



## STEAMSHIP MUTUAL

To the Members

January 2012

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 11:00 hours on Friday, 17<sup>th</sup> February 2012, to consider and if thought fit to pass the following resolutions:

### RESOLUTIONS

#### CLASS 1 RULES

The following resolution is proposed:

THAT with effect from Noon G.M.T. on 20th February 2012, the amendments to the Rules of Class 1 (Protection and Indemnity) of the Association, annexed hereto, and as summarised and explained in the below commentary, be adopted.

#### CLASS 2 RULES

The following resolution is proposed:

THAT with effect from Noon G.M.T. on 20th February 2012, the amendments to the Rules of Class 2 (Freight, Demurrage and Defence) of the Association, annexed hereto, and as summarised and explained in the below commentary, be adopted.

The principal changes are summarised below

#### Class 1

Rule 24 i - a change to the Imprudent Trading Rule in respect of contraband cargo. The amendment provides that recovery for liabilities arising may be possible at the Managers' discretion where, for example, unlawful or contraband cargo is carried without knowledge and intent on the Member's part.

Rule 24 ii – whilst bribery has never been condoned by the Club, following the coming into force in the UK in July 2011 of the Bribery Act 2010, a new provision is proposed excluding recovery from the Club in respect of any sums paid by way of a bribe or other corrupt or illicit activity.

L.177

**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**  
AQUITICAL HOUSE 39 BELL LANE LONDON E1 7LU  
tel: +44 20 7247 5490 website: www.sims.com  
Registered No: 3855693 England

Rule 42 Subrogation – this amendment clarifies that the Club’s rights of subrogation apply not just where it reimburses the Member directly, but also where it makes payment under a guarantee or other security issued on behalf of a Member.

Rule 43 Provision of Bail – this amendment makes clear that the Club may have the benefit of the Member’s rights of recourse against third parties, which are assigned to the Club, in circumstances where the Club makes a payment pursuant to a guarantee or other security issued on behalf of a Member.

Rule 45 Amendments to Rules - an amendment to permit a change to the Club Rules, for example to enable the scope of cover to respond as a result of the coming into force of any legislation, regulation or international convention during a policy year.

### Class 2

Rule 5 x - an amendment to broaden the availability of Class 2 cover for disputes relating to salvage, towage and pilotage services rendered by or to an entered ship.

Rules 8 and 9 – an express provision to clarify that the discretionary nature of FD&D cover also includes the right to impose a “pay-first” requirement in respect of costs covered under Class 2 prior to seeking reimbursement from the Club. In addition the language in Rule 9 is amended to reflect the day-to-day superintendence of FD&D claims by the Managers and to include a more generic provision referring to the appointment of lawyers and other experts rather than a sole reference to the solicitors of the Club.

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

S.A. Ward  
Secretary  
31<sup>st</sup> January 2012

**AMENDMENTS FOR 2012/13 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 underlined and wording to be deleted is shown as [~~xxx~~]. Explanatory notes in italics have been provided for the proposed changes.

<b>Rule</b>		<b>Comment</b>
<b>24</b>	<b>Imprudent or Unlawful Trading</b>	
<b>i</b>	No claim shall be recoverable from the Club if it arises out of or is consequent upon an entered ship, or a ship in respect of which insurance is provided by the Club;	
<b>a</b>	carrying contraband, <b><u>unless, for the purposes of this sub-clause a only, the Member has satisfied the Managers that it took such steps as appear to the Managers to be reasonable to avoid the carriage of such contraband; or</u></b>	<i>This amendment provides for the possibility of recovery in cases where the Member incurs costs in disposing of, or other liabilities and expenses consequent upon the carriage of, contraband or illicit cargo. In these circumstances, recovery will be subject to the Managers' discretion, but is less likely to be available where contraband cargo is carried as an intended cargo, with knowledge and intent on the Member's part.</i>
<b>b</b>	blockade running or being employed in an unlawful trade, or	
<b>c</b>	being employed by the Member in a carriage, trade or on a voyage which thereby in any way howsoever exposes the Club to the risk of being or becoming subject to any sanction, prohibition or adverse action in any form whatsoever by any State or International Organisation, unless the Directors otherwise determine, or	
<b>d</b>	performing any voyage or being employed in any trade which in the opinion of the Directors is imprudent, unsafe, unduly hazardous or improper.	

