



THE LONDON
STEAM-SHIP OWNERS'
MUTUAL INSURANCE ASSOCIATION LIMITED

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CLASS 8, THE FREIGHT, DEMURRAGE AND DEFENCE CLASS

NOTICE IS HEREBY GIVEN that a SEPARATE MEETING of the MEMBERS OF CLASS 8, THE FREIGHT, DEMURRAGE AND DEFENCE CLASS, of the Association will be held at the REGISTERED OFFICE of the Association, 50 LEMAN STREET, LONDON, E1 8HQ at 12:20 p.m. on WEDNESDAY, 28th JANUARY 2004, or as soon thereafter as the meeting of Class 7 called for that day is finished, for the purpose of amending the Rules.

The following amendments together with such further amendments, if any, as may be proposed will be submitted for adoption with or without modification and with effect from noon G.M.T. on the 20th day of February 2004.

[New wording is in bold. The explanatory notes in italics will not appear in the actual Rules.]

RULE 1 INTRODUCTORY

1.1 In these Rules, unless the context requires otherwise:

- "Additional Call"** means an additional call levied pursuant to Rule 31.4;
- "Advance Call"** means an advance call levied pursuant to Rule 31.2;
- "the Articles"** means the Articles of Association of the Association in force from time to time;
- "the Association"** means The London Steam-Ship Owners' Mutual Insurance Association Limited, a company limited by guarantee registered in England under number 10341;
- "Assured"** means a person whose application for insurance within this Class of any interest in a Ship has been accepted by the Association and includes, for the avoidance of doubt, a Co-assured and Other Assured;
- "Call"** means a call levied pursuant to these Rules;
- "Certificate of Entry"** means a certificate issued by the Association pursuant to Rule 6;
- "Class"** means a class of the Association and **"this Class"** means Class 8, the Freight, Demurrage and Defence Class of the Association;
- "Co-assureds"** means Assureds whose application for insurance of their respective interests in the same Ship has been accepted by the Association pursuant to Rule 22.1 and **"Co-assured"** shall be construed accordingly;
- "Committee"** means the committee for the time being of the Association;
- "Deferred Call"** means a deferred call levied pursuant to Rule 31.3;
- "Electronic Communication"** has the meaning given in the Electronic Communications Act 2000;
- "Endorsement Slip"** means an endorsement slip issued by the Association pursuant to Rule 6.2;
- "Estimated Total Cost"** has the meaning given in Rule 31.4;
- "LSSO (Bermuda)"** has the meaning given in Rule 5.1;
- "Managers"** means the managers from time to time of the Association;
- "Member"** means an Assured who is a member of the Association in accordance with the Companies Act 1985 and the Articles;

“Memorandum” means the Memorandum of Association of the Association in force from time to time;

“Other Assured” means a person to whom the benefit of an Assured’s insurance is agreed to be extended by the Association pursuant to Rule 22.3;

“Policy Year” has the meaning given in Rule 2.2;

“Release Call” means a release call charged pursuant to Rule 35.1;

“Rules” means the rules of this Class in force from time to time and “Rule” shall be construed accordingly; and

“Ship” means any ship, boat, hovercraft or other description of vessel or structure (including any ship, boat, hovercraft or other vessel or structure under construction) used or intended to be used for any purpose whatsoever in navigation or otherwise on, under, over or in water or any part thereof or any proportion of the tonnage thereof or any share therein.

In addition, in these Rules:

words importing the singular number only shall include the plural number and vice versa;

words importing the masculine gender only shall include the feminine gender;

words importing persons shall include individuals, corporations, partnerships and firms (whether or not having a separate legal personality); and

the headings in these Rules are for convenience only and shall not affect their interpretation.

1.2 ~~1.1~~ These Rules and all contracts entered into by the Association relating to any insurance afforded by the Association within this Class (which shall hereinafter be understood to include also any reinsurance which may be afforded by the Association within this Class in accordance with Rule 30.1.1) shall be subject to the Memorandum and Articles of Association of the London Steam Ship Owners’ Mutual Insurance Association Limited, and words as defined in ~~those~~ the Articles shall have the same meaning in these Rules, **unless the context requires otherwise or unless they are defined differently in these Rules. Without prejudice to the generality of the foregoing, the provisions of the Articles relating to Co-assureds shall be binding on all Co-assureds notwithstanding that not all Co-assureds are Members.**

1.3 ~~1.2~~ All insurance afforded by the Association within this Class is by way of indemnity and all contracts relating thereto shall be deemed to incorporate the provisions of these Rules, save insofar as those provisions are varied by any special terms which have been agreed pursuant to these Rules or amended pursuant to the powers of the Committee as set out in the Articles or these Rules; all such contracts and these Rules shall, **save as otherwise provided in Rules 29.2 and 42** be governed by English law and shall be subject to the provisions of the Marine Insurance Act 1906 and any statutory modifications thereof.

1.4 ~~1.3~~ The standard insurance afforded by the Association within this Class is set out in Rule ~~99~~, but additional risks may be covered and whatever insurance is afforded by the Association within this Class shall always be subject to the provisos, warranties, conditions, exceptions, limitations and other terms set out in **the Articles** and the remainder of these Rules.

