



**SHIPOWNERS**

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► **THE SHIPOWNERS' MUTUAL PROTECTION AND INDEMNITY ASSOCIATION (LUXEMBOURG)**

**NOTICE OF EXTRAORDINARY GENERAL MEETING – 17 JANUARY 2023 AT 11.45 HOURS.**

TO ALL MEMBERS

13<sup>th</sup> December 2022

NOTICE IS HEREBY GIVEN that an Extraordinary General Meeting of The Shipowners' Mutual Protection and Indemnity Association (Luxembourg) will be held on Tuesday 17<sup>th</sup> January 2023 at 11.45 hours at The Shipowners' Mutual Protection and Indemnity Association (Luxembourg), 16, Rue Notre-Dame, L-2240 Luxembourg, for the purpose of considering and if thought fit, passing the following as a SPECIAL RESOLUTION.

**SPECIAL RESOLUTION**

THAT the Rules be amended as set out hereafter, the amendments to be effective as from 20<sup>th</sup> February, 2023. The proposed amendments to the Rules, with explanations, follow overleaf on pages 1 to 24.

By order of the Board

Pascal Herrmann

General Manager

13<sup>th</sup> December 2022

**Certified a copy of the Notice**

**Chairman of the  
meeting**

**Note:** A Member entitled to attend and vote at the meeting is entitled to appoint a proxy to attend and on a poll to vote instead of him/her. A proxy need not be a Member of the Association. The proxy must be in the form published on our website and signed by the appointing member or its legal representative(s). Members are encouraged to utilise their proxy voting form.



## Rule Changes 2022

### Part 2 – P&I RISKS COVERED



RULE 2	STANDARD COVER
<b>8</b>	<p><b>Loss of or damage to property</b></p> <p>Liability to pay damages or compensation for any loss of or damage to any property or for infringement of rights, whether on land or water and whether fixed or moveable.</p> <p><b>Provided that</b></p> <p><b>A</b> There shall be no right of recovery under this Section in respect of:</p> <ul style="list-style-type: none"> <li>i. liabilities which arise under the terms of any contract or indemnity to the extent that they would not have arisen but for those terms;</li> <li>ii. liabilities against which cover is available under the following Sections of this Rule: <ul style="list-style-type: none"> <li>Section 1D, 2C, 3B: Liabilities in respect of effects</li> <li>Section 7: Collision with other vessels</li> <li>Section 9: Pollution</li> <li>Section 10: Towage</li> <li>Section 12: Wreck liabilities</li> <li>Section 14: Cargo liabilities</li> <li>Section 17: Property on board the insured vessel;</li> </ul> </li> <li>iii. liabilities excluded from any of the Sections listed in paragraph ii above by reason only of some proviso, condition, exception, limitation or other like term applying to claims under such Section;</li> <li>iv. any franchise or deductible borne by the Member under the hull policies of the insured vessel.</li> </ul> <p><b>B</b> If the insured vessel causes loss or damage to property or infringes rights belonging wholly or in part to the Member, he shall have the same rights of recovery from the Association and the Association shall have the same rights as if such property or rights belonging wholly to different owners.</p> <p><b>C</b> <u>For the purposes of assessing any sums recoverable under this Section, cover is subject always to Rule 21, as applicable.</u></p>

## EXPLANATION

This was amended to mirror the language set out in Rule 2, Section 7 and 9.

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# Rule Changes 2022



## Part 2 – P&I RISKS COVERED

### RULE 2 STANDARD COVER

#### 9 Pollution

Subject to Rule 21A, the liabilities, losses, damages, costs and expenses set out in paragraphs A to E below when and to the extent that they are caused or incurred in consequence of the discharge or escape ~~from the insured vessel~~ of oil or any other substance, or the threat of such discharge or escape.

- A** Liability for loss, damage or contamination.
- B** Any loss, damage or expense which the Member incurs, or for which he is liable, as a party to any agreement approved by the Board, including the costs and expenses incurred by the Member in performing his obligations under such agreements.
- C** The costs of any measures reasonably taken for the purpose of avoiding or minimising pollution or any resulting loss or damage together with any liability for loss or damage to property caused by measures so taken.
- D** The costs of any measures reasonably taken to prevent an imminent danger of the discharge or escape from the insured vessel of oil or any other substance.
- E** The costs or liabilities incurred as a result of compliance with any order or direction given by any government or authority for the purpose of preventing or reducing pollution or the risk of pollution, provided always that such costs or liabilities are not recoverable under the hull policies of the insured vessel.
- F** A Member insured in respect of a vessel which is a 'relevant ship' as defined in the Small Tanker Owners Pollution Indemnification Agreement (STOPIA) 2006 (as amended 2017) shall, unless the Managers otherwise agree in writing, be a party to STOPIA 2006 (as amended 2017) for the period of entry of the vessel in the Club.
- G** A Member insured in respect of a vessel which is a 'relevant ship' as defined in the Tanker Oil Pollution Indemnity Agreement (TOPIA) 2006 (as amended 2017) shall, unless the Managers otherwise agree in writing, be a party to TOPIA 2006 (as amended 2017) for the period of entry of the vessel in the Club.

