of Insurance for Non-Payment

- (1) If a Member (whether as a Member of this or any other Class) has failed to pay on the due date for payment any sum due to the Association or to any other person on its behalf, he shall be deemed to have failed to pay ~~all~~any further sums (including but not limited to instalments determined under Rule 47(1)) whose date ~~of~~for payment to the Association or to any other person has been notified by the Association, and all such sums and further sums shall be deemed to be immediately due and payable by the Member to the Association. The Association may at any time thereafter at its sole discretion:
- (i) declare any or all of such sums and further sums to be immediately due and payable; and/or
- (ii) serve a notice on the Member (the "Final Demand Notice") requiring him to pay ~~such sums~~the whole or part of any or all such sums and further sums (the "Demanded Sums") on ~~—~~or before the date specified in the ~~notice~~Final Demand Notice (the "Deadline") which shall refer to one or more of the consequences of non-payment set out in paragraph (2) of this Rule.
- (2) If ~~at~~the Member fails to pay ~~such sums~~the Demanded Sums in full on or before the ~~date so specified in the notice~~Deadline:-
- (i) that Member shall immediately cease to be insured by the Association and the period of insurance shall immediately terminate in respect of any and all vessels entered by him and
- (ii) the Association shall immediately cease to be liable and shall not thereafter become liable to that Member for any loss, damage, liabilities, costs or expenses whatsoever in respect of any or all vessels at any time entered by him, irrespective of whether insurance of such vessels terminated by reason of this or any other Rule or at any previous time for any other reason, or whether the events giving rise to such loss, damage, costs, expenses or liabilities occurred before or after termination and whether any claim by the Member against the Association was made before or after ~~service of the notice~~Deadline.

PROVIDED THAT:-

- (a) such ~~notice~~Final Demand Notice shall not be invalidated by reason that the sums specified therein as being due to the Association is greater or lesser than the sum actually due;
- (b) in determining what sums are due to the Association under this or any other Rule or otherwise no account shall be taken of any amount due or alleged to be due by the Association to the Member and no set-off of any kind whatsoever shall be allowed against such sums (even if previously allowed) unless specifically agreed in writing by the Managers on behalf of the Association and referred to in such ~~notice~~Final Demand Notice;
- (c) at the written request of the Member the Committee may determine to reinstate the Member and to extend the period of insurance in respect of any and all vessels entered by him on such terms as the Committee thinks fit and the Committee may ~~Further~~further determine that the Association shall be liable to the Member for any liabilities, costs or expenses in respect of any and all vessels at any time entered by or for the Member to such extent and upon such terms as the Committee ~~—~~thinks fit.

6. RULES 44 AND 45 – ADVANCE CALL & ADDITIONAL CALLS

In Notice to Members No.17 2017/2018 (Renewals 2018/2019), Members were advised that for 2018 and subsequent policy years the Club is modifying the basis of charging premium for mutual risks by expressing the estimated total call as a Total Mutual Call payable in equal instalments rather than in terms of a net Advance Call plus an Additional Call as has been the

case to-date. Several amendments are consequently proposed to Rules 44 and 45 to reflect this change.

The existing text of Rule 44 becomes Section (1) and the references to an Advance Call are amended to read Mutual Call. A new Section (2) is added to give the Board express powers to return premium to Members at any time before a Policy Year is closed.

Likewise, some of the existing text of Rule 45 is retained to maintain the Board's powers to raise additional premium but with a change of terminology to Supplementary Call. However, it is proposed that other current provisions relating to fixed elements such as the General Excess Loss (GXL) premium are deleted. This aligns the Rule more closely with the Club's policy that GXL premium is charged only once as part of the Mutual Call and should therefore not be included in any Supplementary Call as a matter of definition.