1.5 ~~1.4~~ On acceptance by the Association of an application from any person for insurance within this Class of any interest in a ~~ship~~ **Ship**, that ~~ship~~ **Ship** shall thereupon be entered in this Class in respect of the interest of such person who (if not already) shall become a Member of this Class **in this Class (and any such application shall constitute such person’s agreement to become or continue as a Member in accordance with the provisions of the Companies Act 1985)**, and shall so continue until such time as all entries of ~~ships~~ **Ships** by that Member **Assured** for insurance **within this Class** of any interest in them shall have terminated under ~~these Rules 26 to 29,~~

1.5.1 ~~1.4.1~~ PROVIDED that a person whose only interest in a ~~ship~~ **Ship** is insurance or reinsurance which he has afforded in respect of the same and which the Association has agreed wholly or partly to reinsure within this Class, shall not thereby become a Member **in this Class** nor shall such ~~ship~~ **Ship** be entered unless the premium payable to the Association for such reinsurance shall be by way of Calls determined by the Committee in accordance with Rules 31 and ~~32-32;~~ **and**

- 1.5.2 **PROVIDED that no person shall by virtue of being an Other Assured be entitled to be a Member and no more than one Co-assured in respect of such entry shall be entitled to be a Member and the Association shall have the right to designate one Co-assured in respect of an entry as a Member in this Class.**
- 1.6 ~~1.5~~ All the Members for the time being ~~of~~ in this Class shall form one separate Class of the Association. The Committee and Managers of the Association shall be the Committee and Managers of this Class.
- 1.7 ~~1.6~~ References to entered ships, ~~Members~~ **Ships, Assureds, Co-assureds, Other Assureds**, insurance, and reinsurance afforded by the Association (howsoever the same may be expressed) shall hereinafter be understood as relating exclusively to this Class unless otherwise expressly stated and where appropriate to the context references to entered ships and ~~Members~~ **Ships, Assureds, Co-assureds and Other Assureds** shall be understood to include formerly entered ships **Ships, former Assureds, former Co-assureds** and former ~~Members~~ **Other Assureds**.
- 1.8 ~~1.7~~ A person by whom or on whose behalf an application has been made and accepted by the Association for insurance shall be deemed to have agreed not only on his own behalf but also on behalf of his successors and **assigns and** each of them that both he and they will in every respect be subject to and bound by any such resulting contract of insurance with the Association, including the provisions of these Rules incorporated as aforesaid.
- 1.9 ~~1.8~~ In the event of any conflict between the English text of these Rules and any text thereof written in any other language the English text shall prevail.
- 1.10 **The business of this Class shall, subject to the Articles, be conducted according to these Rules and shall be managed by the Committee which may, subject to the Articles, exercise all powers of the Association and do on behalf of the Association all acts as may be exercised and done by the Association. The Committee may delegate any of its powers to sub-committees consisting of such member or members of the Committee or such other persons in each case as it thinks fit.**
- 1.11 **Without prejudice to the generality of Rule 1.10, the Committee may from time to time appoint any person, firm or corporation to be the Manager or Managers of the Association for such period and upon such terms as it thinks fit, and may vest in such Manager or Managers such of the powers vested in the Committee as it may think fit, and such powers may be exercisable for such period and upon such conditions and subject to such restrictions and generally upon such terms as the Committee may determine. The Committee may make such arrangements as it thinks fit for the management of the Association's affairs in the United Kingdom or abroad, and may for this purpose appoint local boards, attorneys and agents, and delegate to them such powers as it may deem requisite or expedient.**

[Explanation: The proposed Rule changes include definitions of, inter alia, recommended revisions of terminology. Additionally, clarification of the rights of an Assured to be a Member in this Class is provided. Further, the proposed changes make express the powers vested in the Committee to act on behalf of the Association.]

RULE 5 APPLICATION FOR INSURANCE AND CONDITIONS

- 5.5 Any application for insurance shall be on such form **and in such medium** as may from time to time be prescribed by the Association and the applicant shall ~~provide at the time of the application and at all times thereafter provide all material particulars and information and~~ any further particulars and information requested by the Association ~~or otherwise relevant to the risks to be insured.~~ **The Association shall be entitled to receive and process applications for insurance which are submitted by Electronic Communication or by any other means agreed by the Association.**
- 5.6 If the application is accepted by the Association, all particulars and information given by the applicant shall form the basis of the contract of insurance and it shall be a condition precedent to any right of recovery in respect thereof that the same were all true **and, save to the extent otherwise notified in writing to the Association, continued to be true, throughout the period of insurance, in each case** so far as the applicant

knew or could with reasonable diligence have ascertained. **Without prejudice to the generality of the foregoing, it shall further be a condition precedent to any right of recovery in respect of any such contract of insurance that an Assured shall provide details of any change to any particulars and information previously furnished to the Association.**

[Explanation: The proposed Rule changes reflect today's methods of communication and make express the continuous nature of an Assured's disclosure obligations to the Association.]

RULE 8 CLASSIFICATION, INSPECTIONS OF SHIPS AND STATUTORY REQUIREMENTS

8.7 The Member concerned shall ensure compliance with all the statutory requirements of the State of the ship's flag relating to the construction, adaptation, condition, fitment, equipment, manning, safety management **and ship security** of the entered ship and ensure at all times the maintenance of the validity of such statutory certificates as are required to be issued by or on behalf of the State of the ship's flag.