<b>ii</b>	<b>Bribes and other Corrupt Activity</b>	
	<b><u>There shall be no recovery from the Club in respect of sums, or the monetary equivalent of any other improper inducement or advantage, which are determined by the Directors in their absolute discretion to have been offered or paid by way of bribe or by any other corrupt or illicit activity.</u></b>	<i>Whilst bribery has never been condoned by the Club, following the coming into force in the UK of the Bribery Act 2010, it is proposed to introduce an express exclusion of recovery for any sums which are determined by the Directors to have been paid by way of bribes or other corrupt or illicit activity .</i>
<b>iii</b>	<b>Electronic Trading Systems</b>	<i>Re-number rule</i>
<b>a</b>	There shall be no recovery from the Club in respect of any liabilities, losses, costs and expenses arising from the use of any electronic trading system, other than an electronic trading system approved in writing by the Managers, to the extent that such liabilities, losses, costs and expenses would not (save insofar as the Directors in their absolute discretion otherwise determine) have arisen under a paper trading system.	
<b>b</b>	For the purposes of this Rule 24 ii	
<b>(i)</b>	An electronic trading system is any system which replaces or is intended to replace paper documents used for the sale of goods and/or their carriage by sea or partly by sea and other means of transport and which:	
<b>(a)</b>	are documents of title or	
<b>(b)</b>	entitle the holder to delivery or possession of the goods referred to in such documents, or	
<b>(c)</b>	evidence a contract of carriage under which the rights and obligations of either of the contracting parties may be transferred to a third party; and	
<b>(ii)</b>	a "document" shall mean anything in which information of any description is recorded, including, but not limited to, computer or other electronically generated information.	
<b>42</b>	<b>Subrogation</b>	
	Where the Club makes payment to its Member in accordance with a Member's rights under these Rules, <b><u>or pursuant to security provided on behalf of a Member,</u></b> and the Member has rights against another party, whether by way of a claim for contribution, indemnity or otherwise arising out of the claim or matter in respect of which the Club has made such payment <del>to the Member</del> , the Club shall be subrogated to the rights of the Member in respect of that claim to the extent of that payment, including any interest accruing on that amount prior to its recoupment and any costs incurred in relation to the exercise of such rights.	<i>An amendment to clarify that the Club's rights of subrogation in respect of the Member's rights against another party apply equally in cases where the principal claim against the Member is settled under the terms of security issued by the Club on behalf of the Member, as well as in cases where the Member satisfies the claim directly and is reimbursed by the Club.</i>

	<p>Further, the Member agrees to hold such rights as trustee for the Club and to take such steps as the Club may direct with regard to their enforcement and recovery. All such recoveries, howsoever and whensoever made, are to be paid to the Club, including interest and recovered costs, provided that if any such recovery exceeds the amounts paid by the Club, including interest and costs whether paid to third parties or incurred by the Club, the balance shall be paid to the Member.</p> <p>If required by the Club, the Member will execute a legal assignment of its rights to the Club. In the event that such rights are not assignable or transferable as a matter of law, the Member undertakes not to dissolve itself or otherwise render itself incapable of acting at the Club's behest in enforcing any such rights against another party.</p>	
<b>43</b>	<b>Provision of Bail</b>	
<b>i</b>	The Club is under no obligation to provide bail or other security, including any guarantee, undertaking or certificate evidencing financial or other responsibility, on behalf of any Member. When the Club does provide bail or such other security the Managers may at the time when such bail or other security is provided or at any time subsequently until the security is returned for cancellation:	
<b>a</b>	require the Member forthwith to provide alternative security in substitution for that provided by the Club, if acceptable to the claimant, or place a cash deposit with the Club or, in the Managers' sole discretion, to provide other counter-security acceptable to the Club;	
<b>b</b>	withhold all or any payments due from the Club to the Member up to the amount of the Club's exposure as a security deposit until its liability under its security has been determined.	
<b>ii</b>	The provision of bail or other security is at the absolute discretion of the Managers and the Club shall not be liable for any delay or detention to a ship to which such security relates and any other ship owned by the Member or any other assets, or for any other losses whatsoever and howsoever arising, resulting from non-provision or delay in providing bail or other security;	
<b>iii</b>	<del>Where bail or other security is provided on behalf of the Member, the Managers shall be entitled to impose such terms on its provision as they in their absolute discretion see fit and the Member agrees that the Club shall have a contractual lien over each ship owned by the Member and/or in the same and/or associated ownership, management or control, whether entered in the Club or not, for an amount equivalent to the Club's exposure under the said bail or other security which the Club shall be entitled to enforce at any time in the Managers' absolute discretion;</del>	

