



## STEAMSHIP MUTUAL

To the Members

January 2011

Dear Sirs,

NOTICE IS HEREBY GIVEN that a General Meeting of the Members of The Steamship Mutual Underwriting Association Limited (the Company) will be held at the Registered office of the Company, Aquatical House, 39 Bell Lane, London E1 7LU, United Kingdom, at 15:30 hours on Wednesday 16<sup>th</sup> February 2011, to consider and if thought fit to pass the following resolution:

### RESOLUTION

#### CLASS 1 RULES

The following resolution is proposed:

*THAT with effect from noon G.M.T. on 20<sup>th</sup> February 2011, the amendments to the Rules of Class 1 (Protection and Indemnity) of the Association, annexed hereto, and as explained in the attached commentary, be adopted.*

The attached table incorporates proposed changes to the Rules of the Protection and Indemnity Class (Class 1) for the forthcoming policy year. These changes are largely of a housekeeping nature, consisting of textual amendments to improve clarity and also to bring the Club Rules into alignment with the provisions of the International Group Pooling Agreement. The principal changes are summarised below and the Managers draw particular attention to Rule 32.

Rule 2 – an amendment to expand the definition of Member to include persons and entities to whom cover is provided but who do not enter ships in the Club, for example crew managers. The amendment will confirm, for the avoidance of all doubt, that such persons are subject to the provisions of the Rules in the same way as any Member.

#### Rule 25 ii - Liability to Persons, Covered Risks

g - Deviation expenses – an amendment to clarify that cover will apply only to expenses incurred solely as a result of the deviation and precluding recovery (on a pro rata basis or otherwise) of those expenses which the Member would have incurred in any event, irrespective of the deviation.

#### Rule 25 xiii - Cargo Liabilities

Proviso (v) - Ad Valorem Bills of Lading – this amendment reflects changes to the wording of the Pooling Agreement, to take effect from 20<sup>th</sup> February 2011, arising from two issues: -

- firstly, to clarify that the exclusion in relation to liabilities arising under Ad Valorem bills applies where there is a general declaration of value as well as a declaration per unit, piece or package;
- secondly, to provide that the restriction on recovery shall only apply where there is a causal connection between the insertion of a value in the bill and the carrier's consequent loss of right to limitation.

L.152

**THE STEAMSHIP MUTUAL UNDERWRITING ASSOCIATION LIMITED**  
Authorised and Regulated by the United Kingdom Financial Services Authority  
(Registered No. 105461 : FSA registration number 202548)

**MANAGERS: STEAMSHIP INSURANCE MANAGEMENT**  
AQUATICAL HOUSE 39 BELL LANE LONDON E1 7LU  
tel: +44 20 7247 5490 website: www.simsl.com  
Registered No: 3855693 England

Rule 25 xiii - Cargo Liabilities

Proviso (vii) - Member's Own Cargo – an amendment to bring Steamship's Rules into line with those of the majority of the other IG Clubs, which provide that a Member may recover in respect of its own cargo as if such cargo had belonged to a third party and the Member had concluded a contract of carriage with such third party on the standard terms recommended by the Club, namely those no less favourable than the Hague/Hague-Visby Rules as set out in Rule 25 xiii Proviso (i).

Rule 32 - Reinsurance

For the forthcoming renewal, changes to the Pooling Agreement, which will exclude cover for sanctions risks, were required by the reinsurers on the Group's Excess Loss Reinsurance (GXL) Contract, without which the GXL contract could not have been renewed for the 2011 policy year. The GXL contract is essential to the continuation of cover provided by the IG clubs and various amendments to the rules (of all the Clubs) are necessary in order to accommodate the reinsurance requirements.

Rule 32 (iv), which was introduced in August 2010, and which is therefore applicable to all existing policies as well as all renewed entries, already anticipates the changes to the Pooling Agreement. The effect of the existing Rule 32 (iv) is that if there is a shortfall in recovery from GXL reinsurers and/or under the Pooling Agreement, by virtue of sanctions risks, the Club will be under no liability to the Member to that extent. The present changes strengthen the existing Rule as set out in the attached schedule. As amended, the Rule provides that if the Club has already indemnified the Member, the Member will be liable to repay the Club any shortfall in recovery under the Pooling Agreement/Group Excess Loss insurance.

