

Policy Year 2022/23 - Changes to the Rules of the P&I, FD&D and War Risk Classes

14 January 2022

Circular Ref: 2022/002



CIRCULAR

Policy Year 2022/23 - Changes to the Rules of the P&I, FD&D and War Risk Classes

Following consultation with the Members Board, the changes to the Rules of the P&I, FD&D and War Risks Classes detailed in the attachment to this Circular, were approved by the Directors of North of England P&I Association Limited and North of England P&I DAC, and will be effective from noon GMT on 20 February 2022.

The amended Rule Books will be available on North's website from 20 February 2022. Should any Member wish to discuss issues arising out of these amendments, they should contact their Underwriter.

PAUL JENNINGS
CHIEF EXECUTIVE / EXECUTIVE DIRECTOR
The North of England P&I Association Limited / North of England P&I DAC

AMENDMENTS FOR 2022/2023 TO THE RULES OF THE PROTECTING & INDEMNITY CLASS

Explanatory notes have been provided for the proposed changes and consequential renumbering and any cross referencing which will also be required. In the proposed new Rules, new wording is in **bold** and existing wording to be deleted is shown as strikethrough text [~~.....~~].

P&I – RULE 34(3)

When a liability is discharged or reimbursed by the Association, the right to pursue any indemnity claim is automatically transferred to the Association. The amendments to this Rule operate to the benefit of the broader mutual membership and remove the potential for disputes with Members concerning allocation of recoveries. They clarify that the Association is entitled to the full benefit of any recoveries (whether they are in respect of a liability, a fee or cost incurred in handling a claim) until all amounts paid by the Association have been reimbursed, irrespective of any deductible paid by the Member. Any remaining balance will then be credited to the Member, and any recovery will of course be reflected in the Member's claims record.

Rule 34(3) **SUBROGATION AND RECOVERIES**

(a) Where the Association makes a payment to or discharges a liability, **loss, cost or expense** of an Insured Party and the Insured Party has rights against a third party, whether by way of a claim for contribution, indemnity or otherwise, arising out of a claim or matter in respect of which the Association has made such payment or discharged such liability, the Association shall be subrogated to the rights of the Insured Party in respect of the claim or matter to the extent of that payment or discharge, including the right to any interest accruing and the right to recover any costs incurred in relation to the exercise of such rights. Further, the Insured Party agrees to provide or execute any documents required to allow the Association to enforce such rights. ~~All such recoveries, including interest and recovered costs, are to be paid to the Association, provided that if any such recovery exceeds the amounts paid or discharged by the Association, the balance shall be paid to the Member.~~

(b) Where the Association makes such a payment or makes such discharge of a liability, **loss, cost or expense** on behalf of a Member, any recovery from a third party in respect of that liability, **loss, cost or expense** shall be credited and paid in full to the Association up to the value of the sums paid by the Association in respect of such liability, **loss, cost or expense** together with any interest on that sum included in the recovery. However, where the Insured Party has contributed towards a liability, **loss, cost or expense** through the application of a deductible, any interest recovered shall be apportioned between the Insured Party and the Association based on the amounts paid and the date when such payments were made. Unless in its discretion the Association agrees otherwise, any recovery or award in respect of costs shall first be paid to the Association.

P&I – RULE 7 ENTRY

The following new provision will be added to Rule 7, bringing North in line with the majority of other Clubs. The Managers have seen a number of situations recently where changes to or imbalances in global markets have created commercial opportunities to use vessels in innovative ways or in trades for which a vessel was not primarily designed to operate. The Managers fully support prudent operation of vessels to exploit these opportunities. They must also consider whether the use of a vessel in such a new manner is reflected in the basis upon which it was initially entered and does not potentially adversely impact upon the broader mutual membership as a result of liabilities to which the vessel may be exposed as a result of its changed operation. The provision is therefore intended to give the Managers the ability to amend the

terms of a vessel's entry (including terms dealing with premium and deductibles) should its use change materially during the course of a policy year. The new Rule also contains provisions providing the Managers with logical consequential powers to deal with change of risk situations.

