

CIRCULAR

To the Members

Alterations to the Rules of the Association

As described in our circular [No.20-016](#) dated 2 December 2020, the following alterations to the Rules of the Association (the "Rules") will become effective from 12 noon GMT on 20 February 2021 for the 2021 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 28 (Quarantine Expenses)

To make it clear that the trigger for coverage is an outbreak of infectious disease "on board".

Rule 31.1(1)~(5) (Fines)

Concerns were expressed in the International Group of P&I Clubs that providing insurance coverage for smuggling fines could be seen by some governmental authorities as undermining the intended effect of the penalties, and that continuing to provide insurance coverage for such items could have both financial and reputational consequences for the Group, and was inconsistent with the Clubs' sustainability goals.

For this reason, our Rules are to be amended along the lines of amendments to the Pooling Agreement of the International Group of P&I Clubs, which will exclude from the 2021 Policy Year onwards cover as of right for loss / damage due to fines and penalties arising out of smuggling or any attempt at such. Accordingly, the existing items (3) to (5) are renumbered.

Rule 34.2 (Deductibles)

We have a specific deductible amount, and not a percentage, for claims under most of our Rules (except for FD&D).

Where, however, the deductible applicable to a claim is a percentage of the covered amount and a limitation fund is constituted further to a loss, it may be difficult to finalise the amount of the deductible. For example, a deposit may be payable with interest accruing on top of the payment amount from the date of the loss, meaning that the claim amount from which to calculate the percentage deductible is always changing. Our existing Rule 34(2) thus stipulates that, where the liability of the Member is limited by any laws concerning limitation of owner's liability, Rule 37 provides an exception to the provisions of Rule 34(1). As stated above, the deductible amount is pre-agreed between the Association and the members for claims under most of our Rules, and especially for claims that possibly involve setting up a limitation fund. We have therefore amended Rule 34(2) to allow the deduction from a payment of insurance money of an agreed deductible amount for claims under Rule 37. The amount of the deductible will be agreed between the Association and the member and will be applied to the sum of liabilities, costs and expenses in case of claims that involve limitation funds.

Rule 35.1(6) (Risks Generally Excluded)

To make it clear that the excluded “salvage operations” include any similar operations other than the wreck removal.

Rule 46.1&2 (Recoveries)

We have made slight amendments to the English text to achieve consistency with the original Japanese version.

2. Alteration to the Special Cover and Special Clause

Special Cover for Salvor’s Liability in respect of Oil Pollution

The amendment is in accordance with the renumbering of the existing Rule 31. 1(5).

Special Cover for Freight, Demurrage and Defence(FD&D) Rule 12

A new Rule12 is incorporated, which clarifies procedures in case the Association or the Member makes a recovery from a responsible third party.

Special Cover for Freight, Demurrage and Defence(FD&D) Rule 13

Given there is a new Rule 12, what was Rule 12 in the 2020 Rules becomes Rule 13.

Marine Cyber Exclusion Clause*

Coronavirus Exclusion Clause*

*Please refer to our circular [No.20-021](#) dated 25 January 2021 for details.

A Rule Book for the 2021 Policy Year is scheduled to be posted on our website (<https://www.piclub.or.jp/en/service/information#common>) in early February 2021.

Yours faithfully,

The Japan Ship Owners’ Mutual Protection & Indemnity Association

Attachment: Changes to the Rules for 2021 Policy Year

Changes to the Rules of the Association for the 2021 Policy Year

(The underlined parts are to be changed.)

RULE 28 QUARANTINE EXPENSES

Existing Rules	New Rules
<p>The Association shall indemnify a Member for extraordinary expenses incurred by the Member for disinfection or quarantine of the Entered Ship or the cargo or persons on board such ship, as a direct consequence of an outbreak of infectious disease. However if the Entered Ship calls a port or place <u>not specified in the sailing instruction as a port of call</u> where it is known or should be <u>reasonable</u> anticipated that such ship will be subjected to quarantine there, there shall be no recovery.</p>	<p>The Association shall indemnify a Member for extraordinary expenses incurred by the Member for disinfection or quarantine of the Entered Ship or the cargo or persons on board such ship, as a direct consequence of an outbreak of infectious disease <u>on board</u>. However, if the Entered Ship calls <u>at</u> a port or place, <u>other than the port or place specified in the contract for the voyage</u>, where it is known <u>in advance</u> or should be <u>reasonably</u> anticipated that such ship will be subjected to quarantine there, there shall be no recovery.</p>

Explanation:

To make it clear that an outbreak of infectious disease “on board” is the coverage trigger. Minor changes in the latter half are only for emphasis (use of “in advance”) and for a correction of a typo (reasonable → reasonably).