Rule 47 - Dispute Resolution and Adjudication

An amendment to ensure that third parties seeking to claim under the contract of insurance are subject to the relevant dispute resolution provisions binding upon a Member, aside from the adjudication procedure.

By Order of the Board of  
The Steamship Mutual Underwriting Association Limited

S.A. Ward  
Secretary  
31<sup>st</sup> January 2011

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**AMENDMENTS FOR 2011/12 TO THE RULES OF  
CLASS 1 PROTECTION AND INDEMNITY OF  
THE STEAMSHIP MUTUAL UNDERWRITING ASSOCIATION LIMITED**

In the table below, the proposed new wording is shown in **bold** and wording to be deleted is shown as ...... Explanatory notes in italics have been provided for the proposed changes.

<b>Rule</b>		<b>Comment</b>
<b>2</b>	<b>Definitions</b>	
<b>Member</b>	<del>means every owner of a ship or part of a ship entered by him in the Club ;</del>  <b>means every owner of a ship or part of a ship or any person or entity who effects an entry for insurance in the Club</b>	<i>An amendment to expand the definition of Member to include persons/ entities to whom cover is provided but who do not enter ships in the Club, e.g. crew managers.</i>
<b>18 ii</b>	<b>Oil Pollution Limit</b>	
<b>d</b>	<del>where a bareboat charterer and an owner are separately insured with the Club or any other association which is a party to the Pooling Agreement,</del>  <b>where there is more than one Owner's entry in respect of the same ship in the Club and/or in another association which is a party to the Pooling Agreement</b> the aggregate of all claims for oil pollution following an accident or occurrence brought against the Club and/or such other Association shall be limited to the sum determined hereunder. The liability of the Club in respect of such claims shall be limited to that proportion of the sum determined by the Directors that each claim recoverable from the Club bears to the aggregate of the claims recoverable against the Club and such other Association if any;	<i>A textual amendment to clarify that the aggregation provisions set out in the Pooling Agreement regarding limitation for oil pollution claims, apply to claims brought by "Owners" as defined in the Rules (to include bareboat charterers, managers etc. of a ship) where there is more than one entry in respect of a single vessel.</i>
	<i>Note:</i> The sum approved by the Directors to apply to Rule <b>18 ii</b> as from 20 February 2011 is US\$ 1,000,000,000 each vessel any accident or occurrence. <b>For the purposes of Rule 18 ii d, an "Owner" as defined in Rule 2 shall exclude any charterer except a bareboat or demise charterer.</b>	
<b>25 ii</b>	<b>Liability to Persons , Covered Risks</b>	
<b>g</b>	<b>Deviation Expenses</b>	
	Port and deviation expenses when solely incurred:	
	(i) For the purpose of landing or disposing of stowaways, refugees or other persons rescued at sea; or	
	(ii) In order to secure the necessary treatment for an injured or sick person being carried on an entered ship; or	
	(iii) While awaiting a substitute for a deceased, injured or sick crew member or deserter; or	
	(iv) In attempting to save or saving life at sea; or	
	(v) In order to search for, and/or recover, persons missing from the ship;	
	<i>Provided</i> that such expenses have in the opinion of the Managers been reasonably incurred.	
	<del>The expenses recoverable are limited to the costs of fuel,</del>	<i>An amendment to clarify</i>