7(6) CHANGE OR ALTERATION OF RISK

- (a) After conclusion of the contract of insurance, the Member shall not cause or agree to any change in circumstance which alters the risk covered by the Association without the prior agreement of the Association and should any change in circumstances occur which results in an alteration in risk, the Member shall promptly disclose such circumstances to the Association.**
- (b) If the risk shall have altered, the Managers shall, without prejudice to any other right or remedy available, be entitled to:**
 - (i) amend or vary the terms of Entry, including but not limited to terms relating to premium and deductibles, as they think fit, or**
 - (ii) terminate the entry of the Entered Ship or Member from the commencement of the Policy Year or from such later date as the Managers may decide, or**
 - (iii) should an alteration of risk have been intentionally caused or agreed to by the Member where the Association would only have accepted the entry on different terms (including but not limited to terms relating to premium and deductibles) if presented with such circumstances or risk prior to the conclusion of the contract of insurance, the Association shall not be liable to the extent that any liability, cost or expense incurred by the Member was caused or increased by such alteration.**

P&I – RULES 19, 26, 38 – SANCTIONS ISSUES

Amendments to the various Rules dealing with Sanctions are set out below. The use of sanctions (primarily by EU and US authorities) for both political and economic reasons has expanded in recent years. The Rules contain provisions aimed at protecting North's position in the event that an entered vessel or Insured Party is subject to sanctions or providing insurance to such a vessel or party exposes North to the potential impact of sanctions. A periodic review of all IG Clubs' Rules dealing with sanctions to ensure fitness for purpose was recently conducted by US lawyers Gibson Dunn. Relatively minor amendments to some of North's Rules dealing with sanctions were recommended, as set out.

Rule 19 Risks Covered

Unless otherwise agreed between the Member and the Managers, the Member shall be indemnified by the Association against the following liabilities, costs and expenses arising as a result of his interest in an Entered Ship, out of events occurring during the period of entry of the Ship in the Association and in connection with the operation of the Ship.

PROVIDED ALWAYS THAT in Rule 19:

(C) there shall be no recovery in respect of any liabilities, costs or expenses where the provision of cover, the payment of any claim or the provision of any benefit in respect of those liabilities, costs and expenses would **result in a violation of, or** expose the Association to the risk of being or becoming subject to, ~~any sanction, prohibition or adverse action in any form whatsoever~~ **any applicable law including, but not limited to, the prohibitions and requirements of any economic, financial, or trade sanctions administered by any State or international or supranational organisation** ~~by any state or international organisation.~~

Rule 26 Imprudent or Hazardous Operations, Contraband, Blockade Running, or Unlawful Trading, Wilful Misconduct or Privity

No claim on the Association shall be allowed:

26 (1) if it arises out of or is consequent upon an Entered Ship carrying contraband, blockade running or being employed in an unlawful trade **(including the violation of applicable sanctions)**, or

Rule 38 Cesser of Ship Entry

A Member shall cease to be insured by the Association in respect of an Entered Ship upon the happening of any of the following events in relation to such Ship:

SANCTIONS, PROHIBITION AND ADVERSE ACTION

(h) if the Entered Ship is employed by the Member in a carriage, trade or on a voyage which, or the provision of insurance for which, will thereby in any way howsoever expose the Association to the risk of ~~being violating~~ **or** becoming subject to any sanction, prohibition or adverse action in any form whatsoever by any state or international organisation.

P&I – RULES 2, 20(3), 31(1) – CERTIFIED LIABILITIES IN POLLUTION CLAIMS

The IG Clubs have collectively developed a Model Rule which gives Clubs the right (but not the obligation) to prioritise payment of certified liabilities over non-certified liabilities. Examples of certified liabilities include; injury to and loss of life of seafarers and passengers; environmental damage and economic loss caused by oil pollution; wreck removal costs. Under the Rule, the Association would in appropriate circumstances have the discretion to defer payment of non-certified liabilities, while, for example, exposure to certified liabilities and liabilities under Club LOUs/Club-backed guarantees is assessed and/or discharged.

