

CIRCULAR

To the Members

Alterations to the Rules of the Association

As described in our circular [No.19-012](#) dated 26 November 2019, the following alterations to the Rules of the Association (the "Rules") will become effective from 12 noon GMT on 20 February 2020 for the 2020 policy year. There will also be an alteration to the Special Clause. The amendments are explained below, and extracts of the relevant provisions are attached hereto.

1. Alterations to the Rules

Rule 26.1 (Towage Liabilities)

The previously-used term "the insurance contract with a fixed sum insured" has been replaced by the more specific "the Naiko Class insurance contract".

Rule 29.2(2) (Cargo Liabilities)

Where there is a deviation (including a deviation from the contract of carriage) of the Entered Ship, and as a result, the Member is unable to invoke the right to exempt or limit liability as permitted in the contract of carriage, liabilities and expenses incurred in the deviation shall not be covered by the Association. The provision is amended to enable the Association to make a better judgement whether the Member's actions can be regarded as a deviation, and should arrange additional insurance or take any action, if necessary.

Rule 30(1) (General Average)

The Association covers cargo's or some other party's proportion of general average which is not legally recoverable, subject to the condition that the liabilities provided for in Rule 29 (Cargo Liabilities) of the Rules of the Association have been insured against. The amendment is to make it clear that the Rule providing for the ship to be insured under Rule 29 (Cargo liabilities) does not apply in respect of unrecoverable proportions of GA which do not concern cargo, such as charterers' bunkers and/or special charges linked to containers.

Rule 34.2 (Deductibles)

While the Association does not in principle apply deductibles under "the costs and expenses for lawyers and surveyors as well as for lawsuits" referred in Rule 32(1) (Defence Costs, etc) and in the case "the liability of the Member may be limited by any laws concerning limitation of owner's liability for damages" referred in Rule 37 (Limitation of Coverage), the Association has added a proviso in Clause 2 of Rule 34 so that the Association can apply deductibles to the preceding expenses or liabilities by agreement between the Association and the Member.

Rule 35.1(7)(8)(13)(14) (Risks Generally Excluded)

These amendments are to keep the Rules aligned with the Pooling Agreement of the International Group of P&I Clubs. The Association has revised wording concerning special operations which are not covered in accordance with the

Pooling Agreement. New clauses have been adopted concerning liabilities, costs and expenses incurred by the Member in respect of personnel.

Rule 46 (Recoveries) <New>

This Rule is provided to specify the agreed practice in accordance with Rule 45(1) (Subrogation). When the Association has full subrogation rights of the Member and exercises its right of recourse against the responsible third party and makes a recovery from that party, the recovery shall be credited and paid to the Association up to the amount corresponding to the sum paid by the Association. Any remaining amount shall be reimbursed to the Member. When the Member makes a recovery from the responsible third party, the recovery shall be paid by the Member to the Association up to the amount corresponding to the sum paid by the Association.

2. Alteration to the Special Clause

P&I WAR RISKS CLAUSE 2

This amendment is to reflect a change made in the IG's excess War Risks P&I Cover. The terms on which the excess War Risks P&I Cover will be provided for the 2020 policy year are in most respects the same as for the 2019 policy year, including the limit of cover of USD500 million. However, for the 2020 policy year there is a change to the definition of the excess, which in past years has been the greater of either (a) the 'proper value' of the entered ship up to a maximum of USD100 million or (b) the amount recoverable in respect of the claim from primary war P&I risks underwriters. For the 2020 policy year, the deemed maximum 'proper value' will be changed from USD100 million to USD500 million.

A Rule Book for the 2020 Policy Year is scheduled to be delivered to Members in early February 2020.

Yours faithfully,

The Japan Ship Owners' Mutual Protection & Indemnity Association

Attachment: Changes to the Rules for 2020 Policy Year
Changes to the Special Clause for the 2020 Policy Year

Changes to the Rules of the Association for the 2020 Policy Year

(The underlined parts are to be changed.)