RULE 31 FINES

Existing Rules	New Rules
<p>1 The Association shall indemnify a Member for fines imposed by any court, tribunal, government, or public authorities such as immigration bureau, quarantine office or customs upon the Member as set out in subparagraph (1) to <u>(4)</u> and, subject to the Association’s discretion, fines as set out in subparagraph <u>(5)</u>. The Association may also indemnify a Member for such fines imposed upon the master or crew members of the Entered Ship or upon any other servant or agent of the Member to whom the Member is liable to reimburse legally or otherwise reasonably in the judgment of the Association.</p> <p>(1) For short-delivery or over-delivery of the cargo or failure to comply with any law or regulations relating to declaration or documentation of the cargo, 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><u>(2) For contravention by the master or crew members, etc. of any law or regulation relating to smuggling;</u></p> <p><u>(3) For contravention of any law or regulation relating to immigration;</u></p> <p><u>(4) For contravention of any law or regulation relating to the escape or discharge of oil or any other pollutants caused by accidental escape or discharge; provided always that the Association’s limit of liability under Rule 25.2</u></p>	<p>1 The Association shall indemnify a Member for fines imposed by any court, tribunal, government, or public authorities such as immigration bureau, quarantine office or customs upon the Member as set out in subparagraph (1) to <u>(3)</u> and, subject to the Association’s discretion, fines as set out in subparagraph <u>(4)</u>. The Association may also indemnify a Member for such fines imposed upon the master or crew members of the Entered Ship or upon any other servant or agent of the Member whom the Member is liable to reimburse legally or otherwise reasonably in the judgment of the Association.</p> <p>(1) For short-delivery or over-delivery of the cargo or failure to comply with any law or regulations relating to declaration or documentation of the cargo <u>(other than fines or penalties arising from the smuggling of goods or cargo or any attempt thereat)</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; <u>...existing (2) is deleted...</u></p> <p><u>(2) For contravention of any law or regulation relating to immigration;</u></p> <p><u>(3) For contravention of any law or regulation relating to the escape or discharge of oil or any other pollutants caused by accidental escape or discharge; provided always that the Association’s limit of liability under Rule 25.2 shall be applied</u></p>

<p>shall be applied for these fines in addition to liabilities, costs and expenses under Rule 25; <u>(5)</u> For any other contravention of any law or regulation always subject to the Member having satisfied the Association that the Member took all such steps as appear to the Association to be reasonable to avoid the event giving rise to the fine or penalty and that any amount claimed in respect of such fines shall be recoverable to such extent only as the Association may determine.</p>	<p>for these fines in addition to liabilities, costs and expenses under Rule 25; <u>(4)</u> For any other contravention of any law or regulation always subject to the Member having satisfied the Association that the Member took all such steps as appear to the Association to be reasonable to avoid the event giving rise to the fine or penalty and that any amount claimed in respect of such fines shall be recoverable to such extent only as the Association may determine.</p>
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Explanation:

The amendment is made along the lines of amendments to the Pooling Agreement to exclude from cover as of right loss / damage due to fines and penalties arising out of smuggling or any attempt at such. Accordingly, the existing items (3) to (5) are renumbered.

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) <u>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.</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), unless otherwise agreed between the Association and the Member.</p>

Explanation:

Where a deductible is a percentage of a covered amount and in case a limitation fund is constituted, it may be difficult to finalise the amount of the deductible, as a sum payable (deposit) would usually have interest running from the date of occurrence on top of the payment amount. This is why RULE 37 has been made an exception to RULE 34. We have a specific deductible amount, and not a percentage, for claims under most of our Rules (except for FD&D). We are therefore amending RULE 34 (2) to allow the deduction from a payment of insurance money an agreed deductible amount. The amount of the deductible will be agreed by Association and member and will be applied to the sum of liabilities, costs and expenses in case of claims that involve limitation funds.