Unless the Managers have agreed in writing or unless the ~~Directors~~ [Board](#) otherwise determine there shall be no cover under Rule 2 Section 9 in respect of such a vessel during a period the Member is not a party to TOPIA 2006 (as amended 2017)

**Provided that**

There shall be no right of recovery under this Section in respect of liabilities which arise under the terms of any contract or indemnity to the extent that they would not have arisen but for those terms.

**EXPLANATION**

This change aligns with our amendment to Rule 2, Section 8.



#### RULE 2

#### STANDARD COVER

##### 10 Towage

Liabilities arising out of towage of an insured vessel provided that there shall be no right of recovery from the Association for liabilities arising out of a contract for towage of an insured vessel except as set out at paragraphs A and B of this section.

##### A Customary towage of an insured vessel

Liability under the terms of a contract for the customary towage of an insured vessel, that is to say:

- i towage for the purpose of entering or leaving port, or manoeuvring within the port, during the ordinary course of trading; or
- ii towage of such insured vessels as are habitually towed in the ordinary course of trading from port to port or from place to place.

##### B Towage of an insured vessel other than customary towage

Liability under the terms of a contract for towage of an insured vessel other than the customary towage covered under paragraph A of this section but only if and to the extent that cover has been agreed by the Managers in writing.

Liabilities arising out of towage by an insured vessel as set out at paragraphs C, D and E of this section.

##### C Towage by an insured vessel

Liability arising out of towage of another vessel or object by an insured vessel.

##### Except that

Liability for loss of or damage to or wreck removal of the towed vessel or object or any cargo or property thereon (together with costs and expenses associated therewith) is excluded unless:

- i such towage was necessary for the purpose of saving life or property at sea, or
- ii the insured vessel is towing under an approved contract, or
- iii cover has otherwise been agreed by the Managers in writing.

##### D Where there is a contract with the owner of the tow the following contracts are approved for the purpose of section 10C ii:

- i the United Kingdom, Netherlands, Scandinavian and German standard towage conditions;

- ii 'Towcon' and 'Towhire';
- iii the current Lloyd's Standard Form of Salvage Agreement (1980, 1990, 1995, 2000 or 2011, whether or not incorporating SCOPIC) – no cure, no pay;

iv Supplytime;

- ~~iv~~ terms as between the owner of the insured vessel on the one part, and the owner of the tow and the owners of any cargo or other property on board the tow on the other part, that each shall be responsible for any loss or damage to his own vessel, cargo or other property on his own vessel ~~and for loss of life or personal injury of his own employees or contractors~~, without any recourse whatsoever against the other.
- vi Contracts on terms set out at section 10D ~~iv~~ above, which are or are likely to be unenforceable in whole or in part, where the contract does not impose on the owners of the insured vessel any liability to any person arising out of any act, neglect or default of the owner of the tow or any other person; and the contract limits the liability of the owner of the insured vessel under the contract or otherwise to the maximum extent possible by the law.

**E Where there is no direct contractual relationship with the owner of the tow**

The Managers may agree in writing to provide cover for the purpose of section 10C iii for charters which in their opinion contain:

- a Terms as set out at 10 D ~~iv~~ above covering the property of sub-contractors of the charterers as well as the property of the charterers themselves; or
- b A separate clause requiring that all towage be carried out on terms no worse than as provided for at section 10 D ~~iv~~; or
- c Charters that otherwise comply with section 10 D ~~iv~~.

**EXPLANATION**

The addition of the Supplytime form recognises the increasing prominence of its use for towage. The removal of the section dealing with loss of life and personal injury reflects that the towage rule is intended to respond to property damage and is therefore not relevant for the purposes of this rule.



### RULE 2 STANDARD COVER

#### 14 Cargo liabilities

The liabilities and expenses set out in paragraphs A to D below when and to the extent that they relate to cargo intended to be or being or having been carried in the insured vessel.