This approach is not without precedent – a similar provision was added by all Clubs relatively recently (Rule 20(3) in North's Rules) to allow prioritisation of certified liabilities arising under non-war Athens blue cards over non-certified liabilities. The recent trend in a number of jurisdictions to introduce potential for very significant pollution fines has brought focus on the potential need to prioritise payment of certified liabilities over non-certified liabilities in a wider series of circumstances. It is now, for example, conceivable that in the event of a casualty, when exposure to such a fine is aggregated with the Association's exposure to certified pollution response/cleanup costs, liabilities would together exceed the US\$1 billion overall limit of pollution cover under the Rules and the Association's reinsurance protection through the Pool. The introduction of the proposed amendments would not narrow the scope of Club cover but will allow the Association to manage payment of claims appropriately in situations like this.

RULE 2 DEFINITIONS

CERTIFIED LIABILITIES

A claim that has arisen by virtue of any of the following:

- (i) a guarantee or other undertaking given by the Association to the Federal Maritime Commission under Section 2 of US Public Law 89-777;
- (ii) a certificate issued by the Association in compliance with Article VII of the International Conventions on Civil Liability for Oil Pollution Damage 1969 or 1992 or any amendments thereof;
- (iii) an undertaking given by the Association to the International Oil Compensation Fund 1992 in connection with STOPIA 2006 (as amended);
- (iv) an undertaking given by the Association to the International Oil Pollution Compensation Fund 1992 in connection with the TOPIA 2006 (as amended);
- (v) a certificate issued by the Association in compliance with Article 7 of the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001;
- (vi) a certificate issued by the Association in compliance with Article 12 of the Nairobi International Convention on the Removal of Wrecks 2007;
- (vii) a certificate issued by the Association in compliance with Regulation 2.5.2, Standard A2.5.2 and Regulation 4.2, Standard A4.2.1(b) of the MLC 2006 or domestic legislation by a state party implementing MLC 2006;
- (viii) a non-war certificate issued by the Association in compliance with either Article 4 bis of the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974 and the Protocol thereto of 2002 or Regulation (EC) No.392/2009 of the European Parliament and of the Council of 23rd April 2009.

20(3) PRIORITY OF CERTIFIED LIABILITIES

~~[Where liabilities to Passengers include liabilities arising under a non war certificate issued by the Association in compliance with either Article 4 bis of the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974 and the Protocol thereto of 2002 or Regulation (EC) No.392/2009 of the European Parliament and of the Council of 23rd April 2009 on the liability of carriers of passengers by sea in the event of accidents ("Certified Liabilities") and all such liabilities to Passengers exceed or may exceed in the aggregate the limit of cover specified in Rule 22:~~

~~(a) the Managers may in their absolute discretion defer payment of a claim in respect of other liabilities to Passengers or any part thereof until the Certified Liabilities, or such part of the Certified Liabilities as the Managers may decide, have been discharged; and~~

~~(b) if and to the extent any Certified Liabilities discharged by the Association exceed the said limit any payment by the Association in respect thereof shall be by way of loan and the Member shall indemnify the Association promptly and upon demand in respect of such payment.]~~

- (a) Where liabilities costs and expenses in respect of Certified Liabilities alone or in combination with other liabilities costs and expenses may in the sole opinion of the Managers exceed any limit(s) on the cover provided by the Association as set out in the Rules or in the Certificate of Entry the Managers may in their absolute discretion defer payment of any such other claims or any part thereof until the Certified Liabilities, or such parts of the Certified Liabilities as the Managers may in their absolute discretion decide, have been discharged.
- (b) To the extent that any liabilities costs and expenses (including any Certified Liabilities) discharged by the Association exceed the said limit(s) any payment by the Association in respect thereof shall be by way of loan and the Member shall indemnify the Association promptly upon demand in respect of such payment and shall assign to the Association to the extent and on the terms that the Association determines in its discretion to be practicable all the rights of the Member under any other insurance and against any third party.