[Explanation: The proposed Rule change reflects the introduction of the International Ship and Port Facility Code (ISPS Code), which comes into force on 1 July 2004, and the International Group's position that compliance with the ISPS Code certification requirements should be a condition of cover for the 2004 policy year.]

RULE 10 LIMITATIONS ON COVER

10.1 The cover afforded by this Class is limited except as to the indemnity provided by Rule 9.2.4 to the payment of ~~Legal Costs, Charges and Disbursements~~ **legal costs, charges and disbursements** incidental to or in anticipation of legal or other proceedings.

10.2 While ~~a Member~~ **an Assured** has complete freedom to litigate or arbitrate disputes involving his vessels entered in the Association it is a condition precedent to his right to recover, in whole or in part, out of the funds of this Class that at all times the Association shall have sole and entire discretion as to:

10.2.1 the claims in respect of which it may support ~~a Member~~ **an Assured**;

10.2.2 the conduct thereof (and the exercise of any right to recover costs therein);

10.2.3 the extent of such support and conduct both in terms of progress through the appropriate legal or arbitral process and/or of the ~~Member~~ **Assured's** monetary recovery out of the funds of this Class;

10.2.4 the discontinuance or settlement of ~~cases in~~ **claims or the discontinuance of support in connection with claims** which it has ~~already~~ **previously** agreed to support ~~a Member~~;

and the Association shall be entitled when exercising its discretion to take into account, inter alia, the merits of the claim or matter, the interests of the other ~~Members~~ **Assureds** of this Class, the amount of the costs and expenses incurred or expected to be incurred in respect of the claim and its effect on the financial position of this Class.

[Explanation: The proposed Rule change makes express the Association's discretion to discontinue support.]

RULE 16 OBLIGATION OF THE ~~MEMBER~~ **ASSURED** IN RESPECT OF CLAIMS

16.1 Where ~~a Member~~ **an Assured** wishes to make recovery out of the funds of this Class he must promptly:

16.1.1 notify the Association of every casualty, dispute, ~~disagreement~~, event or claim against him which threatens to give rise to any ~~Legal Costs, Charges or Disbursements~~ **legal costs, charges or disbursements** for which he is insured, of all material developments in respect thereof, and in connection therewith;

16.1.2 disclose and produce all information, documents ~~or~~, reports **or legal advices** in or coming into his or his agents' (including lawyers') possession, power or knowledge relevant to any such casualty, event or claim either available at the time of notification or at any time.

16.2 ~~A Member~~ **An Assured** must neither settle nor make any admission in respect of ~~Legal Costs, Charges or Disbursements~~ **legal costs, charges or disbursements** for which he is insured without prior consent from the Association in writing.

[Explanation: The proposed Rule change makes a logical extension to the information which Members are required to produce to the Association.]

RULE 17 FAILURE TO GIVE ADVICE

17.1 ~~If a Member~~ **Assured** fails to comply with his obligations under Rule 16 ~~or acts unreasonably or incurs any legal costs, charges or disbursements through his neglect or default in each case in connection with any casualty, dispute, event or claim~~ the Committee may in its sole discretion reject or reduce any recovery ~~to which such breach may appear to the Committee to be relevant. If the Association has paid any claim to a Member before a breach of Rule 16 becomes apparent such Member shall immediately on demand repay such claim~~ **or require the Assured to repay to the Association any legal costs, charges or disbursements which the Association may have incurred or paid in connection therewith.**

[Explanation: The proposed Rule change strengthens the Association's position in circumstances where Members may not act reasonably in connection with cases which the Association has been supporting and brings the Rule into line with other Associations' Rules.]

RULE 22 ~~CO ASSURED JOINT ENTRIES~~ **CO-ASSURED AND OTHER ASSURED**

22.1 ~~If any~~ **The Association may accept an** application for insurance of interests in the same ~~ship is made~~ **Ship** in the names or on behalf of more than one person as ~~co-assured, whether jointly or separately interested, then subject to the Proviso in Rule 9.1 such persons shall be treated as joint Members and the entry of such ship as a joint entry in respect of which, unless otherwise agreed by the Association in writing;~~ **Co-assureds who shall each have an independent right of recovery from the Association subject always to the proviso in Rule 9.1 and to the provisions of Rule 22.2.**

22.1.1 ~~the Association shall not be bound to issue any Certificate of Entry or any Endorsement Slip to more than one joint Member, delivery of which to whom shall be sufficient delivery to all;~~

22.1.2 ~~the joint Members shall be jointly and severally liable to pay all amounts due to the Association;~~

22.1.3 ~~payment to any one joint Member of any sums payable by the Association shall be a sufficient discharge of the Association for the same;~~

22.1.4 ~~failure by one joint Member to disclose material information within his knowledge shall be deemed to have been the failure of all;~~

22.1.5 ~~conduct of one joint Member which would entitle the Association to reject or reduce recovery shall be deemed to have been the conduct of all;~~

22.1.6 ~~any communication from the Association to one joint Member shall be deemed to have been communicated to all;~~

22.1.7 ~~any communication from one joint Member to the Association shall be deemed to have been made with the full approval and authority of all.~~

22.2 ~~In respect of such entry there shall be no recovery from the Association by any persons of any Legal Costs, Charges and Disbursements incurred in disputes between the persons or companies to whom the benefit of a Member's insurance shall have been extended under Rule 22.1.~~