	<p><del>insurance, crew wages, stores, provisions and port charges, less any savings in expenditure which would have been incurred by the Member but for the deviation.</del></p> <p>The expenses recoverable are limited to <b>those additional</b> costs of fuel, insurance, crew wages, stores, provisions and port charges <b>over and above the ordinary operating costs of the Member</b>, which are incurred as a direct result of the deviation, less any savings in expenditure which would have been incurred by the Member but for the deviation.</p>	<p><i>that cover will apply only to expenses incurred solely as a result of the deviation and precluding recovery (on a pro rata basis or otherwise) of those expenses which the Member would have incurred in any event, irrespective of the deviation.</i></p>
<b>25 xiii</b>	<b>Cargo Liabilities</b>	
<b>Proviso (vii)</b>	<b>Member's Own Cargo</b>	
	<p><b>(vii)</b> If the cargo in respect of which a claim is made on the Club under paragraphs <b>a - d</b> of this Rule <b>25 xiii</b> is owned by the Member, the Member shall be entitled to recover from the Club and the Club Rules shall apply in all respects as if such cargo belonged to a third party,</p> <p><b>and that third party had concluded a contract of carriage of the cargo with the Member on the terms of the Club's recommended standard terms of carriage as referred to in proviso (i) above.</b></p> <p><del>but to the extent only that such claim is not recoverable under any other insurance upon the said cargo, and provided that there shall be no recovery under this Rule in respect of any such claim which is not recoverable under any other insurance only by virtue of the existence of the cover provided by the Club. In any event such cargo shall be deemed to be insured without deductible for its full value at the time of shipment under the usual Lloyd's policy including Institute Cargo Clauses (C).</del></p>	<p><i>An amendment to clarify (in line with the scope of cover provided by most other IG Clubs) that a Member may recover in respect of its own cargo as if such cargo had belonged to a third party and the Member had concluded a contract of carriage with such third party on the standard terms recommended by the Club (i.e. terms no less favourable than the Hague/Hague-Visby Rules, as set out in Rule 25 xiii proviso (i)).</i></p>
<b>25</b>		
<b>xiii</b>	<b>Cargo Liabilities</b>	
<b>(v)</b>	<b>Ad Valorem Bills of Lading</b>	
	<p><del>There shall be no recovery from the Club in respect of any liabilities, costs or expenses exceeding US\$ 2,500 per unit, piece or package in respect of cargo carried under an "ad valorem" bill of lading, waybill or other document containing or evidencing the contract of carriage where the value per unit piece or package has been stated to be in excess of US\$2,500 or the equivalent in any other currency unless the contract of carriage has been approved in writing by the Managers on such terms as they may require.</del></p> <p>There shall be no recovery from the Club in respect of any liabilities, costs or other expenses <b>arising out of carriage under an ad valorem bill of lading or other document of title, waybill or other contract of carriage in which a value of more than United States dollars two thousand five hundred (US\$2,500) (or the equivalent in any other currency) is declared and/or inserted by reference to a unit, piece, package or otherwise, where the effect of such a declaration/insertion is to deprive the carrier of any right or rights of limitation to which he would otherwise have been entitled and cause him to incur a greater liability than he would have done but for such declaration/insertion, to the extent that such liability thereby exceeds United States dollars two thousand five hundred (US\$2,500) (or the equivalent in any other currency) in respect of any such unit piece or package.</b></p>	<p><i>An amendment to reflect changes to the wording of the Pooling Agreement, arising from two issues: - Firstly, to clarify that the exclusion in relation to liabilities arising under ad valorem bills applies where there is a general declaration of value as well as a declaration per unit, piece or package; Secondly, to provide that the restriction on recovery shall only apply where there is a causal connection between the insertion of a value in the bill and the carrier's consequent loss of rights of limitation.</i></p>

	unless the contract of carriage has been approved in writing by the Managers on such terms as they may require.	
<b>32</b>	<b>Reinsurance</b>	
<b>i</b>	The Managers may on behalf of the Club enter into contracts of reinsurance under which the Club agrees to reinsure the risks arising in connection with any one or more ships insured by another insurer or else agrees to reinsure the whole or any part or proportion of the insurance business of any other insurer. The premium payable to the Club and the terms and conditions on which the reinsurance is accepted by the Club shall be such as are agreed between the Managers and such other insurer.	
<b>ii</b>	The Club may continue to be a party to the Pooling Agreement or to any other agreement of a similar nature or purpose.	
<b>iii</b>	The Managers shall have the right in their discretion to effect on behalf of the Club the reinsurance or ceding of any risks insured by the Club (including any risk which may fall on the Club by reason of a reinsurance or the Pooling Agreement referred to in paragraphs <b>i</b> or <b>ii</b> of this Rule) with such reinsurers and on such terms as the Managers shall consider appropriate.	
<b>iv</b>	<del>The Club shall in no circumstances have a liability</del> <b>The Club shall cease to have any liability whatsoever</b> to the Member in respect of that part of any liabilities, costs and expenses which is not recovered by the Club from parties to the Pooling Agreement and/or under the Group Excess Loss Reinsurance Contract because of a shortfall in recovery from such parties or reinsurers thereunder by reason of a sanction, prohibition or adverse action against them by a State or International Organisation <b>or other competent authority</b> or the risk thereof if payment were to be made by such parties or reinsurers.	<p><i>In response to pressure from the reinsurers on the Group's Excess Loss Reinsurance (GXL) Contract, the 2011 Pooling Agreement will contain a sanctions exclusion which will effectively prevent pooling where a liability is not recovered under the GXL contract because payment would expose reinsurers to a sanctions threat.</i></p> <p><i>Rule 32 (iv), which was introduced in August 2010 and therefore applies to all existing policies as well as all renewed entries, already deals with the risk of one or more of the Clubs which are party to the Pooling Agreement or reinsurers under the GXL contract being subject to legislation or regulations regarding sanctions, the effect of which would prevent the Club from making a full recovery either from the Pool or under its reinsurance. A minor textual amendment refers to sanctions, prohibitions or adverse action imposed by a competent authority.</i></p>
	<b>If the Club has indemnified the Member (and/or made payment pursuant to a Certificate of Financial Responsibility or any other guarantee issued to or on behalf of a Member, pursuant to Rule 43 or otherwise) and there is subsequently a shortfall in recovery from such parties or reinsurers thereunder by reason</b>	<i>This amendment provides that if the Club has already indemnified the Member, the Member will be liable to repay the Club any</i>