##### A Loss, shortage, damage or other responsibility

Liability for loss, shortage, damage or other responsibility arising out of any breach by the Member or by any person for whose acts, neglect or default he may be legally liable, of his obligation properly to load, handle, stow, carry, keep, care for, discharge or deliver the cargo or out of unseaworthiness or unfitness of the insured vessel.

##### B Disposing of damaged cargo

The additional costs and expenses, over and above those which would have been incurred by him in any event under the contract of carriage, incurred by the Member in discharging or disposing of damaged or worthless cargo, but only if and to the extent that the Member is unable to recover those costs from any other party.

##### C Failure of consignee to remove cargo

The liabilities and additional costs incurred by a Member, over and above the costs which would have been incurred by him if the cargo had been collected or removed, solely by reason of the total failure of a consignee to collect or remove cargo at the port of discharge or place of delivery, but only if and to the extent that such liabilities or costs exceed the proceeds of sale of the cargo and the Member has no recourse to recover those liabilities or costs from any other party.

##### D Cargo carried either partly by the insured vessel, or other than on the insured vessel

###### a Through or transshipment bills of lading

Liability for loss, shortage, damage or other responsibility in respect of cargo carried by a means of transport other than the insured vessel, when the liability arises under a through or transshipment bill of lading, or other form of contract approved by the Managers in writing, which provides for carriage partly to be performed by the insured vessel.

###### b Consortium vessels

- i Allocation of consortium claims Where a vessel under an owners' entry and a vessel under a charterer's entry are both employed by the Member pursuant to a consortium Agreement at the time the event giving rise to the consortium claim occurs, the consortium claim of the Member shall for the purpose of this Rule 2, Section 14 D b), be treated as a claim arising in respect of the owners' entry of the Member.



ii **Aggregation**

Where the Member has more than one vessel employed pursuant to the consortium Agreement at the time the event giving rise to a consortium claim occurs, all such vessels shall be deemed to be an entry of one vessel. Where a Member employs one or more vessels pursuant to the consortium Agreement at the time the event giving rise to a consortium claim occurs and the Member has an entry in respect of such vessels in the Association and another Association which is a party to the Pooling Agreement, then each such vessel shall be deemed to be a part entry of one vessel in the Association and the other Association(s) which is party to the Pooling Agreement, and where the consortium claims incurred by the Association and the other Association(s) in respect of the vessel arising from that event out of the carriage of cargo on a consortium vessel in the aggregate exceed the sum specified in Rule 2 Section 14 D b) (iii), the liability of the Association for such consortium claims shall be limited to that proportion of the sum specified in Rule 2 Section 14 D b) (iii) below that the consortium claims recoverable from the Association in respect of each party entry bears to the aggregate of all the consortium claims incurred by the Association and any other Association which is a part to the Pooling Agreement.

iii **Limit of insurance**

The cover afforded for a consortium claim is limited pursuant to Rule 21 E to US\$ ~~350~~<sup>500</sup> million each incident or occurrence in respect of all vessels under any and all P&I entries of a Member in the Association and any other Association which is a party to the Pooling Agreement.

**EXPLANATION**

The increase in limit from US\$350 million to US\$500 million reflects the increase in cover that was achieved as part of the GXL renewal. This change has also been made to Rule 21E.

# Rule Changes 2022

## Part 2 – P&I RISKS COVERED



### RULE 2

### STANDARD COVER

#### 19 Fines

Fines as set out in paragraphs A to D below when and to the extent that they are imposed in respect of an insured vessel by any competent court, tribunal or authority and are imposed upon the Member or upon any seafarer whom the Member may be legally liable to reimburse or reasonably reimburses with the agreement of the Managers.

**A** For short or over delivery of cargo, or failure to comply with regulations relating to the declaration of goods, or documentation of cargo, (other than fines or penalties arising from the smuggling of goods or cargo or any attempt thereat), provided that the Member is covered by the Association for cargo liabilities under Rule 2 Section 14 and subject to the provisions of that Rule.

**B** For breach of any immigration law or immigration regulation.

**C** In respect of accidental escape or discharge of oil or other substance from the insured vessel.

**D** Any other fine or penalty where the Member has satisfied the Board that it took such steps as appear to the Board reasonable to avoid the event giving rise to such fine or penalty and which the Board in its discretion decides that the Member should recover.