RULE 26 TOWAGE LIABILITIES

Existing Rules	New Rules
<p>1 The Association shall indemnify a Member for liability which the Member may incur arising out of a towage of an Entered Ship or of a towage of another ship or object (hereinafter called "towed ship") by an Entered Ship for damages, costs and expenses in accordance with subparagraphs (1) and (2) below, provided however that liabilities arising from a towage between ports or within a lake, river or port in Japan of an Entered Ship or by an Entered Ship with <u>the insurance contract with a fixed sum insured</u> may be indemnified by the Association on such conditions as the Association otherwise provides.</p> <p>Any recovery from the Association in respect of liability arising from towage shall be limited to those damages, costs and expenses set out in Rules 19 to 31 and admitted by the Association to satisfy requirements set out under the following (1) and (2):</p>	<p>1 The Association shall indemnify a Member for liability which the Member may incur arising out of a towage of an Entered Ship or of a towage of another ship or object (hereinafter called "towed ship") by an Entered Ship for damages, costs and expenses in accordance with subparagraphs (1) and (2) below, provided however that liabilities arising from a towage between ports or within a lake, river or port in Japan of an Entered Ship or by an Entered Ship with <u>the Naiko Class insurance contract</u> may be indemnified by the Association on such conditions as the Association otherwise provides.</p> <p>Any recovery from the Association in respect of liability arising from towage shall be limited to those damages, costs and expenses set out in Rules 19 to 31 and admitted by the Association to satisfy requirements set out under the following (1) and (2):</p>

Explanation:

This amendment is for clarification purposes only.

RULE 29 CARGO LIABILITIES

Existing Rules	New Rules
<p>2 Notwithstanding the provisions of the preceding paragraph, there shall be no recovery from the Association in respect of the following liabilities, costs and expenses:</p> <p>(2) Liability, costs and expenses incurred in consequence of a deviation (including deviation from contract) of the Entered Ship, <u>unless and to the extent that the Association in its discretion otherwise decides, or the Member notifies the Association of the deviation immediately upon receiving of information that it has occurred and the deviation is approved by the Association.</u></p>	<p>2 Notwithstanding the provisions of the preceding paragraph, there shall be no recovery from the Association in respect of the following liabilities, costs and expenses:</p> <p>(2) Liability, costs and expenses incurred in consequence of a deviation (including a deviation from the contract of carriage) of the Entered Ship, <u>unless in the case of a deviation authorised by the Member prior notice of the intended deviation has been given to the Association or in the case of a deviation without the Member's authority the earliest possible notice has been given to the Association after the Member has received information thereof and in either case, the Association have confirmed to the Member that his cover under this Rule continues unprejudiced. Nevertheless, the Association may allow such a claim if, in its discretion, it considers that the Member had reasonable grounds for believing that no deviation was to be or had been made.</u></p>

Explanation:

This amendment is to require that, in the case of a deviation authorised by the Member, the Member should give prior notice of the intended deviation to the Association.

RULE 30 GENERAL AVERAGE

Existing Rules	New Rules
<p>The Association shall indemnify a Member for its expenses concerning the contribution of general average, as set out in the following subparagraphs:</p> <p>(1) UNRECOVERABLE CARGO'S PROPORTION OF GENERAL AVERAGE</p> <p>Cargo's or some other party's proportion of general average, special charge or salvage which are not legally recoverable solely by reason of a breach by the Member of the contract of carriage, subject always to the Entered Ship being insured by the Association for cover for the Member's responsibilities in respect of cargo under Rule 29 and Rule 29.2 shall be applicable.</p>	<p>The Association shall indemnify a Member for its expenses concerning the contribution of general average, as set out in the following subparagraphs:</p> <p>(1) UNRECOVERABLE CARGO'S PROPORTION OF GENERAL AVERAGE</p> <p>Cargo's or some other party's proportion of general average, special charge or salvage which are not legally recoverable solely by reason of a breach by the Member of the contract of carriage. <u>However, cover from the Association in respect of cargo's proportion of general average is</u> subject always to the Entered Ship being insured by the Association for cover for the Member's responsibilities in respect of cargo under Rule 29 and Rule 29.2 shall be applicable.</p>

Explanation:

The Rule providing for the ship to be insured under RULE 29 (CARGO LIABILITIES) does not apply in respect of unrecoverable proportions of GA which do not concern cargo, such as charterers' bunkers and/or containers, special charges or salvage expenses.