iii	Where bail or other security is provided on behalf of the Member, the Managers shall be entitled to impose such terms on its provision as they in their absolute discretion see fit and the Member agrees that:	
a	The Club shall have a contractual lien over each ship owned by the Member and/or in the same and/or associated ownership, management or control, whether entered in the Club or not, for an amount equivalent to the Club's exposure under the said bail or other security which the Club shall be entitled to enforce at any time in the Managers' absolute discretion; <b>and</b>	
b	<b><u>The Members' rights of recourse, howsoever arising, against any other party whatsoever in respect of the claim(s) or matter(s) for which the security is provided are assigned to the Club</u></b>	<i>A provision to make clear that the Member's rights of recourse against third parties are assigned to the Club in respect of claims/matters for which the Club has provided security.</i>
	<b><u>Provided that:</u></b>	
(i)	<b><u>Where the exercise by the Club of rights assigned to it results in a recovery in excess of all amounts payable by the Club pursuant to enforcement of its bail or other security, such surplus shall be paid to the Member; and/or</u></b>	
(ii)	<b><u>The Club agrees upon request to reassign such rights to the Member if the claim(s) or matter(s) for which the security is provided are satisfied other than by way of demand on the Club's security.</u></b>	
iv	The provision of bail or other security by the Club does not constitute any admission of liability by the Club for any claim in respect of which the bail or security is given. Insofar as the Club makes payment under or pursuant to any bail, guarantee, certificate or security whatsoever provided by the Club, and the amount of that payment or any part thereof would not have been payable by the Club but for its provision of such security, the Member shall to that extent forthwith indemnify the Club, and pay any costs incurred through or in connection with the provision of such security.	
<b>45</b>	<b>Amendments to Rules</b>	
i	The Rules of this Class may be altered or added to either by Ordinary Resolution passed at a separate meeting of the Members of this Class or by an Ordinary Resolution passed at a general meeting of the Club provided in each case that no such alterations shall be effective unless and until the same shall be sanctioned by the Directors.	
ii	Notwithstanding and without prejudice to any other provision of these Rules, including Rule 45 i above, and/or the provisions of the Bye-laws of the Club, these Rules may on such notice as the Directors may in their discretion decide, be amended at any time, (including with effect during the course of a Policy Year) to such extent as the Directors may in their discretion determine is necessary:	<i>An amendment to permit a change to the Club Rules, for example to enable the scope of cover to respond as a result of the coming into force of any legislation, regulation or international</i>

		<p><i>convention during a policy year. For example, this change would enable the Club to provide war risk cover for P&amp;I liabilities from the ground up in response to the entry into force of either the Athens Convention or the EU Passenger Liability Regulation (Regulation No 392/2009) before the end of the policy year, if the Board and the Members were to agree to do so.</i></p>
<b>a</b>	<p>as a result of the potential or actual implementation of, or change in, any sanction, prohibition, restriction, legislation, <b><u>international convention</u></b>, regulation or requirement of; and/or</p>	
<b>b</b>	<p><b><u>for the Club and/or the Member</u></b>, to obtain any <b><u>certification</u></b>, licence or approval by,</p>	
	<p>any State, international <b><u>or supranational</u></b> organisation, or other competent authority.</p>	

**AMENDMENTS FOR 2012/13 TO THE RULES OF CLASS 2 FREIGHT  
DEMURRAGE AND DEFENCE OF THE STEAMSHIP MUTUAL  
UNDERWRITING ASSOCIATION LIMITED**