	<b>of a 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, the Member shall repay to the Club on demand the amount of any shortfall as certified by the Managers.</b>	<i>shortfall in recovery under the Pooling Agreement/Group Excess Loss insurance.</i>
	For the purposes of this Rule 32 (iv) “shortfall” includes <b>(but is not limited to)</b> any failure or delay in recovery by the Club by reason of the parties or reinsurers making payment into a designated account in compliance with the requirements of any State or International Organisation or <b>other competent authority</b> .	
	<p><b>Note: A number of amendments have been made to the Rules to reflect the introduction of sanctions and other similar legislation affecting the Club directly or indirectly. The Managers draw particular attention to Rule 32 (iv).</b></p> <p><b>The Club:</b></p> <p><b>i) From time to time, reinsures the risks insured under these Rules; and</b></p> <p><b>ii) Pools such risks with fellow Member Clubs of the International Group of P&amp;I Clubs, and these pooled risks are also reinsured.</b></p> <p><b>In order to ensure both the sufficiency of the security provided by such reinsurance and its cost efficiency, both the Club and the International Group place reinsurance with a number of reinsurers domiciled in a variety of jurisdictions. It is, therefore, possible that one or more of such reinsurers may be, or may become, subject to legislation or regulations regarding sanctions, the effect of which would prevent the Club from making full recovery under the reinsurance.</b></p> <p><b>The effect of Rule 32 (iv) is that if there is such a shortfall in recovery, the Club will be under no liability to the Member to that extent. If the Club has already indemnified the Member, the Member will be liable to repay the Club any shortfall in recovery under the Pooling Agreement/Group Excess Loss insurance.</b></p>	
<b>47</b>	<b>Dispute Resolution, Adjudication</b>	
<b>i a</b>	In the event of any difference or dispute whatsoever, between or affecting a Member and the Club and concerning the insurance afforded by the Club under these Rules or any amounts due from the Club to the Member or the Member to the Club, such difference or dispute shall in the first instance be referred to adjudication by the Directors. That adjudication shall be on the basis of documents and written submissions alone and conducted in accordance with such procedures as the Managers decide from time to time in their absolute discretion.	
<b>b</b>	Notwithstanding the terms of this Rule <b>47 i</b> , where it appears to the Managers that any difference or dispute between or affecting a Member and the Club has arisen, the Managers, on behalf of the Club, shall be entitled to commence either:	
	<b>(i)</b> proceedings before the High Court of Justice in London; or	
	<b>(ii)</b> arbitration in London,	
	in respect of such difference or dispute in accordance with sub-paragraph <b>ii</b> below, without prior adjudication by the Directors.	