#### E Provisos

- i Notwithstanding the terms of Rule 27 paragraph 1 the Board in its discretion may admit claims for loss of an insured vessel and any interest in it following final and permanent confiscation of the vessel by a competent court, tribunal or authority by reason of infringement of any customs law or customs regulation, to such extent as it shall think fit. The Member must satisfy the Board that it took all reasonable steps to avoid the event giving rise to the confiscation. The amount recoverable shall not exceed the market value of the insured vessel at the date of final confiscation, disregarding any charter or other engagements, to which the vessel may be committed.
- ii There shall be no right of recovery under this Section for fines arising out of infringements or violations of or non-compliance with the provisions regarding construction, adaptation and equipment of ships contained in the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 and as modified or amended by any subsequent protocol, or the legislation of any state giving effect to that Convention; but the Board in its discretion may admit claims for such fines to such extent as it shall think fit.
- iii There shall be no right of recovery under this Section for fines arising out of infringements or violations of or non-compliance with the provisions of the ISM or ISPS Codes; but the Board in its discretion may admit claims for such fines to such extent as it shall think fit.

iv For the purpose of assessing any sums recoverable under this Section, cover is subject always to Rule 21, as applicable.

#### EXPLANATION

Agreement was reached at IG level to clarify the proviso for recovery of confiscation claims.  
See explanation for Rule 2, Section 8 – Property Damage for the addition of (iv).





### RULE 4 SPECIAL COVER FOR SALVORS, CHARTERERS AND SPECIALIST OPERATIONS

#### 1 Salvors

Notwithstanding Rule 28, provided that special cover has been agreed by the Managers in writing and endorsed on the Certificate of Insurance, and provided that he has paid such calls or premium as may be required by the Managers, a Member who is the owner or operator of a salvage tug or other vessel intended to be used for salvage operations (including for the purposes of this Rule 4, wreck removal) may be covered for the following:

- A Liabilities and expenses arising in respect of risks covered under Rule 2.
- B Liabilities and expenses caused by oil pollution during salvage operations whether or not they arise in respect of the Member's interest in the insured vessel.
- C Liabilities and expenses, not covered under paragraph 1A or B of this Rule, caused by events occurring during salvage operations whether or not they arise in respect of the Member's interest in the insured vessel. Cover under this paragraph 1C of this Rule is only available as specifically agreed by the Managers in writing and endorsed on the Certificate of Insurance and on payment of such additional calls as the Managers may require.

#### Provided that

- i There shall be no right of recovery under this Rule of any liability or expense which is incurred under the terms of an indemnity or contract unless the terms of the indemnity or contract have been agreed by the Managers in writing.
- ii The cover afforded under this Rule in connection with any salvage or attempted salvage operations shall be in all respects the same as that afforded under Rule 2 in respect of the operations of the insured vessel save that in the case of cover afforded under paragraph 1B or 1C of this Rule the liabilities and expenses need not arise in respect of an insured vessel or out of the operation of an insured vessel provided that they arise in connection with the Member's business as a salvor.
- iii It shall be a condition of cover under this Rule that the Member shall apply to enter for insurance in the Association every vessel intended to be used in connection with salvage operations at the time when the insurance is given and, thereafter, at least 30 days before the beginning of each policy year.

#### 2 Charterers

When the entry of an insured vessel in the Association is in the name of or on behalf of a charterer of the insured vessel or part thereof (other than a demise or bareboat charter), the following liabilities

and expenses may be covered on such terms and conditions as may be agreed by the Managers in writing.

- A** Liability of the charterer, together with expenses incidental thereto, to indemnify the owner or disponent owner of the insured vessel [and any other third parties](#) in respect of the risks set out in Rule 2.
- B** Notwithstanding the provisions of paragraphs 1, 2 and 3 of Rule 27, the charterer's liability, together with the costs and expenses incidental thereto, for loss of or damage to the insured vessel.
- C** Notwithstanding the provisions of paragraph 2 of Rule 27, the loss incurred by the charterer as a result of loss of or damage to bunkers, fuel or other property of the charterer on board the insured vessel

### **3 Specialist operations**

A Member may be covered against any of the liabilities or expenses which arise out of or during any of those operations in respect of which cover is excluded or restricted either under Rule 28 or otherwise under these Rules upon such terms and conditions as may be agreed by the Managers in writing.

#### **EXPLANATION**

When reviewing our Rules, we considered they could be clearer in relation to the scope of charterers' cover. The Charterer Member is insured in their capacity as Charterer for the same P&I risks as a shipowner and, furthermore, is also insured for his liabilities as Charterer to indemnify the owner or disponent owner of the insured vessel in respect of such P&I risks.