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

Rule		Comment
<b>5</b>	<b>Risks Covered</b>	
	The protection afforded to the Members is in establishing or resisting the following claims arising subsequent to the date of entry in respect of any ship entered, namely:	
x	<del>salvage and towage services rendered by a Member's ship unless the ship entered is a tug or salvage vessel;</del>	
	<b><u>salvage, towage or pilotage services rendered by or to an Entered Ship;</u></b>  <b><u>Provided always that there shall be no cover under this Rule in respect of any tug, supply boat or salvage vessel unless the vessel has been declared as such at the time of entry and any cover has been agreed by the Managers and is specified in the Certificate of Entry.</u></b>	<i>An amendment to broaden the scope of cover (in line with that offered by some other clubs) applicable to disputes relating to salvage and towage services rendered by or to an entered ship and to include pilotage services. The cover will be available for tug and salvage vessels provided they are declared as such and properly rated, since in these cases salvage and towage disputes may arise out of the vessel's normal business operations.</i>
<b>8</b>		
<b>i</b>	Subject to Rules <b>8 ii, iii</b> and <b>iv</b> below, the Directors shall have sole and entire discretion as to what cases may be undertaken and what limit upon costs and expenses, <b><u>and terms relating to payment and reimbursement thereof, may</u></b> be imposed by the Club in any particular case or cases and as to the initiation and conduct of all proceedings, legal or otherwise, which may be undertaken by the Club at its cost and expense and may at any time limit the amount of costs and expenses which may be reimbursed or otherwise paid by the Club and may give such directions at any time, and notwithstanding that any financial limit referred to in Rule <b>8 ii</b> has not been reached, as to compromise, continuation or discontinuation, costs and expenses as in their absolute discretion they may deem desirable. If the Member declines to act in accordance with such directions he shall then take upon himself the entire risk and expense of all future proceedings without any claim whatsoever for reimbursement out of the funds of the Club.	<i>An amendment to clarify that the scope of the Directors' discretion includes the right, in appropriate cases, (balancing the interests of the Club as a whole against those of an individual Member), to impose a requirement for the Member to pay all costs and expenses in the first instance, for example in situations where the Member is, or is feared to become, insolvent.</i>

ii	<p>The liability of the Club to reimburse or indemnify the Member for costs and expenses covered under this Class 2 shall be limited to such amount as appears in the Certificate of Entry or as may otherwise be agreed by the Managers in writing, but in the absence of any such amount or agreement, and in any case, shall not exceed US\$10 million overall, in respect of all costs and expenses arising out of any one claim or series of claims. The Managers may in their absolute discretion determine whether legal and other costs and expenses for the purposes of this Rule and limit have arisen out of one claim or series of claims, irrespective of whether one or several ships is/are involved.</p>	
iii	<p>Unless otherwise agreed by the Managers in writing, any costs and expenses recoverable under this Class 2 shall be limited to the excess of stipulated deductibles.</p>	
iv	<p>In no circumstances shall the Club be liable for costs awarded in circumstances where the Member has failed to follow the directions of the Club, or when arising directly or indirectly as a result of failure to comply with or breach of any of the Rules of this Class 2 or the Rules of Class 1 Protection and Indemnity as incorporated in this Class 2 by Rule 14 below.</p> <p>Note: the Club will not normally undertake cases which concern a substantial body of ship owners rather than an individual Member unless all or the majority are entered in this Class; nor cases which should properly be the subject of diplomatic action or action by national or international bodies; nor disputes in connection with Liner Conferences; but it may do so if the Directors in their sole discretion decide that such cases should be taken up and the Club may subscribe to such national and international bodies.</p>	
9	<p><del>Where the Directors, after examination into the merits of any claim, shall consider the Member concerned entitled to the protection of the Club, they shall instruct the Solicitors to the Club to take or continue proceedings. Such proceedings shall be conducted under the superintendence of the Directors, and at the expense of the Club, who will keep the Member indemnified against all costs and expenses incurred to the extent and upon the terms, conditions and exceptions which may be provided by these Rules and by the Certificate of Entry, unless such costs and expenses become payable by the personal neglect or default of the Member.</del></p>	

9i	Where the Directors, after examination into the merits of any claim, shall consider the Member <del>concerned to be</del> entitled to the protection of the Club, they <u>may instruct lawyers and/or other experts on the Member's behalf, or authorise the Members to do so, in order to take or continue proceedings. Such proceedings shall be conducted under the superintendence of the Managers.</u>	<i>A provision to acknowledge that although the Directors have the discretion as to which cases to support, thereafter their conduct is under the superintendence of the Managers not the Directors. The reference to "the Solicitors to the Club" is deleted and replaced with a more accurate provision to the effect that lawyers or other experts may be instructed on behalf of the Member.</i>
ii	<u>The Club shall pay all costs and expenses properly incurred by the Member in respect of such claims subject to, and to the extent provided in, the Rules and the Certificate of Entry and any terms, conditions and/or exceptions that the Directors in their absolute discretion impose on the Club's cover of any claim, save where</u>	
a	<u>such costs and expenses become payable by the personal neglect or default of the Member; or</u>	
b	<u>the Member is required to pay costs and expenses in the first instance prior to seeking recovery from the Club pursuant to a direction given in accordance with Rule 8 i above;</u>	<i>A provision to make clear that the Club may require the Member to bear FDD costs and expenses in the first instance before claiming a recovery from the Club</i>