RULE 23 ~~EXTENSION OF COVER TO OTHER PARTIES~~

22.2 **The Association may in its sole discretion reject or reduce any multiple recovery by Co-assureds in respect of the same loss.**

22.3 ~~23.1~~ **proviso** The Association may, subject to the ~~Proviso~~ **proviso** in Rule 9.1, agree that the benefit of a ~~Member~~ **Assured's** insurance shall be extended to persons or companies **as Other Assureds** which shall be signified in the relevant Certificate of Entry or by endorsement thereto, PROVIDED that:

22.3.1 ~~23.1.1~~ any such extension of the benefit of a ~~Member~~ **Assured's** insurance shall be confined to those ~~Legal Costs, Charges and Disbursements~~ **legal costs, charges and disbursements** incurred by the beneficiary which the ~~Member~~ **Assured** would similarly have incurred, if the third-party claim had been pursued against him and in respect of which he would have been entitled to recover in accordance with the terms of entry of the ~~ship~~ **Ship** concerned;

22.3.2 ~~23.1.2~~ for each separate ~~ship~~ **Ship**, each separate claim or matter as set out in Rule 9, recovery under the ~~Member~~ **Assured's** insurance and any such extension of the benefit thereof shall not in aggregate exceed what would have been recoverable by the ~~Member~~ **Assured** if he alone could have and had incurred ~~Legal Costs, Charges and Disbursements~~ **legal costs, charges and disbursements** as postulated in Rule

- ~~23.1.1~~**22.4.1** and payment by the Association to the ~~Member~~**Assured** or any such beneficiaries in that amount shall preclude any further recovery whatsoever; **and**
- 22.3.3** ~~23.1.3~~ the benefit of a ~~Member~~**Assured**'s insurance shall not be extended to third party persons or companies which are not referred to in the relevant Certificate of Entry or by endorsement thereto, whether by name, class, description or otherwise, notwithstanding the provisions of the Contracts (Rights of Third Parties) Act 1999.
- 22.4 In relation to Co-assureds and Other Assureds, unless otherwise agreed by the Association in writing:**
- 22.4.1** the Association shall not be bound to issue any Certificate of Entry or any Endorsement Slip to more than one Assured delivery of which to whom shall be sufficient delivery to all;
- 22.4.2** Co-assureds shall be jointly and severally liable to pay all amounts due to the Association whether pursuant to these Rules, the Articles or otherwise;
- 22.4.3** payment to any one Assured of any sums payable by the Association shall be a sufficient discharge of the Association for the same;
- 22.4.4** failure by one Assured to provide particulars and information within his knowledge (or which could with reasonable diligence be ascertained by him) shall be deemed to have been the failure of all;
- 22.4.5** conduct of one Assured which would entitle the Association to reject or reduce recovery shall be deemed to have been the conduct of all and the knowledge (including deemed knowledge) of one Assured shall be deemed to be the knowledge (including deemed knowledge) of all;
- 22.4.6** any provision of these Rules which would entitle the Association to reject or reduce recovery in respect of one Assured shall be deemed to apply to all;
- 22.4.7** any communication from the Association to one Co-assured, Other Assured or Member shall be deemed to have been communicated to all;
- 22.4.8** any communication from one Assured to the Association shall be deemed to have been made with the full approval and authority of all;
- 22.4.9** the Association shall be entitled to pay all sums to one Assured on behalf of all Co-assureds and Other Assureds; and
- 22.4.10** no Assured shall be entitled to recover from the Association in respect of any dispute or claim arising between themselves in respect of an entry.

[Explanation: The proposed Rule changes reflect the recommended revisions of terminology and the logical re-ordering of the Rule in general.]

RULE 23 AFFILIATES AND ASSOCIATES

- 23.1** Should a claim in respect whereof an Assured is insured by the Association be made or enforced through a person or company (other than a Co-assured or Other Assured in relation to that Assured) affiliated or associated with such Assured, the Association may if so requested by the Assured indemnify such person or company against any loss which as a consequence thereof such person or company shall have incurred in that capacity provided always that nothing herein contained shall be construed as extending any amount which would not have been recoverable from the Association by the Assured had such claim been made or enforced against him. Once the Association has made such indemnification it shall not be under any further liability and shall not make any further payment to any person or company whatsoever, including the Assured, in respect of that claim.

[Explanation: The proposed Rule change incorporates the hitherto optional Affiliated Company Clause to achieve consistency with the Pooling Agreement.]

RULE 26 PERIOD OF INSURANCE AND TERMINATION BY CONTRACTUAL NOTICE

- 26.1** ~~Any~~**Unless otherwise agreed by the Association in writing or unless terminated earlier in accordance with these Rules, any** contract of insurance in respect of any ~~Member~~**Assured**'s interest in an entered ship~~Ship~~ (together with the entry of that ship~~Ship~~ in respect of that interest) ~~may be terminated:~~**shall commence at the time stated in the Certificate of Entry relating to such contract and shall continue until the expiry of the then current Policy Year and thereafter from Policy Year to Policy Year.**

26.2 Any contract of insurance in respect of any Assured's interest in an entered Ship (together with the entry of that Ship in respect of that interest) may be terminated:

26.2.1 ~~26.1.1~~ by the ~~Member~~**Assured** concerned only at noon GMT on 20th February of any year with not less than 30 days' written notice to the Association;

26.2.2 ~~26.1.2~~ by the Association at any time with not less than ~~seven~~**7** days' written notice to the ~~Member~~**Assured** concerned.