31 (1) OBLIGATIONS OF THE MEMBER IN RESPECT OF EXCLUDED RISKS

~~[(a) Where the liabilities, costs and expenses of a Member are discharged by the Association pursuant to a demand made under:~~

~~(i) a guarantee or other undertaking given by the Association to the Federal Maritime Commission under Section 2 of US Public Law 89-777, or~~

~~(ii) a certificate issued by the Association in compliance with Article VII of the International Conventions on Civil Liability for Oil Pollution Damage 1969 or 1992 or any amendments thereof, or~~

~~(iii) an undertaking given by the Association to the International Oil Compensation Fund 1992 in connection with STOPIA 2006 (as amended), or~~

~~(iv) an undertaking given by the Association to the International Oil Pollution Compensation Fund 1992 in connection with the TOPIA 2006 (as amended), or~~

~~(v) a certificate issued by the Association in compliance with Article 7 of the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001,~~

~~(vi) a certificate issued by the Association in compliance with Article 12 of the Nairobi International Convention on the Removal of Wrecks 2007,~~

~~(vii) a certificate issued by the Association in compliance with Regulation 2.5.2, Standard A2.5.2 and Regulation 4.2, Standard A4.2.1(b) of the MLC 2006 or domestic legislation by a state party implementing MLC 2006,~~

~~notwithstanding the exclusions in Rule 24(1) War Risks and/or Rule 25 Radioactive Materials, the Member shall indemnify the Association to the extent that any payment under such guarantee, undertaking or certificate in discharge of the said liabilities, costs and expenses is or would have been recoverable in whole or in part under a standard P&I war risk policy had the Member complied with the terms and conditions thereof.~~

Provided always that:

~~(A) a standard P&I war risk policy shall mean an insurance against such risks and for such amounts as the Association in its discretion shall decide was reasonable for the Member to have obtained, and~~

~~(B) the Association shall not provide insurance for any liabilities, costs or expenses if the provision of such insurance would create a liability for the Member under the Tanker Oil Pollution Indemnification Agreement 2006 (TOPIA 2006 as amended) to contribute to the IOPC Supplementary Fund.~~

~~(b) The Member agrees that:~~

~~(i) any payment by the Association under any such guarantee, undertaking or certificate in discharge of the said liabilities, costs and expenses shall, to the extent of any amount recovered under any other policy of insurance or under Rule 24(2), be by way of loan, and~~

~~(ii) there shall be assigned to the Association to the extent and on the terms that the Association determines in its discretion to be practicable all the rights of the Member under any other insurance and against any third party.]~~

(a) Where liabilities costs and expenses in respect of Certified Liabilities are discharged by the Association, notwithstanding the exclusions in Rule 24(1) War Risks and/or Rule 25 Radioactive Materials, the Member shall indemnify the Association to the extent that any payment under such guarantee, undertaking or certificate in discharge of the said liabilities, costs and expenses is or would have been recoverable in whole or in part under a standard P&I war risk policy had the Member complied with the terms and conditions thereof.

Provided always that:

(A) a standard P&I war risk policy shall mean an insurance against such risks and for such amounts as the Association in its discretion shall decide was reasonable for the Member to have obtained, and

(B) the Association shall not provide insurance for any liabilities, costs or expenses if the provision of such insurance would create a liability for the Member under the Tanker Oil Pollution Indemnification Agreement 2006 (TOPIA 2006 as amended) to contribute to the IOPC Supplementary Fund.

(b) The Member agrees that:

(i) any payment by the Association in respect of Certified Liabilities in discharge of the said liabilities, costs and expenses shall, to the extent of any amount recovered under any other policy of insurance or under Rule 24(2), be by way of loan, and

(ii) there shall be assigned to the Association to the extent and on the terms that the Association determines in its discretion to be practicable all the rights of the Member under any other insurance and against any third party.