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>...<i>Omitted</i>...</p> <p>(6) Liabilities, losses, costs and expenses arising out of salvage operations (including for the purpose of this paragraph, <u>wreck removal</u>) conducted by an Entered Ship except for the case of saving or attempting to save life at sea, or the case of salvage operations conducted by a Ship constructed for the purpose of salvage provided a special agreement shall be made between the Member and the Association concerning liabilities during salvage or salvor's liabilities for oil pollution.</p>	<p>1 The Association shall not indemnify liabilities, costs and expenses arising out of the following events or circumstances:</p> <p>...<i>Omitted</i>...</p> <p>(6) Liabilities, losses, costs and expenses arising out of salvage operations (including, for the purpose of this paragraph, <u>removal of wreck and any other similar operations</u>) conducted by an Entered Ship except for the case of saving or attempting to save life at sea, or the case of salvage operations conducted by a Ship constructed for the purpose of salvage provided a special agreement shall be made between the Member and the Association concerning liabilities during salvage or salvor's liabilities for oil pollution.</p>

Explanation:

To make it clear that the excluded "salvage operations" include any similar operations other than wreck removal.

RULE 46 RECOVERIES

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

Explanation:

We have made slight amendments to the English text to achieve consistency with the original Japanese version.

Changes to the Special Cover the 2021 Policy Year

(The underlined parts are to be changed.)

SPECIAL COVER FOR SALVOR'S LIABILITY IN RESPECT OF OIL POLLUTION

Existing Rules	New Rules
<p>RULE 2 RISKS COVERED The Association shall indemnify a Member for the following liabilities, costs and expenses arising out of the oil pollution caused by the salvage operation of the Member. However</p>	<p>RULE 2 RISKS COVERED The Association shall indemnify a Member for the following liabilities, costs and expenses arising out of the oil pollution caused by the salvage operation of the Member. However</p>

	<p>computer software programme, malicious code, computer virus, computer process or any other electronic system.</p> <p>2 Subject to the conditions, limitations and exclusions of the policy to which this clause attaches, the indemnity otherwise recoverable hereunder shall not be prejudiced by the use or operation of any computer, computer system, computer software programme, computer process or any other electronic system, if such use or operation is not as a means for inflicting harm.</p> <p>3 Where this clause is endorsed on policies covering risks of war, civil war, revolution, rebellion, insurrection, or civil strife arising therefrom, or any hostile act by or against a belligerent power, or terrorism or any person acting from a political motive, paragraph 1 shall not operate to exclude losses (which would otherwise be covered) arising from the use of any computer, computer system or computer software programme or any other electronic system in the launch and/or guidance system and/or firing mechanism of any weapon or missile.</p>
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Explanation:

Please refer to our circular “Special Clauses for Marine Cyber Risks and Coronavirus” dated 25th January, 2021 for details.

CORONAVIRUSEXCLUSION CLAUSE

Existing Rules	New Rules
<p><u>New</u></p>	<p>This clause shall be paramount and shall override anything contained in this insurance inconsistent therewith. This insurance excludes coverage for:</p> <p>1 any loss, damage, liability, cost, or expense directly arising from the transmission or alleged transmission of:</p> <ul style="list-style-type: none"> (a) Coronavirus disease (COVID-19); (b) Severe Acute Respiratory Syndrome Coronavirus 2 (SARS-CoV-2); or (c) any mutation or variation of SARS-CoV-2; or from any fear or threat of a), b) or c) above; <p>2 any liability, cost or expense to identify, clean up, detoxify, remove, monitor, or test for (a), (b) or (c) above;</p> <p>3 any liability for or loss, cost or expense arising out of any loss of revenue, loss of hire, business interruption, loss of market, delay or any indirect financial loss, howsoever described, as a result of any of (a), (b) or (c) above or the fear or the threat thereof.</p> <p>All other terms, conditions and limitations of the insurance remain the same.</p>

Explanation:

Please refer to our circular “Special Clauses for Marine Cyber Risks and Coronavirus” dated 25th January, 2021 for details.