

**To all Members of Class 6
Freight, Demurrage & Defence**

NOTICE IS HEREBY GIVEN that a Separate General Meeting of the Members of Class 6 – Freight, Demurrage & Defence of The Britannia Steam Ship Insurance Association Europe (“Britannia Europe”) will be held via Zoom (details available on request) on Tuesday, 11 January 2022 at 13.00 GMT for the purpose of considering and, if thought fit, passing the following ORDINARY RESOLUTION:

“That, the Rules of Class 6, Freight, Demurrage & Defence of Britannia Europe (the “Class 6 Rules”), be amended with effect from noon GMT on 20 February 2022 as set out in the Annexure” .

The Annexure is attached to this Notice.

By order of the Board.

J A Young
Secretary

13 December 2021

Note: A Member of Class 6 – Protection and Indemnity entitled to attend and vote may appoint a proxy to attend and vote in their stead. Such proxy must be a Member of the Association or the duly authorised representative of a body corporate which is a Member.

MANAGERS:

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Registered Office: 42 - 44 Avenue de la Gare, 1610 Luxembourg
Registered in Luxembourg No.B230379
Authorised and Regulated by the Commissariat aux Assurances

TR(E)

Annexure - Draft Class 6 (FD&D) Rule Changes for the 2022/2023 Policy Year

01/22

Proposed Class 6 (FD&D) Rule Changes are set out below.

The proposed changes for both Britannia and Britannia Europe, which continue to mirror each other, are set out below with additional wording underlined. The words ~~struck through~~ are to be removed from the text of the existing Rules.

Amend Rule 1 as follows:

Rule 1 **ARTICLES OF ASSOCIATION**

These Rules are subject to the Articles of Association of The Britannia Steam Ship Insurance Association Europe ~~or The Britannia Steam Ship Insurance Association Limited as applicable.~~

EXPLANATION: *This change, which is conditional upon the approval by the Japanese regulatory authorities and the English High Court of the Part VII Transfer, reflects the fact that from noon 20 February 2022 the business of Britannia will be written solely by The Britannia Steam Ship Insurance Association Europe.*

Amend Rule 2 as follows:

Rule 2 **DEFINITIONS**

In these Rules the words standing in the first column of the table next hereinafter contained shall bear the meanings set opposite them respectively in the second column thereof, if not inconsistent with the subject or context.

...

The Association The Britannia Steam Ship Insurance Association Europe ~~or The Britannia Steam Ship Insurance Association Limited as named in the Certificate of Entry.~~

EXPLANATION: *This change, which is conditional upon the approval by the Japanese regulatory authorities and the English High Court of the Part VII Transfer, reflects the fact that from noon 20 February 2022 the business of Britannia will be written solely by The Britannia Steam Ship Insurance Association Europe.*

...

Sanction

Any applicable economic, financial or trade sanction or embargo.

EXPLANATION: *This change implements recommendations made by US lawyers aimed at ensuring more comprehensive protection for Britannia and its Members from the risks of sanctions imposed by US governmental authorities.*

Amend Rule 3 as follows:

Rule 3 NATURE OF COVER

...

Conditions 3(3) The risks covered as set out in Rule 17 and 18 are subject to all the conditions set out in other parts of these Rules and those risks may ~~only~~ be varied or supplemented by special terms agreed in writing between a Member and the Managers either under Rule 7 or Rule 17.

EXPLANATION: *This change brings the Rule into line with the established practice of Britannia regarding the writing of special covers in respect of risks that are ordinarily excluded from or are outside the scope of cover under the Rules.*

...

Sanctions 3(5) Notwithstanding and without prejudice to any other provision of these Rules, including Rule 3(3), and the provisions of the Articles of Association, these Rules may, on such notice as the Board may in its discretion decide, be amended at any time (including with effect during the course of a Policy Year) to such extent as the Board may in its discretion determine is necessary as a result of the potential or actual implementation of or change in any ~~sanction~~ Sanction, prohibition, restriction, legislation, regulation or requirement to obtain any licence or approval, by any state, international or supranational organisation or other competent authority.

EXPLANATION: *This change implements recommendations made by US lawyers aimed at ensuring more comprehensive protection for Britannia and its Members from the risks of sanctions imposed by US governmental authorities.*

Amend Rule 5 as follows:

Rule 5 RIGHT OF RECOVERY

...