[Explanation: The proposed Rule change clarifies that the contract of insurance continues on an annual basis, unless otherwise agreed or terminated under the Rules.]

RULE 31 ADVANCE, DEFERRED AND SUPPLEMENTARYADDITIONAL CALLS

31.1 The ~~Members~~**Assureds** who have entered ~~ships~~**Ships** for insurance in the Association in respect of any Policy Year (not being a year closed in accordance with Rule 33) shall (unless such entry is for a fixed premium or as may be otherwise specifically agreed) provide in accordance with the provisions of Rules 31 and 32 by way of **Advance, Deferred and Additional** Calls to be levied from such ~~Members~~, all funds which in the sole discretion of the Committee are required to meet:

31.1.1 the claims, expenses and outgoings (whether incurred, accrued or anticipated) of the insurance business of the Association in respect of such Policy Year including, without prejudice to the generality of the foregoing, such excess (if any) of the claims and other outgoings in respect of any category of such business over the ~~premiums~~**Calls** payable to the Association in respect thereof as the Committee may charge in whole or in part to such Policy Year, and any proportion of any claims, expenses or outgoings of any insurer other than the Association which has fallen or which may be thought likely to fall upon the Association by virtue of any reinsurance or pooling agreement concluded between the Association and such other insurer;

31.1.2 such of the general expenses of the Association as the Committee may from time to time charge against the insurance business of the Association in respect of such Policy Year;

31.1.3 such transfers to the reserves or other accounts of the Association (as referred to in Rule 37) and for subsequent application for the purposes of such reserves or other accounts or otherwise as the Committee may determine;

31.1.4 any deficiency (but also taking account of any surplus) which has occurred or may be thought likely to occur in any closed Policy Years;

31.1.5 any sums which the Association may by any ~~Governmental Legislation or Regulation~~**governmental legislation or regulation** be required to set aside in order to establish and/or maintain an adequate ~~Solvency Margin~~**solvency margin** and/or ~~Guarantee Fund~~**guarantee fund** in respect of such Policy Year.

31.2 Towards such funds for each Policy Year ~~Members~~**Assureds** shall pay ~~an~~ **Advance Call**, at the rate **assessed in respect of each Assured by the Managers and shown in each ship's Certificate of Entry for that Policy Year on the entered tonnage or on each Ship** therein stated and pro rata for ~~ships~~**Ships** entered for less than the whole Policy Year.

31.3 ~~31.3~~ Further towards such funds, if determined as aforesaid by the Committee to be required in accordance with Rule 31.1 for any Policy Year, the Committee may direct that ~~Supplementary Calls~~ **a Deferred Call** shall be paid, the amount of which shall be stated as ~~a~~ **a** uniform percentage of the ~~Advance Calls~~**Call** payable by ~~Members~~**Assureds** for that Policy Year.

31.4 **Further towards such funds, if determined as aforesaid by the Committee to be required in accordance with Rule 31.1 for any Policy Year, the Committee may direct that an Additional Call(s) shall be paid, the amount(s) of which shall be stated as a uniform percentage of the Estimated Total Cost (the Advance Call plus the Deferred Call) payable by each Assured for the Policy Year.**

[Explanation: The proposed Rule changes reflect the recommended revisions of terminology.]

RULE 32 STANDARDGENERAL INCREASE OR REDUCTION IN CALLS

32.1 The Committee may determine a general increase or reduction in ~~Advance Call~~**advance call** rates or Estimated Total Cost (~~the Advance Call plus the current Supplementary Call estimate~~) for the immediately following Policy Year which shall be notified to ~~Members~~**Assureds** not later than the previous 31st December so as to apply with effect

from the start of the immediately following Policy Year to all ~~ships~~**Ships** whose entries are then continuing and for which no other variation has been mutually agreed, and appropriately adjusted Advance Call rates shall accordingly appear in such ~~ships~~**on the basis of which Advance Calls shall be assessed in respect of each Assured by the Managers and shown in each Ships'** Certificates of Entry for that Policy Year.

[Explanation: The proposed change to the heading makes such consistent with the content of the Rule and makes the authority of the Managers to assess Advance Calls in respect of each Assured express.]