RULE 34 DEDUCTIBLES

Existing Rules	New Rules
<p>2 The provisions of the preceding paragraph shall not apply to the claims payable by the Association in accordance with Rules 32(1) and 37 (in case that the liability of the Member is limited by any laws concerning limitation of owner's liability for the damage).</p>	<p>2 The provisions of the preceding paragraph shall not apply to the claims payable by the Association in accordance with Rules 32(1) and 37 (in case that the liability of the Member is limited by any laws concerning limitation of owner's liability for the damage), <u>unless otherwise agreed between the Association and the Member.</u></p>

Explanation:

This alteration is to make it possible that the Association flexibly meet the needs of the Members.

RULE 35 RISKS GENERALLY EXCLUDED

Existing Rules	New Rules
<p>1 The Association shall not indemnify liabilities, costs and expenses arising out of the following events or circumstances:</p> <p>(7) Liabilities, costs and expenses arising out of the following vessel or operations;</p> <p>(b) Liabilities, costs and expenses incurred in respect of an Entered Ship carrying out drilling or production operations in connection with oil or gas exploration or production, <u>including any accommodation unit moored or positioned on site as an integral part of any such operations</u>, to the extent that such liabilities, costs or expenses arise out of or during those operations.</p> <p>(8) Liabilities, costs and expenses arising out of</p>	<p>1 The Association shall not indemnify liabilities, costs and expenses arising out of the following events or circumstances:</p> <p>(7) Liabilities, costs and expenses arising out of the following vessel or operations;</p> <p>(b) Liabilities, costs and expenses incurred in respect of an Entered Ship carrying out drilling or production operations in connection with oil or gas exploration or production, including any accommodation unit moored or positioned on site as an integral part of any such operations, to the extent that such liabilities, costs or expenses arise out of or during those operations.</p> <p>(8) Liabilities, costs and expenses incurred by the Member during the course of performing</p>

<p>specialist operations (but excluding fire-fighting) including but not limited to dredging, blasting, pile-driving, <u>well-stimulation</u>, cable or pipe laying, construction, installation or maintenance work, core sampling, depositing of spoil, <u>professional oil spill response or professional oil response training and tank cleaning (otherwise than on the Entered Ship)</u>.</p> <p>Provided always that this exclusion shall not apply to liabilities, costs and expenses incurred by a Member if there is a special agreement for coverage therefor between the Member and the Association, or in respect of following incidents:</p> <p>(a) loss of life, injury or illness of crew and other personnel on board the Entered Ship</p> <p>(b) the wreck removal of the Entered Ship</p> <p>(c) oil pollution emanating from the Entered Ship or the threat thereof</p>	<p>specialist operations (but excluding fire-fighting) including but not limited to dredging, blasting, pile-driving, <u>well-intervention</u>, cable or pipe-laying, construction, installation or maintenance work, core sampling, depositing of spoil, <u>power generation, decommissioning and such other operations as the Association may agree, to the extent that such liabilities, costs and expenses arise as a consequence of:</u></p> <p><u>(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</u></p> <p><u>(b) the failure to perform such specialist operations by the Member or the fitness for purpose or quality of the Member's work, products or services; or</u></p> <p><u>(c) any loss of or damage to the contract work.</u></p> <p><u>Provided always that this exclusion shall not apply to liabilities, costs and expenses incurred by the Member in respect of:</u></p> <p><u>i) loss of life, injury or illness of crew and other personnel on board the Entered Ship; or</u></p> <p><u>ii) the wreck removal of the Entered Ship; or</u></p> <p><u>iii) oil pollution emanating from the Entered Ship or the threat thereof.</u></p> <p><u>but only to the extent that such liabilities, costs and expenses are covered by the Association.</u></p> <p><u>Provided always that this exclusion shall not apply to liabilities, costs and expenses incurred by the Member if there is a special agreement for coverage therefor between the Member and the Association.</u></p>
<p>(New)</p>	<p><u>(13) Liabilities, costs and expenses incurred by the Member in respect of personnel (other than marine crew) on board the Entered Ship (being an accommodation vessel) employed otherwise than by the Member where either:</u></p> <p><u>(a) such vessel is moored or anchored within 500 metres of an oil or gas production or exploration facility; or</u></p> <p><u>(b) there has not been a contractual allocation of risk between the Member and the employer of the personnel which has been approved by the Association.</u></p>
<p>(New)</p>	<p><u>(14) Liabilities, costs and expenses incurred by the Member in respect of hotel and restaurant guests and other visitors and catering crew of the Entered Ship when the Entered Ship is moored (otherwise than on a temporary basis) and is open to the public as a hotel, restaurant, bar or other place of entertainment.</u></p>

Explanation:

These amendments are to keep the Rules aligned with the Pooling Agreement.