## Rule Changes 2022

### Part 5 – LIMITATIONS AND EXCLUSIONS



#### RULE 21E LIMIT OF THE ASSOCIATION'S LIABILITY TO CHARTERERS

In relation to vessels insured by or on behalf of a Member who is a charterer, other than a bareboat charterer, or by or on behalf of a charterer insured as a joint Member or as a Co-assured on a Member's or joint Member's entry, the Association's liability to such Member in respect of all claims shall be limited to US\$ ~~350~~500 million each accident or occurrence. In the event that more than one charterer, other than a bareboat charterer, is insured in respect of the same vessel by the Association or by any other Association which participates in the Pooling Agreement and the Group excess reinsurance policy, the aggregate recovery in respect of all claims brought by all such charterers arising out of any one accident or occurrence shall not exceed the sum of US\$ ~~350~~500 million, and the liability of the Association to each charterer covered by the Association shall be limited to such proportion of US\$ ~~350~~500 million as the claim of such charterer bears to the aggregate of all such claims recoverable from the Association and any other such Association.

#### EXPLANATION

The increase in limit from US\$350 million to US\$500 million reflects the increase in cover that was achieved as part of the GXL renewal.





### Part 5 – LIMITATIONS AND EXCLUSIONS

#### RULE 28 LIABILITIES EXCLUDED IN RESPECT OF SALVAGE VESSELS, DRILLING VESSELS, DREDGERS AND OTHER SPECIALIST OPERATIONS

- 3** The performance of specialist operations including, but not limited to, dredging, blasting, pile driving, well-intervention, cable or pipe laying, construction, installation or maintenance work, decommissioning, core sampling, [mining](#), depositing of spoil and power generation to the extent that such liabilities and expenses arise as a consequence of:
- A** Claims brought by any party for whose benefit the work has been performed, or by any third party (whether connected with any party for whose benefit the work has been performed or not), in respect of the specialist nature of the operations; or
  - B** The failure to perform such specialist operations by the Member or the fitness for purpose and quality of the Member's work, products or services, including any defect in the Member's work, products or services; or
  - C** any loss of or damage to the contract works.
- Provided always that this exclusion shall not apply to liabilities, costs and expenses incurred by a Member in respect of:
- i loss of life, injury or illness of crew and other personnel on board the insured vessel; or
  - ii the wreck removal of the insured vessel; or
  - iii oil pollution emanating from the insured vessel or the threat thereof, but only to the extent that such liabilities, costs and expenses are otherwise covered by the Association in accordance with the Rules.
- 4** The activities of professional or commercial divers, when the Member is responsible for such activities other than
- i activities arising out of salvage operations being conducted by an insured vessel where the divers form part of the crew of that insured vessel (or of diving bells or other similar equipment or craft operating from the insured vessel) and where the Member is responsible for the activities of such divers
  - ii recreational diving activities
  - iii incidental diving activities carried out in relation to the inspection, repair or maintenance of the insured vessel or in relation to damage caused by the insured vessel.
- 5** Waste incineration or disposal operations carried out by the insured vessel (other than any such operations carried out as an incidental part of other commercial activities).
- 6** The operation of submarines, mini-submarines, diving bells, ~~or~~ remotely operated vehicles [or autonomous underwater vehicles](#).

- 7** An insured vessel being a semi-submersible heavy lift vessel or other vessel designed exclusively for the carriage of heavy lift cargo where the claim arises out of the loss of or damage to or wreck removal of cargo, unless the cargo is being carried under a contract on unamended Heavycon terms or any other contract approved by the Managers in writing.

#### EXPLANATION

Agreement was reached at IG level to include mining as a specialist operation.

The reference to autonomous underwater vehicles is to clarify that they have become more common. Cover is available under the Specialist Offshore and Construction Package for ROVs and AUVs.



### Part 5 – LIMITATIONS AND EXCLUSIONS

#### RULE 32 LIABILITIES EXCLUDED IF UNRECOVERABLE FROM REINSURERS

##### Sanctions, Prohibitions or Restrictions

There shall be no right of recovery of any claim from the Association for that part of any liabilities, costs or expenses which is not recovered by the Association from any party to the Pooling Agreement, [General Excess Loss Contract](#) and/or from any reinsurer because of a shortfall in recovery from such party or reinsurer by reason of any sanction, prohibition, restrictions [or adverse action against them by a State, international or supranational organisation or other competent authority](#) ~~under UN Resolutions or trade or economic sanctions, laws or regulations of the European Union, UK or United States of America~~ or the risk thereof if payment were to be made by such party or reinsurer. [If for any reason whatsoever the Association discharges the liabilities of the Member or makes any payment to the Member in respect of which it suffers a shortfall in recovery, the Member shall indemnify and hold the Association harmless to the extent thereof.](#) For the purposes of this Rule, 'shortfall' includes, but is not limited to, any failure or delay in recovery by the Association by reason of the said party or reinsurer making payment into a designated account in compliance with the requirements of any competent authority or government.

