

## Iran, Sanctions and the Provision of Security

EU Regulation 961/2010 came into force following its publication on 27 October 2010. It is binding and directly applicable in all EU Member States with immediate effect.

The new regulation provides for restrictive measures against Iran further to the European Council approved decision of 26th July 2010 implementing UNSCR 1929.

A summary of the principal provisions of the Regulation appears on the Steamship Mutual website at:

<http://www.simsl.com/Liabilities-and-Claims/eu-regulation-in-force-wef-from-27th-october-2010.htm>

In accordance with Article 39, the Regulation applies:

- within the territory of the EU, including its air space;
- on board any aircraft or any vessel under the jurisdiction of an EU Member State.
- to any person inside or outside the territory of the European Union who is a National of a Member State;
- to any legal person, entity or body which is incorporated or constituted under the law of a Member State;
- to any legal person, entity or body in respect of any business done in whole or in part within the Union.

Members' attention is drawn in particular to Article 21, which imposes restrictions on transfers of funds to and from an Iranian person, entity or body. This would include payments and claims settlements.

"Funds" are defined in Article 1(j)(v) as including "guarantees, performance bonds or other financial commitments". Whilst the drafting of the Regulation is not entirely clear, it appears that Article 21 encompasses the provision of security and thus applies when;

- the Club is asked to provide security on behalf of an Iranian Member; or
- the intended recipient of security is an Iranian entity, irrespective of where the Member is based.

Article 21 requires prior notice of transactions over Euro 10,000 or equivalent to be given to the competent authority of an EU Member state (in the case of the UK this is HM Treasury), and



prior authorisation must be received for transactions of or over Euro 40,000 or equivalent in another currency. Authorisation shall be deemed granted if a competent authority does not notify an objection within 4 weeks of the written request for authorisation.

Members may be required to call at an Iranian port in compliance with an existing contract of carriage contained in a charterparty or bill of lading. The provision of security by the Club is always discretionary in accordance with the Club Rules. The purpose of this Risk Alert is to warn Members that if they are involved in an incident at an Iranian port requiring the provision of security, or if the Club is asked to provide security for an Iranian Member, the Club is likely to have to seek formal prior authorisation from a relevant EU Member State if the amount is over Euro 40,000. Obtaining the requisite authorisation will probably involve a delay of some weeks. It will be refused if the provision of security is for the benefit of a sanctioned entity, or is considered to contribute to prohibited activities, such as nuclear proliferation by Iran, development of WMD or prohibited activities related to the exploration, production, refining or liquefaction of crude oil and natural gas.

In the event, therefore, that a Member's vessel were to be in arrested in an Iranian port, there could well be difficulty in securing its release, not only in respect of Club security but also because any provision of security (or indeed payment) to an Iranian entity may involve a breach of sanctions regulations which are applicable in the Member's own jurisdiction.

The risk that security for any claim involving an Iranian entity may not be readily available, and in particular to permit the release of an arrested ship, is one which Members should consider in the light of their trading contracts and obligations under any financing documents, such as ship mortgages.

For further information on this topic please refer to your relevant Syndicate contact or the Head of Loss Prevention at Steamship Insurance Management Services Ltd

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