

**CIRCULAR**

20th December 2022

To the Members

It should be noted that the following amendments to Rules will be effective from the 20th February 2023.

**GENERAL RULES**

Rule 29.d to be amended as follows:

- d. capture, seizure, arrest, restraint or detainment, and the consequences thereof or any attempt thereat;

All other parts of Rule 29 to remain unchanged.

Rule 42 to be amended as follows:

**RECOVERY OF DEBTS TO AND OTHER CLAIMS BY THE ASSOCIATION**

Without prejudice to the provisions of Rule 44 the Association may initiate proceedings and maintain any action against the Member in the Commercial Court of the High Court of Justice in London or any other court or arbitration tribunal in any jurisdiction to recover sums due to it or pursue other claims against the Member. The Association may take proceedings in any jurisdiction to obtain security for any claim it asserts against the Member.

The following new Rule 45 to be added:

**CIRCULARS AND RISK BULLETINS**

The Directors or Managers may from time to time issue and publish on its website Circulars and Risk Bulletins containing recommendations to Members in connection with the operation of their entered ships during the period of insurance, compliance with which shall be deemed a condition of continued coverage unless otherwise agreed with the Managers in writing.

## **CLASS I**

Rule 3.4 (2) amended as follows:

In exercising their discretion under paragraph 4(1) of this Rule the Directors may take into account any failure by the Member, his managers, superintendents or onshore management to comply with recommendations in connection with the operation of the entered ship which may have been made in any Circular or Risk Bulletin issued by the Association and published on its website the burden being upon the Member to show that the liability, loss or expense could not have been avoided by compliance with such recommendations.

The following new sub-clauses to be added to the proviso in Rule 4.19:

### **xv. Bulk cargoes**

Unless previously otherwise agreed in writing by the Managers, the Association will not be liable for claims for shortage of cargoes carried in bulk unless draft surveys have been carried out at the loading and discharging ports by a surveyor appointed by the Member or by the Association at the expense of the Member and the weight shown on the bills of lading issued for such cargoes is the same or less than the weight found by such draft survey carried out at the loading port.

### **xvi. Bagged cargoes**

Unless previously otherwise agreed in writing by the Managers, the Association will not be liable for claims for shortlanding of bagged cargoes unless tallies have been carried out at the loading and discharging ports by a tally company appointed by the Member and the number of bags shown on the bills of lading issued for such cargoes is the same or less than the number found by such tally carried out at the loading port.

All other parts of Rule 4.19 to remain unchanged.

The following new sub-clause to be added to Rule 8.1:

- k. any liabilities, losses, damages or expenses directly or indirectly caused by or contributed to by acts of piracy.

All other parts of Rule 8 to remain unchanged.

The following new Rule 9 to be added:

### **Special Sub-limit**

Notwithstanding any other provisions in these rules a Limit of Liability of US\$ 250,000 any one accident or occurrence or series of accidents or occurrences

shall be applicable to any and all liabilities, costs, claims, fines, penalties, compensation, losses, damages or expenses arising from any of the following:

1. The transmission or alleged transmission of:
  - (a) Coronavirus disease (COVID-19); or
  - (b) Severe Acute Respiratory Syndrome Coronavirus 2 (SARS CoV-2); or
  - (c) Any mutation or variation of COVID-19 or SARS CoV-2; or
  - (d) Any fear or threat of (a), (b) or (c) above.
2. Any liability for, cost or expense to identify, clean up, detoxify, disinfect, remove, monitor or test for (a), (b) or (c) above;
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, resulting from (a), (b), (c) or (d) above, or any quarantine, which would otherwise be recoverable under these rules.
4. For the purpose of this rule an outbreak of (a), (b) or (c) on board an entered vessel shall be treated as a single occurrence regardless of the number of persons affected.

## **CLASS III & CLASS IV RULES**

New Rule 4.4 to be added as follows:

### **4. Want of due diligence**

1. If liabilities, losses or expenses are incurred as a result of want of due diligence by the Member, his managers, superintendents or onshore management, then the Directors may, in their discretion, reject or reduce the liability of the Association to the Member to the extent that such want of due diligence has, in their opinion, caused the liabilities, losses or expenses incurred.
2. In exercising their discretion under paragraph 4.1 of this Rule the Directors may take into account any failure by the Member, his managers, superintendents or onshore management to comply with recommendation(s) in connection with the operation of the insured ship which may have been made in any Circular or Risk Bulletin published by the Association and published on its website the burden being on the

Member to show that the liability, loss or expense could not have been avoided by compliance with such recommendation (s).

## **CLASS VI RULES**

Rule 3.4 (2) to be amended as follows:

In exercising their discretion under paragraph 4(1) of this Rule the Directors may take into account any failure by the Member, his managers, superintendents or onshore management to comply with recommendation(s) in connection with the operation of the entered ship which may have been made in any Circular or Risk Bulletin issued by the Association and published on its website the burden being upon the Member to show that the liability, loss or expense could not have been avoided by compliance with such recommendation(s).

The following new sub-clauses to be added to the proviso in Rule 4.19:

### **xv. Bulk cargoes**

Unless previously otherwise agreed in writing by the Managers, the Association will not be liable for claims for shortage of cargoes carried in bulk unless draft surveys have been carried out at the loading and discharging ports by a surveyor appointed by the Member or by the Association at the expense of the Member and the weight shown on the bills of lading issued for such cargoes is the same or less than the weight found by such draft survey carried out at the loading port.

### **xvi. Bagged cargoes**

Unless previously otherwise agreed in writing by the Managers, the Association will not be liable for claims for shortlanding of bagged cargoes unless tallies have been carried out at the loading and discharging ports by a tally company appointed by the Member and the number of bags shown

on the bills of lading issued for such cargoes is the same or less than the number found by such tally carried out at the loading port.

All other parts of Rule 4.19 to remain unchanged.

The following new sub-clause to be added to Rule 7:

h. any liabilities, losses, damages or expenses directly or indirectly caused by or contributed to be acts of piracy.

All other parts of Rule 7 to remain unchanged.

The following new Rule 8 to be added:

## **Special Sub-limit**

Notwithstanding any other provisions in these rules a Limit of Liability of US\$ 250,000 any one accident or occurrence or series of accidents or occurrences shall be applicable to any and all liabilities, costs, claims, fines, penalties, compensation, losses, damages or expenses arising from any of the following:

1. The transmission or alleged transmission of:
  - (a) Coronavirus disease (COVID-19); or
  - (b) Severe Acute Respiratory Syndrome Coronavirus 2 (SARS CoV-2); or
  - (c) Any mutation or variation of COVID-19 or SARS CoV-2; or
  - (d) Any fear or threat of (a), (b) or (c) above.
2. Any liability for, cost or expense to identify, clean up, detoxify, disinfect, remove, monitor or test for (a), (b) or (c) above;
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, resulting from (a), (b), (c) or (d) above, or any quarantine, which would otherwise be recoverable under these rules.
4. For the purpose of this rule an outbreak of (a), (b) or (c) on board an entered vessel shall be treated as a single occurrence regardless of the number of persons affected.

Yours faithfully

The Board of Directors  
Maritime Mutual Insurance Association (NZ) Limited