##### Special Cover

Where special cover has been agreed by the Managers in writing in accordance with Rule 3 then there shall be no right of recovery of any claim from the Association for that part of any liabilities, costs or expenses which is not recovered by the Association from any reinsurer.

#### EXPLANATION

We have provided clarity on the scope of reinsurance arrangements and replaced the defined list of States and international bodies with a broader definition. We have added text to allow the Club to pursue an indemnity in exceptional circumstances where payment has been made notwithstanding a reinsurance shortfall.





#### RULE 33 CLASSIFICATION AND STATUTORY CERTIFICATION OF VESSEL

Unless otherwise agreed by the Managers in writing the following are conditions of the insurance of every insured vessel.

- 1 The insured vessel must be and remain throughout the period of entry classed with a classification society approved by the Managers.
- 2 The Member concerned must promptly call to the attention of that classification society or the society's surveyors any incident or condition which has given or might give rise to damage in respect of which the classification society might make recommendations as to repairs or other action to be taken by the Member.
- 3 The Member must comply with all the Rules, recommendations and requirements of that classification society relating to the insured vessel within the time or times specified by the society.
- 4 The Member must immediately inform the Managers if, at any time during the period of entry, the classification society with which that vessel is classed is changed, and advise the Managers of all outstanding recommendations, requirements or restrictions specified by any classification society relating to that vessel as at the date of such change.
- 5 The Member authorises the Managers to inspect any documents and obtain any information relating to the maintenance of class of the insured vessel in the possession of any classification society with which the vessel is, or at any time has been, classed and will where necessary authorise such classification society to disclose and make available such documents and information to the Managers upon request by the Managers and for whatever purposes the Managers may consider necessary.
- 6 The Member must comply with all statutory requirements of the flag state and SOLAS, as applicable, relating to safety management, manning, construction, modifications, condition, fitment, loadline and equipment of the insured vessel and must at all times maintain the validity of certificates issued by or on behalf of the flag state in relation to such requirements.

Unless and to the extent that the Board in its discretion otherwise decides, a Member shall not be entitled to a right of recovery from the Association in respect of any claim whatsoever arising during such period that he has not fulfilled these conditions, ~~even where notwithstanding that~~ such failure to comply may not have increased the risk of any loss which may have occurred. This Board discretion will not apply where Rule 46(2)(F) is triggered.

#### EXPLANATION

These amendments make the consequences of class and statutory requirement breaches clear. There is a corresponding amendment in Rule 46(2)(F), which distinguishes failing to be classed with an approved classification society or suspension of class from the conditions set out in 1-6 above.



#### RULE 34 SURVEY OF VESSELS AND MANAGEMENT AUDIT

The Managers may at any time in their discretion appoint a surveyor or such other person as they may think fit [to act](#) on behalf of the Association:

- i to inspect an insured vessel or a vessel proposed for insurance, [including any follow-up inspection](#), and,
- ii to perform a management audit on the Member or Member proposed for insurance, [including any follow-up audit](#).

The Member or proposed Member shall:

- A afford all facilities as may be required for such inspection;
- B comply with all recommendations as the Managers may make following such inspection/audit and afford the Managers all facilities as may be required to carry out a follow-up inspection, at the Member's cost, to confirm compliance with all recommendations;
- C consent to and authorise the disclosure by the Managers to any Association which is a party to the Pooling Agreement any survey or inspection of such ship undertaken on behalf of the Association either pursuant to an application for, or after entry in, the Association; and
- D waive any rights or claims against the Association of whatsoever nature arising in respect of or relating to the contents of or opinions expressed in any survey or inspection so disclosed

#### **Provided always that**

- a such survey or inspection may only be disclosed to another Association when an application for entry of such ship is made thereto; and
- b the disclosure of the survey or inspection shall be for the limited purpose only of that Association considering an application to enter such ship for insurance.

Unless and to the extent that the Board in its discretion otherwise decides, a Member who commits any breach of his obligations under paragraphs A and B above shall not be entitled to a right of recovery from the Association in respect of any claim whatsoever arising after such breach is committed until such time as the Member has complied with these obligations. Notwithstanding that such failure to comply may not have increased the risk of any loss which may have occurred.