P&I - AMENDMENTS TO FOLLOW POOLING AGREEMENT AMENDMENTS

These amendments reflect changes to the Pooling Agreement already approved by the IG Group Managers following debate and discussion within the specialist IG Sub-Committees looking at various areas involved. The amendments are by way of clarification and/or are made to reflect the agreed approach to particular aspects of cover.

RULE 2 INTERPRETATION AND DEFINITIONS

To address inconsistent approaches across the Group Clubs to the scope of liabilities covered by a “poolable” Knock for Knock agreement, it has been agreed that the Knock for Knock definition should be amended to make it clear that it includes wreck removal and pollution liabilities (as included in many standard industry contracts, including those drafted by BIMCO). This reflects the interpretation already adopted by the Managers so there will be no change in North’s approach.

KNOCK FOR KNOCK

A provision or provisions stipulating that,

(a) each party to a contract shall be similarly responsible for:

(i) loss of or damage to, or injury and/or death of, its own property or personnel and/or property or personnel of its contractors and/or of its and their sub-contractors and/or of other ~~third~~ parties, **and/or**

(ii) **liability arising out of the ownership or operation of its own property** and that

(b) such responsibility shall be without recourse to the other party and arise notwithstanding any fault or neglect of any party, and that

(c) each party shall, in respect of those losses, damages or ~~other~~ liabilities for which it has assumed responsibility, correspondingly indemnify the other against any liability that party shall incur in relation thereto.

P&I – RULE 9 JOINT MEMBERS, CO-ASSURED, AFFILIATED AND ASSOCIATED COMPANIES

A recent decision confirmed that under English law there is a small risk that, where losses incurred by an owner are covered by an insurance policy in the joint names of the owner and a bareboat charterer, in the absence of an express indemnity provision from the bareboat charterer to the owner, there may be difficulties in passing an indemnity claim down a charterparty chain to the party who caused the liability in question. From a P&I perspective, this might for example mean that where an owner was liable for pollution under CLC, if a co-assured bareboat charterer had no obligation to indemnify the owner, the bareboat charterer (and thus the Association as a subrogated insurer) would not be able to pursue an otherwise valid indemnity claim further down the charter chain.

As a protection against this minor legal but significant commercial risk, an amendment to the Pooling Agreement has been made which specifies that co-assurance does not absolve a co-assured of liability and that any payment by the insured owner Member would operate only as satisfaction (and not exclusion or discharge) of an underlying liability of the charterer Member. The Pooling Agreement wording will be replicated by the addition of the wording set out below into Rule 9 Proviso (C):

Provided always that in Rule 9 the following shall apply to any Member, joint member, co-assured or affiliated or associated person (the Insured Parties):

(C) PAYMENTS

the receipt by any Insured Party of any payment by the Association shall be deemed to be the receipt by all Insured Parties jointly and shall fully discharge the obligations of the Association in respect of such payment. **The liability of any Insured Party to another Insured Party shall not be excluded nor discharged by reason of the receipt of such payment or the provision of insurance pursuant to Rule 9. Any payment by the Association to an Insured Party in respect of a liabilities, costs or expenses covered by the Association shall operate only as satisfaction but not exclusion or discharge of the liability of such person to another Insured Party;**

P&I – RULE 9(2) CO-ASSURED

The changes to Provisos in this Rule implement an amendment to the Pooling Agreement which brings the ability to name and waive Co-assureds in line with modern practice and reflects the updated (wider) contractual definition of “Charterers’ Group” in the proforma Supplytime charterparty. New definitions required by the amendments will be added to Rule 2 as set out.

RULE 2 - DEFINITIONS

CONTRACTOR

A party to a contract with a Member or Joint Member for the provision of services to or by the Entered Ship.

CONTRACTOR GROUP

Any person, party or entity for which a Contractor has assumed responsibility pursuant to the terms of a Knock for Knock agreement.

RULE 9(2) CO-ASSURED

9(2) The Managers may accept an application.....for another person or persons to become co-assured.

.....