RULE 33 CLOSING OF POLICY YEARS

- 33.1 With effect from such date as the Committee shall in its sole discretion determine after the end of each Policy Year, but no sooner than 36 months from its commencement, the Committee shall declare the same closed for ~~Supplementary~~**Deferred and/or Additional** Calls, after which no further ~~Supplementary~~**Deferred and/or Additional** Calls shall be levied in respect thereof.
- 33.2 The Committee may declare any Policy Year closed for ~~Supplementary~~**Deferred and/or Additional** Calls notwithstanding that it is known or anticipated that there are in existence or may in the future arise ~~Legal Costs, Charges or Disbursements~~**legal costs, charges or disbursements** recoverable in respect of such Policy Year which have not yet accrued or the validity, extent or amount of which have yet to be established.
- 33.3 If upon the closing of any Policy Year it shall appear to the Committee that the whole of the Calls and other receipts in respect of such Policy Year (and of all transfers from reserves and provisions made for the credit of or in respect of that Policy Year), is unlikely to be required to meet the claims, expenses and outgoings arising in respect of that Policy Year (as referred to in Rule 31), then the Committee may decide to dispose of any excess which in their opinion is not so required in one or any of the following ways:
- 33.3.1 by transferring the excess or any part thereof to the reserves of the Association in accordance with Rule 37;
- 33.3.2 by applying the excess or any part thereof to meet any deficiency which has occurred or may be thought likely to occur in any closed Policy Year or Years;
- 33.3.3 by returning the excess or any part thereof to those ~~Members~~**Assureds** entered in respect of such Policy Year in proportion to the ~~Advance Calls paid by them~~**Estimated Total Cost payable by Assureds** in respect of such Policy Year (after taking into account any returns or rebates applicable thereto under their terms of entry or under any other provision of these Rules) save that no return shall be made to any ~~Member~~**Assured** whose entry ceased in the course of such Policy Year by reason of Rule 28 or Rule 29 or whose liability for Calls in respect of such Policy Year has been assessed under the provisions of Rule 35.
- 33.4 If upon the closing of any Policy Year it shall appear to the Committee that the claims, expenses and outgoings arising in respect of that Policy Year (as referred to in Rule 31) exceed or are likely to exceed the totality of the Calls and other receipts in respect of such Policy Year (and of all transfers from reserves and provisions made for the credit of or in respect of such Policy Year), then the Committee may decide to provide for such deficiency in any one or more of the following ways:
- 33.4.1 by transferring funds from the reserves or other accounts of the Association;
- 33.4.2 by transferring funds standing to the credit of any different closed Policy Year;
- 33.4.3 by levying ~~Advance or Supplementary Calls~~**an Additional Call(s)** in respect of any open Policy Year with the intention (as permitted by Rule 31) of applying a part thereof to meet any such deficiency.
- 33.5 At any time after any Policy Year shall have been closed the Committee may resolve to amalgamate the accounts of two or more closed Policy Years and to pool the amounts standing to the credit of the same. If the Committee shall so resolve then the two or more closed Policy Years concerned shall for all purposes be treated as though they constituted a single closed Policy Year.

[Explanation: The proposed Rule changes reflect the recommended revisions of terminology.]

RULE 34 PAYMENT OF CALLS

- 34.1 **Save as provided below in this Rule 34.1**, Calls shall be payable in such instalments and on such dates as the Committee shall specify, and without set-off of any amount due or alleged to be due by the Association to ~~the Member~~**any Assured** on any ground or of any kind whatsoever including set-off which might otherwise have arisen by reason of the

bankruptcy or winding up of the ~~Member~~**Assured** (whether or not any set-off has been allowed by the Association at any time in the past) except to the extent that in requiring payment of the subject amount the Association itself shall have already allowed a set-off or credit in favour of the ~~Member~~**Assured**. **Upon the termination of an Assured's contract of insurance all Calls (including all instalments thereof falling due for payment after the time of such termination) in respect of such contract and remaining unpaid at the time of such termination shall become immediately due and payable notwithstanding that the due date for payment in respect of any such Calls (including any instalment thereof) falls after the time of such termination.**

- 34.2 The Association may decline a request by any ~~Member~~**Assured** or former ~~Member~~**Assured** to pay all or any part of any Call(s) payable by him in a currency other than U.S. ~~Dollars~~**dollars**.
- 34.3 A copy of the resolution of the Committee authorising any Call(s) certified by the Managers to be a true copy and a certificate signed by the Managers with the amount due by a ~~Member~~**an Assured** in respect of such Call(s) shall be sufficient evidence of the Call(s) and the amount due by that ~~Member~~**Assured** in respect thereof.
- 34.4 The amount or amounts specified in Rule 34.3 as being payable by a ~~Member~~**an Assured** or former ~~Member~~**Assured** shall for all purposes (including the purposes of Rule 29) be and be deemed to be properly due as a debt from the ~~Member~~**Assured** or former ~~Member~~**Assured** concerned to the Association at the time or times so specified and he shall have no right to question an assessment made pursuant to Rule 34.3 save that after payment thereof in full to the Association, he shall be entitled to claim repayment thereof in whole or in part by referring such matter to arbitration in accordance with Rule 42.
- 34.5 Without prejudice to any other provisions contained in these Rules the Committee may in its sole discretion at any and all times determine the rate of interest which shall be payable to the Association on any ~~Calls~~**Call(s)** or other amounts due to the Association (including amounts due under Rule 35) as from the due date of payment or such later date as the Committee may in its sole discretion consider fit.
- 34.6 If any **Advance, Deferred and/or Additional** Call(s) or payment due from a ~~Member~~**an Assured** or former ~~Member~~**Assured** to the Association is not paid and if the Association decides that payment cannot be obtained, the sums required to make good any resulting shortfall or deficiency in the funds of the Association shall be deemed to be expenses of the Association for which, as the Committee may in its sole discretion determine, ~~Calls~~**Call(s)** may be levied in accordance with Rules 31 and 32, as the case may be, or reserves may be applied in accordance with Rules 33 and 37.

[Explanation: The proposed Rule changes reflect the recommended revisions of terminology.]