[In addition to the above:](#) ~~in~~

- i. [Unless and to the extent that the Board in its discretion otherwise decides, in](#) no case shall a Member be entitled to recover any liabilities or expenses [directly](#) arising out of any defect or matter concerning the vessel or the Member's management of the vessel(s) as revealed in the course of such inspection and/or audit;

ii. The Managers may, on such notice in writing as they may decide and without prejudice to Rule 45(1)-(4), terminate the insurance of the vessel or amend or vary the terms of entry in such manner as they think fit.

#### EXPLANATION

This is a clarification of the effects of non-compliance with paragraphs A and B. In particular, one example could be that paragraph B prevents Members from making a recovery when the timeframe for any set recommendations for the rectification of defects following an inspection or audit has expired, regardless of whether they are causative. This is distinct from defects which fall within the timeframe, which are also not covered if they are found to be directly causative of an incident giving rise to a claim. This is aimed at clearing up any potential confusion about the consequences for cover. Irrespective of whether there is a claim, this also gives Managers the right to terminate at any time for non-compliance with recommendations or in cases where observed defects, which the Managers consider are indicative that the vessel is not considered fit for entry in the Club.

## Rule Changes 2022

### Part 6 – ENTRY FOR AND CESSER OF INSURANCE



#### RULE 45 TERMINATION BY NOTICE

- 1 The period of insurance of an insured vessel may be terminated at noon on the renewal date of any year by not less than 30 days prior written notice of termination being given by the Member concerned to the Managers or being served by the Managers on the Member.
- 2 The Board or the Managers may, at any time and without giving reasons, terminate the entry of an insured vessel by not less than 30 days written notice of termination, effective from the expiry thereof.
- 3 Unless otherwise agreed by the Managers in writing, an insured vessel shall not be withdrawn by a Member at any time or in any manner otherwise than pursuant to paragraph 1 of this Rule.
- 4 Without prejudice to any other provision or power in the Rules, the Managers may, on such notice in writing as they may decide, terminate the insurance of the Member in respect of any and all vessels entered by him or on his behalf where any such vessel has been employed in an unlawful trade or where, in the opinion of the Managers, the Member or the provision of insurance to the Member may expose the Association or its Managers to the risk of violating, or to being or becoming subject to any sanction, prohibition or adverse action in any form whatsoever by any State, international or supranational organisation or competent authority ~~where the Association or its Managers have their registered offices or permanent places of business or by any State being a Major Power or by the United Nations or the European Union.~~ Notwithstanding that the happening of such event may not have increased the risk of any loss which may have occurred.
- 5 A Member whose period of insurance in respect of an insured vessel has been terminated by notice shall still be liable for calls or premium assessed and levied under either Rule 52, 53 or 55 in relation to the period of his membership, and shall remain entitled to a return of calls on the closing of a policy year under Rule 58.3.C until the liability of such Member for further calls or premium has been assessed under Rule 55.1. Where a Member's entry has terminated under Rule 45.4, there shall be no recovery in respect of any liabilities, costs or expenses in relation to claims arising by reason of any event which occurred prior to the date of termination where the payment of any claim or the provision of any benefit in respect of those liabilities, costs and expenses would in the opinion of the Managers expose the Association or its Managers to the risk of violating, or to being or becoming subject to any sanction, prohibition or adverse action in any form whatsoever by any State, international or supranational organisation or any competent authority.

#### EXPLANATION

We have replaced the defined list of States and international bodies with a broader definition and inserted the word “violating” based on advice the IG obtained on the application of US sanctions. In addition, we have set out the effects of termination where a vessel has been employed in unlawful trade or where the



provision of insurance exposes the Association or Managers to a risk of violating, or being or becoming subject to sanctions.

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#### RULE 46 CESSER OF INSURANCE