<b>ii</b>	If the Member wishes to challenge the decision of the Directors upon adjudication under Rule <b>47 i a</b> above, then	
<b>a</b>	the difference or dispute shall be referred to arbitration in London, unless the Managers (on behalf of the Club), in their absolute discretion, elect that the difference or dispute shall be determined by the High Court of Justice.	
<b>b</b>	Not later than 90 days after the Managers have advised the Member in writing of the Directors' decision upon adjudication, the Member, in order to challenge that decision, must give written notice to the Managers stating that the Member does not agree with the Directors' decision and requiring the Managers to make their election under Rule <b>47 ii a</b> . In default of such written notice the Directors' adjudication under <b>47 i a</b> above shall be final. Within 30 days of receipt of the Member's notice the Managers shall give written notice to the Member stating that the difference or dispute shall be determined either by the High Court of Justice in London or shall proceed by way of London arbitration.	
<b>iii</b>	In the case of arbitration proceedings commenced in accordance with Rule <b>47 i b (ii)</b> and <b>47 ii</b> , unless the Managers otherwise agree in writing to the appointment of a sole arbitrator, the arbitration tribunal shall consist of three arbitrators, one to be appointed by each of the parties and the third by the two arbitrators so chosen. The arbitrators shall be Queen's Counsel currently in practice at the Commercial bar in London.	
	Any submission to arbitration and all the proceedings therein shall be subject to the provisions of the English Arbitration Act 1996 and the schedules thereto or any statutory modifications or re-enactment thereof.	
<b>iv</b>	No Member shall be entitled to maintain any action, suit or other legal proceedings against the Club upon any such difference or dispute unless and until:	
<b>a</b>	the same has been adjudicated by the Directors or, having been put before them for special consideration at a meeting of the Board, a period of four months has elapsed from that date without publication of their adjudication; and	
<b>b</b>	if such adjudication is not accepted by the Member by notice given in accordance with Rule <b>47 ii b</b> or such period has elapsed, unless and until either:	
	(i) the difference or dispute shall have been referred to London arbitration in the manner provided in this Rule, and the award has been published; or	
	(ii) the Managers have elected for proceedings before the High Court of Justice in London, and judgment has been given;	
	Provided that, and subject always to the conditions set out in subparagraphs <b>b (i)</b> and <b>(ii)</b> above, the Member shall in any event only be entitled to enforce the terms of that award or judgment.	
	And the sole obligation of the Club to the Member under these Rules or otherwise howsoever in respect of any disputed claim made by the Member shall be to honour the terms of either, a judgment of the High Court of Justice in London, or a London arbitration award, obtained in accordance with the provisions of this Rule.	
<b>v</b>	In the adjudication of each difference or dispute the Directors shall have the power but not a duty to request further information or	

	documents from the Member which request shall be complied with not later than two months from the date of receipt of that request by the Member. Where such a request is made, the period in Rule 47 iv a shall run from the expiry of the Member's period for compliance.	
<b>vi</b>	In any event no request for adjudication by the Member shall be made to the Directors in respect of any difference or dispute between, or matter affecting, the Member and the Club more than two years from the date when that dispute, difference or matter arose unless, prior to the expiry of this limitation period, the Managers have agreed in writing to extend the same.	
<b>vii</b>	Nothing in this Rule 47 including paragraph i, or in any other Rule or otherwise shall preclude the Club from taking any legal action of whatsoever nature in any jurisdiction at its absolute discretion in order to pursue or enforce any of its rights whatsoever and howsoever arising including but not limited to:	
<b>a</b>	Recovering sums it considers to be due from the Member to the Club;	
<b>b</b>	Obtaining security for such sums; and/or	
<b>c</b>	Enforcement of its rights of lien whether arising by law or under these Rules.	
<b>viii</b>	These Rules and any contract of insurance between the Club and the Member shall be governed by and construed in accordance with English law.	
	<i>Provided always that:</i>	
	Save as provided in Rule 17 ii, no benefit or rights are conferred or intended to be conferred, under or through the operation of the Contract (Rights of Third Parties) Act 1999 or any similar legislation.  <b>Notwithstanding the above proviso, where any third party is permitted under the laws of any jurisdiction to assert howsoever a claim of whatsoever nature directly against the Club for the purpose of pursuing rights pursuant to the contract of insurance provided by the Club to a Member, then such third party shall be bound by sub-Rules 47 i b, iii, iv b, vii and viii of this Rule 47 as if the reference to Member had been to that third party.</b>	<i>A provision to ensure that third parties seeking to claim under the contract of insurance are subject to the relevant dispute resolution provisions binding upon a Member, aside from the adjudication procedure.</i>