RULE 35 RELEASE CALLS

- 35.1 Subject to the provisions of this Rule 35, upon or at any time after the termination of entry of any ~~ship~~**Ship** for any reason, a Release ~~Calls~~**Call** may be charged by the Association in lieu of ~~Supplementary Calls~~**any Deferred and/or Additional Call** for open Policy Years during which such ~~ship~~**Ship** shall have been entered.
- 35.2 The amount of any Release Call which shall be so charged for any open Policy Year shall be: ~~35.2.1~~ **as regards Supplementary Calls**, such percentage of the Advance Call as the Committee in its sole discretion shall from time to time determine.
- 35.3 Once paid, a Release ~~Calls~~**Call** shall not in any circumstances be returnable, notwithstanding any subsequent reduction in the amounts chargeable for the Policy Years concerned; nor shall the ~~Member~~**Assured** have any right to share in any return of surplus for any such Policy Year in respect of a ~~ship~~**Ship** for which ~~any~~**any** Release Call has been paid or is payable, but payment of a Release ~~Calls~~**Call** shall discharge a ~~Member~~**an Assured** from any future liability for ~~those Supplementary Calls~~**any Deferred and/or Additional Call** in lieu of which such Release ~~Calls~~**Call** has been charged.
- 35.4 At any time after the termination of entry of any ~~ship~~**Ship**, at the request in writing of any ~~Member~~**Assured** who would otherwise be liable to pay ~~Supplementary Calls~~**any Deferred and/or Additional Call** in respect thereof, the Association may **(but shall not be required to)** assess and give notice to the ~~Member~~**Assured** of the amount chargeable in accordance with Rule ~~35.2.1~~**35.2** by way of Release ~~Calls~~**Call** in respect of that ~~ship~~**Ship** for all open Policy Years or such of them as may be specified in the request. If the ~~Member~~**Assured** does not accept the amount so chargeable by way of Release

- ~~Calls~~**Call** within 30 days of the Association's notice, liability to pay ~~Supplementary Calls~~**any Deferred and/or Additional Call** (whether levied before, on or after the date of the Association's notice) will continue subject to the right of the ~~Member~~**Assured** to make a further request which shall operate afresh as described above and to the right of the Association to impose ~~a Release Calls~~**a Release Call** in accordance with Rule 35.5. If the ~~Member~~**Assured** accepts the amount so chargeable by way of ~~Release Calls~~**Release Call**, debit notes will be issued and shall be due and payable by the ~~Member~~**Assured** immediately.
- 35.5 Whether or not any request shall have been made in accordance with Rule 35.4, and notwithstanding the acceptance or otherwise by the ~~Member~~**Assured** pursuant to that Rule, upon or at any time after the termination of entry of any ~~ship~~**Ship**, ~~a Release Calls~~**a Release Call** in respect of ~~Supplementary Calls~~**any Deferred and/or Additional Call** in the relevant amounts chargeable in accordance with Rule 35.2 for all open Policy Years during which such ~~ship~~**Ship** shall have been entered may be imposed by the Association upon any ~~Member~~**Assured** who would otherwise be liable to pay ~~any such Calls~~**any such Call**. Debit notes for such Release Calls may be rendered without previous notice and shall be due and payable immediately.
- 35.5.1 PROVIDED that such debit notes (and the imposition of Release Calls thereby effected) shall be cancelled if the Association shall have received a ~~Bank Guarantee~~**bank guarantee** which will pay on the written demand of the Association ~~all any future Supplementary Calls and Overspill Calls~~**any future Deferred and/or Additional Call** in respect of the ~~ship~~**Ship** concerned, for which the ~~Member~~**Assured** shall remain liable in full. Such ~~Bank Guarantee~~**bank guarantee** shall be:
- 35.5.1.1 enforceable in London;
- 35.5.1.2 acceptable to the Association; and
- 35.5.1.3 for an amount equal to the debited ~~Release Calls~~**Call(s)**.
- 35.6 If while a Release Call which has become due and payable is unpaid (and, if payment of future ~~Supplementary~~**Deferred and/or Additional** Calls is not guaranteed in accordance with Rule 35.5.1) the Committee determines in accordance with Rule 35.2 that ~~a Release Calls~~**a Release Call** for any relevant Policy Year shall be charged at a higher percentage of the Advance Call or (as the case may be) a higher amount per gross ton, or where not determined gross registered ton, than the percentage or amount that was applicable at the time when the Release Call was notified pursuant to Rule 35.4 or imposed pursuant to Rule 35.5 (as the case may be), the Association may apply the increase to the outstanding Release Call and render a debit note for the appropriate additional higher amount, which shall be due and payable immediately, but the proviso in Rule 35.5.1 shall apply mutatis mutandis to any debit note issued pursuant to this Rule.
- 35.7 The Association may at any time while a Release Call which has become due and payable is unpaid (and, if payment of ~~any future Supplementary Calls~~**any future Deferred and/or Additional Call** is not guaranteed in accordance with Rule 35.5.1) cancel the Release Call by notice in writing to the ~~Member~~**Assured**, whereupon the ~~Member~~**Assured** shall be liable to pay all ~~Supplementary~~**Deferred and/or Additional** Calls in respect of which the Release Call had been charged, whether levied before, on or after the date of cancellation.

[Explanation: The proposed Rule changes reflect the recommended revisions of terminology.]