- 1** A Member shall forthwith cease to be insured by the Association in respect of any and all vessels entered by him or on his behalf upon the happening of any of the following events:
  - A Where the Member is an individual:**
    - i upon his death;
    - ii if a receiving order is made against him;
    - iii if he becomes bankrupt;
    - iv if he makes any composition or arrangement with his creditors generally;
    - v if he becomes incapable by reason of his mental disorder of managing or administering his property and affairs
  - B Where the Member is a corporation:**
    - i upon the passing of any resolution for its voluntary winding up (other than voluntary winding up for the purpose of company or group reorganisation);
    - ii upon an order being made for its compulsory winding up;
    - iii upon its dissolution;
    - iv upon a receiver or manager being appointed of all or part of its business or undertaking;
    - v upon its commencing proceedings under any bankruptcy or insolvency laws to seek protection from its creditors or to reorganise its affairs.
- 2** Unless otherwise agreed by the Managers in writing, a Member shall forthwith cease to be insured by the Association in respect of any vessel entered by him or on his behalf upon the happening of any of the following events in relation to such a vessel:
  - A** Upon the Member parting with or assigning the whole or part of his interest in the vessel whether by bill of sale or other formal document or agreement or in any other way whatsoever.
  - B** Upon the mortgaging or hypothecation of the vessel or of any part of the Member's interest in that vessel.
  - C** Upon the managers of the vessel being changed by the appointment of new managers.
  - D** [Upon the Member transferring or imparting with the entire control or possession of the vessel by demise charter or otherwise, without the Manager's written consent.](#)
  - E** Upon undisputed possession being taken by or on behalf of a secured party.
  - F** Upon the vessel ceasing to be or not being classed with a classification society approved by the Managers [or there are outstanding class conditions resulting in suspension of class.](#)

- G** Upon the period of insurance of an insured vessel being terminated by either the Member or the Managers giving notice in accordance with Rule 45.
- H** Upon failure to accept a proposed variation or renewal of the terms of entry as provided in Rule 44.2.
- 3** Unless otherwise agreed by the Managers in writing, a Member shall forthwith cease to be insured by the Association in respect of any vessel entered by him or on his behalf upon the happening of whichever shall be the earliest of the following events:
  - A** Upon the vessel being missing for ten days from the date when she was last heard of.
  - B** Upon the vessel being posted at Lloyd's as missing.
  - C** Upon the vessel becoming an actual total loss.
  - D** Upon acceptance by hull underwriters (whether of marine or war risks) that the vessel is a constructive total loss.
  - E** Upon agreement by hull underwriters (whether of marine or war risks) to pay to the Member in relation to the vessel an unrepaired damage claim which exceeds the market value of the vessel without commitment immediately prior to the casualty which gave rise to such claim.
  - F** Upon a compromise or settlement with hull underwriters (whether of marine or war risks) on the basis of which the vessel is considered or deemed to be an actual or constructive total loss.
  - G** Upon a decision by the Managers that: i the ship is to be considered or deemed to be an actual or constructive total loss or otherwise abandoned; or ii that seafarers on the insured vessel are considered or deemed to be abandoned for the purpose of the Maritime Labour Convention.
  - H** Upon the vessel being employed or being permitted to be employed by the Member in any activity whatsoever that may ~~a carriage, trade or on a voyage which may in anyway howsoever~~ expose the Association or its Managers to the risk of violating, or to being or becoming subject to any sanction, prohibition or adverse action in any form whatsoever by any State, international or supranational organisation or competent authority ~~where the Association or its Managers have their registered offices or permanent places of business or by any State being a Major Power or by the United Nations or the European Union~~ or upon the Member and/or any vessel or vessels entered by them~~him~~ or on their~~his~~ behalf being designated by any State, international or supranational organisation or competent authority ~~where the Association or its Managers have their registered offices or permanent places of business or by any State being a Major Power or by the United Nations or the European Union~~. Notwithstanding that the happening of such event may not have increased the risk of any loss which may have occurred. For the purpose of this Rule, 'designated' means listed and subject to asset blocking or freezing such that persons are prohibited from dealing with them.

## EXPLANATION

We have removed the list of countries and international bodies to avoid it becoming out of date and replaced it with a broader definition. We have also inserted the word "violating" based on advice the IG obtained on the application of US sanctions.

A new cesser provision has been added to include circumstances where a demise charter is agreed without the Manager's consent.

The cesser provision dealing with class has been amended to encompass suspension of class due to outstanding class conditions. We have made corresponding amendments to Rule 33 to reflect the different consequences for breach of other conditions relating to class.



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<b>RULE 62</b>	<b>COOPERATION WITH AUTHORITIES IN RELATION TO BREACHES OF SANCTIONS AND FINANCIAL CRIME</b>
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In so far as the Association or its Managers consider that they are compelled at law to do so [and/or that failure to assist would likely result in being so compelled](#), they may provide such cooperation and information as they shall see fit to any inquiry, investigation or proceeding conducted by a competent authority, regulator, or government in relation to the activities of any person, including a Member, in so far as such activities relate to a breach (either known or reasonably suspected) of any laws relating to sanctions, financial crime, terrorist financing, money laundering, bribery, corruption or tax evasion.

<b>EXPLANATION</b>
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This amendment has been provoked by the ongoing volatile sanctions situation and will allow us to assist authorities and our regulators where compulsion is imminent.

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