Provided always that in Rule 9(2):

(A) where the co-assured is a charterer (other than by demise) of the Entered Ship or a **Contractor**, the Senior Member and any joint member under Rule 9(1)(d)(i), and such charterer **or Contractor**, warrants that the co-assured is a person who has entered into a contract with the Senior Member or any joint member falling within Rule 9(1)(d)(i) for the provision of services to or by the Entered Ship or, where applicable, any person **in the Contractor’s Group**, and

(a) such contract has been approved by the Association, and

(b) the contract includes a Knock for Knock agreement, and

(c) the Member has not, under any such contract, waived any rights of limitation otherwise available to him under applicable law;

(B) notwithstanding paragraph (c) of this Rule 9(2), the liability of the Association to persons falling within proviso (A) above shall only be in respect of liabilities, costs and expenses which are to be borne by the Senior Member or any joint member falling within Rule 9(1)(d)(i) under the terms of the contract and which would, if borne by such Senior Member or joint member, be recoverable by them from the Association;

(C) the co-assured shall be named on the certificate of entry. **In the case of a Contractor’s Group, the Contractor’s Group shall be named if so requested by the Contractor.**

.....

RULE 28(5) ACCOMMODATION VESSELS

The current wording of Rule 28(5) will be deleted and replaced as shown. The exclusion relating to accommodation vessels is being updated to an easier to operate definition. Although the 500 metre exclusion is removed, the units will not benefit from Poolable cover unless the unit is being operated under knock for knock terms.

~~Liabilities, costs and expenses incurred by a Member in respect of personnel (other than marine crew) on board the Entered Vessel (being an accommodation vessel) employed otherwise than by the Member where either:~~

~~(a) such vessel is moored or anchored within 500 metres of an oil or gas production or exploration facilities; or~~

~~(b) there has not been a contractual allocation of risks as between the Member and the employer of the personnel which has been approved by the Managers;~~

Liabilities, costs and expenses incurred by a Member in connection with personnel (other than marine crew) on board the Entered Ship, employed otherwise than by the Member, where the Entered Ship is providing accommodation to such personnel in relation to their employment on or about an oil or gas exploration or production facility, unless a contractual allocation of such risk has been approved by the Managers.

***Provided always* that a contractual allocation of risk which is no less favourable to the Member than Knock for Knock, will be acceptable to the Managers.**

.....

AMENDMENTS FOR 2022/2023 TO THE RULES OF THE FREIGHT, DEMURRAGE AND DEFENCE CLASS

Explanatory notes have been provided for the proposed changes and consequential renumbering and any cross referencing which will also be required. In the proposed new Rules, new wording is in **bold** and existing wording to be deleted is shown as strikethrough text [~~.....~~].

.....

RULE 7 ENTRY

The amendments set out below are introduced to mirror the amendments to the P&I Class Rules. A new Rule 7(6) will be inserted. There will be consequential renumbering of the current Rules 7(6)-7(9).

7(6) CHANGE OR ALTERATION OF RISK

- (a) **After conclusion of the contract of insurance, the Member shall not cause or agree to any change in circumstance which alters the risk covered by the Association without the prior agreement of the Association and should any change in circumstances occur which results in an alteration in risk, the Member shall promptly disclose such circumstances to the Association.**
 - (b) **If the risk shall have altered, the Managers shall, without prejudice to any other right or remedy available, be entitled to:**
 - (i) **amend or vary the terms of Entry, including but not limited to terms relating to premium and deductibles, as they think fit, or**
 - (ii) **terminate the entry of the Entered Ship or Member from the commencement of the Policy Year or from such later date as the Managers may decide, or**
 - (iii) **should an alteration of risk have been intentionally caused or agreed to by the Member where the Association would only have accepted the entry on different terms (including but not limited to terms relating to premium and deductibles) if presented with such circumstances or risk prior to the conclusion of the contract of insurance, the Association shall not be liable to the extent that any liability, cost or expense incurred by the Member was caused or increased by such alteration.**
-

RULES 21 & 28 – SANCTIONS ISSUES

The amendments set out below are introduced to mirror the amendments to the P&I Class Rules.