RULE 46 RECOVERIES

Existing Rules	New Rules
(New)	<p><u>1 The whole of any recovery that the Association makes from the responsible third party for and on behalf of the Member in accordance with the preceding Rule shall be credited and paid to the Association up to the amount corresponding to the sum paid by the Association and any remaining amount shall be reimbursed to the Member.</u></p> <p><u>2 The whole of any recovery that the Member makes from the responsible third party shall be paid by the Member to the Association up to the amount corresponding to the sum paid by the Association.</u></p>

Explanation:

This Rule is provided to specify the agreed practice.

RULE 47 ARBITRATION

Existing Rules	New Rules
Should any dispute arise between the Association and a Member in respect of the insurance contract between the Association and the Member, the dispute shall be referred to the arbitration by the Japan Shipping Exchange, Inc. (Ippan Shadan Hojin Nihon Kaiun Shukaijo), and any award of the arbitration shall be final and binding on the parties involved, provided, however, that, subject to agreement between all the parties involved, the dispute may be referred to the arbitration by an arbitrator registered with the London Maritime Arbitrators' Association.	Should any dispute arise between the Association and a Member in respect of the insurance contract between the Association and the Member, the dispute shall be referred to the arbitration by the Japan Shipping Exchange, Inc. (Ippan Shadan Hojin Nihon Kaiun Shukaijo), and any award of the arbitration shall be final and binding on the parties involved, provided, however, that, subject to agreement between all the parties involved, the dispute may be referred to the arbitration by an arbitrator registered with the London Maritime Arbitrators' Association.

Explanation:

The rule number is changed.

RULE 48 GOVERNING LAW

Existing Rules	New Rules
Any contract of insurance howsoever made between the Association and the Member and these Rules shall be governed by and construed in accordance with Japanese law.	Any contract of insurance howsoever made between the Association and the Member and these Rules shall be governed by and construed in accordance with Japanese law.

Explanation:

The rule number is changed.

Changes to the Special Clause for the 2020 Policy Year

(The underlined parts are to be changed.)

P&I WAR RISKS CLAUSE

Existing Rules	New Rules
<p>2 This cover shall respond to claims in excess of the US dollar equivalent of the proper value of the Entered Ship as referred to in Rule 35.3(2) or the amount recoverable from the Entered Ship's war risks underwriters, whichever shall be the greater, save that such excess shall not apply where the ship is entered with the Association for the Special Cover for Charterers. For the purpose of this cover, where the proper value exceeds <u>US\$100</u> million, the proper value will be deemed to be <u>US\$100</u> million. The Association may authorise the payment, in whole or in part, of any claim or part of a claim which falls within such excess, if in its discretion and without having to give any reasons for its decision it decides that the Member should recover from the Association.</p>	<p>2 This cover shall respond to claims in excess of the US dollar equivalent of the proper value of the Entered Ship as referred to in Rule 35.3(2) or the amount recoverable from the Entered Ship's war risks underwriters, whichever shall be the greater, save that such excess shall not apply where the ship is entered with the Association for the Special Cover for Charterers. For the purpose of this cover, where the proper value exceeds <u>US\$500</u> million, the proper value will be deemed to be <u>US\$500</u> million. The Association may authorise the payment, in whole or in part, of any claim or part of a claim which falls within such excess, if in its discretion and without having to give any reasons for its decision it decides that the Member should recover from the Association.</p>

Explanation:

This amendment is to reflect a change made in the IG's excess War Risks P&I Cover. The terms on which the excess War Risks P&I Cover will be provided for the 2020 policy year are in most respects the same as for the 2019 policy year, including the limit of cover of USD500 million. However, for the 2020 policy year there is a change to the definition of the excess, which in past years has been the greater of either (a) the 'proper value' of the entered ship up to a maximum of USD100 million or (b) the amount recoverable in respect of the claim from primary war P&I risks underwriters. For the 2020 policy year, the deemed maximum 'proper value' will be changed from USD100 million to USD500 million.