The proposed changes to Rules 44 and 45 are as follows:

44 ~~Advance Call~~ Mutual Calls

(1) ~~In such time or times~~ amounts and on such dates during ~~or~~ and after the end of each Policy Year as the Committee shall determine, and subject to Rule 46 (reduction of Calls for vessels insured for part of a year) and to any special terms agreed with the Association, each Member shall pay to the Association ~~an Advance~~ a Mutual Call for that Policy Year in respect of each of his vessels insured during that Policy Year.

~~The Advance Call shall comprise two elements:-~~

- (i) ~~including (without limitation) the mutual element, which shall be the Member's basic rate~~ Member's Basic Rate of ~~contribution for each of his vessels; and~~
- (ii) ~~the fixed element, which shall be~~ Contribution together with such contribution as the Committee may determine to the premiums payable by the Association for that Policy Year under the General Excess Loss Reinsurance Contracts and other reinsurance effected collectively by the parties to the Pooling Agreement.

(2) If at any time before any Policy Year is closed it shall appear to the Committee that the whole of the product of the Mutual Call is not required, the Committee may resolve to declare a Mutual Call Return, expressed as a percentage of the Mutual Call, payable to the Members in such amounts and on such dates as the Committee shall determine. If the full Mutual Call has not already been paid the Mutual Call Return may be offset by a Member against his obligation to pay the balance.

45 ~~Additional~~ Supplementary Calls

(1) At any time or times during or after the end of a Policy Year but not after such ~~Policy~~ Year has been closed, the Association may levy one or more ~~Additional~~ Supplementary Calls for that Policy Year in respect of each vessel insured during that Policy Year.

~~The Association shall levy such Call comprising either or both of two elements:-~~

(i) ~~the mutual element, which shall be~~ Such Call shall comprise a percentage determined by the Committee to be applied to the mutual element of the ~~Advance~~ Mutual Calls for that Policy Year; ~~and~~.

(ii) ~~the fixed element, which shall be such contribution as the Committee may determine to the reinstatement and/or additional premiums (if any) payable in respect of that or any other Policy Year by the Association under the General Excess Loss Reinsurance Contracts effected collectively by the parties to the Pooling Agreement.~~

(3) ~~All persons who are or were Members for that Policy Year shall pay by way of Additional Call or Calls an amount ascertained by adding together:-~~

~~(i) — the sum or sums ascertained by multiplying the mutual element of the Advance Call paid or payable by each such person for each of his vessels in respect of such Policy Year by the percentage determined by the Committee under Rule 45(2)(i); and~~

~~(ii) — the sum or sums (if any) determined by the Committee under Rule 45(2)(ii) to be contributed by each such person for each of his vessels in respect of such Policy Year.~~

~~(4) (2)~~ The Committee or the Managers may at any time take any necessary steps to enable such persons to become aware of their financial commitments for the relevant Policy Year by indicating an estimate of the percentage ~~at which it is hoped that~~ of the ~~mutual element of~~ any ~~Additional~~ Supplementary Call or Calls ~~will~~ to be levied.

— If any such estimate shall be given to any such person it shall be without prejudice to the right of the Association to levy the ~~mutual element of Additional~~ Supplementary Calls for the relevant Policy Year in accordance with these Rules at a greater or lesser percentage than so indicated and neither the Association, the Committee nor the Managers shall under any circumstances be under any liability whatsoever or howsoever arising as a result of any estimate so given or in respect of any error, omission or inaccuracy contained therein.

(NB: The change in terminology as set out above will be reflected in the other places throughout the Rules where the terms Advance Call and Additional Call are currently used. For the sake of brevity all those occurrences are not reproduced here.)

7. RULE 48 – LAID UP RETURNS

In order to align the period for the submission of laid-up returns by Members with the time frame set down by the International Group for recovery of part of the GXL premium, it is proposed that the Rule be amended to require the Member to submit the laid-up return at the earlier of within three months after the lay-up has been terminated or three months of the policy year end if the lay-up continues into the next policy year.