RULE 37 RESERVES

- 37.1 The Committee may in its sole discretion establish maintain and apply such reserve funds or accounts, including without limitation a Calls Equalisation Account, for any or all of the following contingencies or purposes:
- 37.1.1 to stabilise the level of ~~Supplementary~~**Deferred and/or Additional** Calls from one Policy Year to another;
- 37.1.2 to eliminate the need to levy ~~a Supplementary Call~~**Deferred and/or Additional Calls** in respect of any Policy Year, past present or future or to reduce the need for or level of any such ~~Call~~**Calls**;
- 37.1.3 to eliminate or reduce any deficiency which may have occurred or is considered likely to occur in respect of any closed Policy Year;
- 37.1.4 to protect the Association against any actual or prospective losses on foreign exchange transactions or on realised or unrealised investments; or
- 37.1.5 such other contingency or purpose beneficial to the Association as the Committee may in its sole discretion determine.

- 37.2 The Committee may in its sole discretion apply the whole or any part of any reserve fund or account for any of the contingencies or purposes set out in Rule 37.1 above and in respect of any Policy Year irrespective of the purpose or purposes for which that reserve fund or account was established and irrespective of the Policy Year or Years from which the funds or account originated, provided that such application shall be considered by the Committee to be beneficial to the Association. The Committee may also in its sole discretion transfer sums from one reserve to another within the same Class, but shall not be entitled to use any reserve fund or account established from Calls or funds of one Class for the benefit of any other Class, nor to transfer such reserve fund or account between different Classes.
- 37.3 Reserve funds or accounts may be raised by the Committee resolving that there shall be transferred to and applied for the purposes of any such reserve funds or accounts a specified amount or proportion of:
- 37.3.1 any Advance, **Deferred** or ~~Supplementary Call~~ **Additional Calls**, upon the rate of such ~~Call~~ **Calls** being decided; or
- 37.3.2 any funds standing to the credit of a Policy Year upon such Policy Year being closed.
[Explanation: The proposed Rule changes reflect the recommended revisions of terminology.]

RULE 40 NOTICES

- 40.1 Service of any notice or other document **required under these Rules** by the Association on a ~~Member~~ **Assured** may be by direct delivery, or sent through the post in a prepaid letter (by airmail where available), or by telegram or cable, or by telex or **or by courier, telex, facsimile or Electronic Communication** all of which shall be addressed to the ~~Member~~ **Assured** at any address ~~notified~~ **identified** by him to the Association expressly or impliedly as his place of business,
- 40.1.1 ~~PROVIDED that if the last application for insurance on behalf of a Member was made to the entry of a Ship in the Association on behalf of an Assured is through a broker or other agent, the appropriate address for such Member (unless otherwise expressly notified as aforesaid) shall be deemed to be on behalf of an Assured or if the Association has been notified that a broker or other agent is to be involved in any manner whatsoever with the entry of the Ship, any such notice or other document may be addressed to that broker or agent and served at the address of any place of business of that broker or agent and such service shall be deemed to be service on the Assured. In these Rules "address" in relation to an Electronic Communication includes any number or address used for the purpose of such Communications.~~
- 40.2 Service of any notice or other document ~~by a Member~~ **required under these Rules by an Assured** on the Association may be by any of the methods described in Rule 40.1, ~~addressed~~ **sent to the address of** the registered office of the Association.
- 40.3 If posted, any **such** notice or other document as referred to in Rule ~~40.1, 40.1.1 and 40.2~~ shall be deemed to have been served ~~on the seventh day following the day of postage; if sent by telegram or cable, on the day following that of handing in to the relevant telegraph or cable office; if~~ **24 hours after the letter containing the same was put into the post, and in proving such service it shall be sufficient to prove that the letter containing the notice or document was properly addressed and put into the post as a prepaid letter. Any such notice or other document sent by courier shall be deemed to have been served at the time of delivery and any such notice or other document sent by telex or facsimile, on the day of despatch. In each case proof of posting, handing in or despatch shall be sufficient proof of service or contained in an Electronic Communication shall be deemed to have been served at the time it was sent and in proving such service it shall be sufficient to prove that the notice or other document was duly despatched.**
- 40.4 Every successor, legal personal representative, receiver, curator bonis or other legal curator, trustee in bankruptcy or liquidator of an Assured shall be bound by a notice or other document given as aforesaid if sent as aforesaid, notwithstanding that the Association may have notice of the Assured's death, mental disorder, bankruptcy, liquidation, incapacity or administration.

[Explanation: The proposed Rule change reflects today's methods of communication and addresses the need to be able to make effective service of Notices on Members through their brokers.]

RULE 42 JURISDICTION AND LAW

42.1 The Association may but shall not be obliged to commence and maintain proceedings to obtain security for and/or payment of any amount outstanding in respect of Calls or otherwise in the High Court of Justice of England and, if it does so, the ~~Member~~**Assured** hereby submits to the jurisdiction of ~~this~~**that** Court in respect of any such action. Without prejudice to the foregoing, the Association shall be entitled to commence and maintain proceedings in any other jurisdiction and **subject to and/or** under the law of any ~~such~~ other jurisdiction **to establish, exercise or enforce any right of lien and/or** to obtain security for and/or payment of any amount outstanding in respect of Calls or otherwise.

[Explanation: The proposed Rule change strengthens the Association's position with respect to the recovery of amounts due to the Association.]

By Order of the Committee,
A. BILBROUGH & CO. LTD.
(Managers)

5 January 2004