RULE 21 IMPRUDENT OR HAZARDOUS OPERATIONS, CONTRABAND, BLOCKADE RUNNING, UNLAWFUL TRADING, WILFUL MISCONDUCT OR PRIVACY

No claim on the Association shall be allowed:

21(1) if it arises out of or is consequent upon an Entered Ship carrying contraband, blockade running or being employed in an unlawful trade **(including the violation of applicable sanctions)**, or

.....

RULE 28 CESSER OF SHIP ENTRY

A Member shall cease to be insured by the Association in respect of an Entered Ship upon the happening of any of the following events in relation to such Ship.

.....

SANCTIONS, PROHIBITION AND ADVERSE ACTIONS

(h) If the Entered Ship is employed by the Member in a carriage, trade or on a voyage which, or the provision of insurance for which, will thereby in any way howsoever expose the Association to the risk of ~~being~~ **violating** or becoming subject to any sanction, prohibition or adverse action in any form whatsoever by any

.....

AMENDMENTS FOR 2022/2023 TO THE RULES OF THE WAR RISKS CLASS

Explanatory notes have been provided for the proposed changes and consequential renumbering and any cross referencing which will also be required. In the proposed new Rules, new wording is in **bold** and existing wording to be deleted is shown as strikethrough text [~~.....~~].

.....

WAR RULE 4.D.3 EXCLUSION OF NUCLEAR RISKS

The heading will be amended to “**EXCLUSION OF NUCLEAR RISKS AND CHEMICAL, BIOLOGICAL, BIO-CHEMICAL AND ELECTROMAGNETIC WEAPONS**” to accurately reflect the scope of the Rule, and the sub-heading “~~Exclusion of Chemical, Biological etc Risks~~” appearing at 4.D.3.5 will be deleted.

.....

CHANGE OR ALTERATION OF RISK

The amendments set out below are introduced to mirror the amendments to the P&I and FD&D Class Rules.

Rule 8 DISCLOSURE

8.1 When applying for insurance or on the renewal of any insurance, an Owner or Insured Owner shall furnish or disclose to the Managers all such particulars and information as may be material to the insurance given by the Association or as the Managers may require. It shall be a condition precedent to the liability of the Association under any policy or contract of insurance that in the course of all such applications and negotiations the Owner or the Insured Owner has disclosed all such particulars and information as he ought to have disclosed, and that all the particulars and information disclosed by him were true so far as he and his servants and agents knew or could with reasonable diligence have ascertained.

8.2 CHANGE OR ALTERATION OF RISK

- (a) After conclusion of the contract of insurance, the Owner or Insured Owner shall not cause or agree to any change in circumstance which alters the risk covered by the Association without the prior agreement of the Association and should any change in circumstances occur which results in an alteration in risk, the Owner or Insured Owner shall promptly disclose such circumstances to the Association.**
- (b) If the risk shall have altered, the Managers shall, without prejudice to any other right or remedy available, be entitled to:**
 - (i) amend or vary the terms of Entry, including but not limited to terms relating to premium and deductibles, as they think fit, or**
 - (ii) terminate the entry of the Entered Ship or Owner or Insured Owner from the commencement of the Policy Year or from such later date as the Managers may decide, or**
 - (iii) should an alteration of risk have been intentionally caused or agreed to by the Owner or Insured Owner where the Association would only have accepted the entry on different terms (including but not limited to terms relating to premium and deductibles) if presented with such circumstances or risk prior to the conclusion of the contract of insurance, the Association shall not be liable to the extent that any liability, cost or expense incurred by the Owner or Insured Owner was caused or increased by such alteration.**

RULES 12 and 33 – SANCTIONS ISSUES

The amendments set out below are introduced to mirror the amendments to the P&I and FD&D Class Rules:

RULE 12 REINSURANCE

.....