The proposed change is as follows:

48 Laid-Up Returns

- (1) If an insured vessel shall be laid-up in any safe port or place for a period of thirty or more consecutive days after anchoring or 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 in respect of such vessel for the period of lay-up a return of Calls except Overspill Calls calculated at the rate of 75 per cent of the mutual element of his ~~Advance Call~~ Mutual Calls and of ~~his any~~ any estimated ~~Additional~~ Supplementary Call plus such amount as the Committee shall determine shall be allowed in respect of the premium payable by the Association under the General Excess Loss Reinsurance Contracts effected collectively by the parties to the Pooling Agreement.
- (2) For the purpose of this Rule a vessel shall not be treated as laid-up if it had either crew members (other than crew necessary in the opinion of the Managers for its maintenance and safety) or cargo on board.

Provided that the Managers may allow in respect of such vessel for the period of lay-up a return of Calls except Overspill Calls calculated at up to 50 per cent of the mutual element of his ~~Advance Call~~ Mutual Calls and of ~~his any~~ any estimated ~~Additional~~ Supplementary Call plus such amount as the Committee shall determine shall be allowed in respect of the premium payable by the Association under the General Excess Loss Reinsurance Contracts effected collectively by the parties to the Pooling Agreement where the vessel is laid up with crew (other than crew necessary

in the opinion of the Managers for its maintenance and safety) but without any cargo on board.

- (3) Unless otherwise agreed in writing by the Managers no claim for laid-up returns relating to any Policy Year shall be recoverable from the Association unless:
 - (a) written notice of the intended lay-up has been given to the Managers before its commencement, including details of the place of lay-up and of the number of crew and the amount and nature of any cargo on board.
 - (b) written notice of termination of lay-up has been given to the Managers before the vessel leaves the place of lay-up
 - (c) the claim for laid-up returns is submitted to the Managers ~~within three calendar months of termination of lay-up~~ before the earlier of the following dates: three calendar months after the end of the Policy Year to which the claim relates (where the lay-up has continued from that Policy Year into the next); and three calendar months after the termination of lay-up (regardless of whether the lay-up has continued from one Policy Year into the next), accompanied by a certificate or other document issued by the government or port authority having jurisdiction over the port or place of lay-up which states:
 - (i) the port or place of lay-up
 - (ii) the date on which the lay-up period began and, (if the lay-up has ended), the date on which the lay-up ended
 - (iii) that the insured vessel had no cargo on board at any time during the lay-up period
 - (iv) the number of crew on board during the lay-up period.
 - (d) the Member has provided the Managers with such information as they may require from time to time in connection with such lay-up.
- (3) If an insured vessel commences or recommences trading after it has been and has remained in safety in any safe port for a period of four consecutive calendar months or more after anchoring or mooring there (such period being computed from the day of arrival to the day of departure, one only of such days being included) in circumstances in which the Member concerned is entitled to Laid-up Returns under paragraph (1) or (2) of this Rule, the Member shall give the Managers seven days prior written notice of such commencement or recommencement so as to enable the Managers if they think fit to require to be satisfied as to the condition of the insured vessel by a survey of the insured vessel or otherwise.
- (5) If the Member does not so inform the Managers, the Association shall not be liable for any loss, damage, liability, costs or expenses which would have been avoided if the opportunity for such survey had been given, a survey had been carried out and all defects revealed in that survey had been remedied.
- (6) The Directors shall have sole discretion in determining whether the port or place concerned is safe within the meaning of this Rule 48.

(NB: the provisions of Sections (1), (2) and (4) of Rule 48 and which remain unaltered save for changes in terminology related to calls are not reproduced here for the sake of brevity.)

TEXT OF CHANGES - CLASS 2 RULES

It is proposed that the changes set out above to Class 1 Rule 28 (Bail, Security and other Certificates of Finance Responsibility), Rule 39 (Termination of Insurance for Non-Payment), Rule 44 (Advance Call) and Rule 45 (Additional Calls) should be mirrored in their Class 2 counterparts, i.e. Rules 49, 32, 37 and 38, respectively.

No other changes relating to Class 2 Rules alone are proposed.