12.3 The Insured Owner shall in no circumstances be entitled to recover from the Association that part of any liabilities, costs and expenses which is not recovered by the Association from parties to the pool and/or under any reinsurance(s) because of shortfall in recovery from the parties or reinsurers thereunder by reason **of the application of any law including, but not limited to, the prohibitions and requirements of any economic, financial, or trade sanctions administered by any State or international or supranational organisation,** ~~any sanction, prohibition or adverse action against them by a state or international organisation~~ or the risk thereof if payment were to be made by such parties or reinsurers. For the purposes of this clause, "shortfall" includes any failure or delay in recovery by the Association by reason of the parties or reinsurers making payment into a designated account in compliance with the requirements of any state or international organisation.

.....

RULE 33 CESSER OF INSURANCE

33.3 Unless otherwise agreed in writing by the Managers, an Insured Owner shall cease to be insured by the Association in respect of a ship entered by him or on his behalf upon the occurring of whichever shall be the earliest of the following events or circumstances in relation to such Entered Ship:

.....

33.3.8 the Entered Ship is employed by the Insured Owner in a carriage, trade or on a voyage which will thereby in any way howsoever expose the Association to the risk of **being violating or** becoming subject to any sanction, prohibition or adverse action in any form whatsoever by any state or international organisation, unless the Managers shall otherwise determine.

RULE 42 SUBROGATION

The amendments set out below are introduced to mirror the amendments to the P&I and FD&D Class Rules:

SUBROGATION AND RECOVERIES

- (a) Wherever any claim shall have been paid by the Association, the Association is thereby subrogated to all the rights and remedies of the Insured Owner in and in respect of the claim as from the time of the casualty causing the loss. The Insured Owner shall afford to the Association all possible assistance in exercising the said rights of subrogation. The Insured Owner hereby authorises the Association in exercising such rights to commence any legal or other proceedings, whenever the Association may think fit, in the name of the Insured Owner on furnishing an undertaking to the Insured Owner to indemnify him in respect of the costs thereof. The Insured Owner hereby undertakes at any time upon the request of the Association to execute a formal assignment of all or any such rights to the Association or to

execute a formal deed of subrogation and to produce all such information, documents and evidence as the Association may require.

- (b) Where the Association makes such a payment or makes such discharge of a liability, loss, cost or expense on behalf of a Member, any recovery from a third party in respect of that liability, loss, cost or expense shall be credited and paid in full to the Association up to the value of the sums paid by the Association in respect of such liability, loss, cost or expense together with any interest on that sum included in the recovery. However, where the Insured Owner has contributed towards a liability, loss, cost or expense through the application of a deductible, any interest recovered shall be apportioned between the Insured Owner and the Association based on the amounts paid and the date when such payments were made. Unless in its discretion the Association agrees otherwise, any recovery or award in respect of costs shall first be paid to the Association.

CIRCULARS

A Circulars Rule is being introduced to mirror the provisions within the P&I and FD&D Class Rules. The current Rule 48 (Rules Subject To Insurance Acts) will be renumbered as Rule 49 and the current Rule 49 (Law of Contract) will be renumbered as Rule 50.

RULE 48 CIRCULARS

48(1) The Directors or the Managers may from time to time issue a circular in respect of any matter as they see fit.

48(2) The Directors or the Managers may from time to time make a recommendation to any Insured Owner or to all Insured Owners in connection with the operation of any or all Entered Ships. Notice of such a recommendation shall be given by Circular either at the commencement of or during the period of insurance and shall take effect as set out in Rule

47(3) unless the Circular specifies some later date.

48(3) An Insured Owner shall use his best endeavours to comply with such a recommendation and the Members Board may, in its absolute discretion, reject or reduce any claim made by the Insured Owner to the extent to which it would not have arisen if the Insured Owner had complied with the recommendation and the burden of proving in each case that the liability, cost or expense (or portion thereof) could not have been avoided by such a compliance shall be on the Insured Owner.

Note: Copies of Circulars should be viewed at or downloaded from the 'News' section of the Association's website: www.nepia.com