Sanctions 5(6) The Member shall have no entitlement to recovery out of the funds of this Class of the Association in respect of that part of any liabilities, costs and expenses which is not recovered by the Association under any reinsurance(s) arranged by the Association or the Managers, because, and to the extent, of ~~a~~any shortfall in recovery from such reinsurers by the Association which would result in a violation of any ~~thereunder by reason of a sanction~~Sanction, penalty or any prohibition or adverse action ~~against them administered~~ by ~~a~~any state, international or supranational organisation or other competent authority or the risk thereof if payment were to be made by such reinsurers. For the purposes of this Rule 5(6) "shortfall" includes any failure or delay in recovery by the Association by reason of such reinsurers making payment into a designated account in compliance with the requirements of any state, international or supranational organisation or other competent authority.

EXPLANATION: *This change implements recommendations made by US lawyers aimed at ensuring more comprehensive protection for Britannia and its Members from the risks of sanctions imposed by US governmental authorities.*

Rule 7 SPECIAL INSURANCES

...

7(2) The Managers may accept insurances including entries of Ships on special terms as to Membership and Contribution and, ~~within the scope of these Rules,~~ as to the nature and extent of risks covered, in respect of additional risks not set out in Rule 17 and 18, provided that where such insurance is accepted the person insured shall be bound to pay and shall pay to the Association such sums as shall have been agreed with the Managers and at such time or times as the Managers shall have specified. In particular the Managers may accept such insurances from other insurers.

EXPLANATION: *This change brings the Rule into line with the established practice of Britannia regarding the writing of special covers in respect of risks that are ordinarily excluded from or are outside the scope of cover under the Rules.*

7(3) Without prejudice to the generality of Rule 38, the Managers may reinsure the whole or any part of the risk or risks of the Association insured under this Rule 7 and where such reinsurance is arranged the Member shall be entitled to recover only the net amount actually recovered under such reinsurance arrangements, together with that proportion (if any) of the risk or risks retained by the Association.

EXPLANATION: *This change limits the amount capable of recovery by a Member to the sums actually recovered from reinsurers, together with any sum retained by Britannia, where a risk has been reinsured by Britannia and there has been a shortfall in the recovery from that reinsurance by Britannia.*

Rule 8 JOINT ENTRIES

Payments

Joint Members 8(1)

8(1)(A) The Managers may accept an application by the Member as the Senior Member for another person or persons to be added to the entry of a ship . (hereinafter referred to as Joint Members)

Provided always that:

~~Unless otherwise agreed in writing by the Managers, where any Ship is entered in the names or on behalf of more persons than one (hereinafter referred to as Joint Members) they~~ the Senior Member and all Joint Members shall be jointly and severally liable to pay all Contributions and/or other sums due to the Association in respect of such entry, and the receipt by any Joint Member one of such persons of any payment sums payable by the Association shall be deemed to be the receipt by all Joint Members jointly and shall fully a sufficient discharge the obligations of the Association in respect of such payment.for the same;

8(1)(B) In relation to such application under Rule 8(1)(A) the Senior Member and each Joint Member warrants that the Joint Member is, in relation to the Entered Ship:

- (i) interested in its operation, management or manning; or
- (ii) the holding company or the beneficial owner of the Senior Member or any Joint Member falling within Rule 8(1)(B)(i); or
- (i) a mortgagee or a financial institution (or its subsidiary or affiliate) leasing the Ship as shipowner to the Senior Member; or
- (iv) the bareboat or demise charterer.

8(1)(C) For the purpose of this Rule 8(1), the liability of the Senior Member and all Joint Members to each other shall not be excluded nor discharged by reason of co-assurance and any payment to the Senior Member or one of the Joint Members in respect of any liabilities, losses, costs and expenses shall operate only as satisfaction but not exclusion or discharge of the liability of the Senior Member and the Joint Members to each other.

Disclosure 8(2) Failure by the Senior Member or any Joint Member to disclose material information within his knowledge shall be deemed to have been failure of the Senior Member and all the Joint Members.

- Conduct** **8(3)** Conduct of the Senior Member or any Joint Member which would have entitled the Association to decline to indemnify him shall be deemed the conduct of the Senior Member and all the Joint Members.
- Extent of Cover** **8(4)** The Association shall not insure any Joint Member against any liabilities, costs or expenses which arise other than out of operations and/or activities customarily carried on by or at the risk and responsibility of shipowners (or in the case of a charterers' entry, charterers) and which are within the scope of the cover afforded by these Rules and the Certificate of Entry.
- Limits of cover** **8(5)** Where any Ship is entered in the names of or on behalf of Joint Members any limits on the cover provided by the Association and set out in the Certificate of Entry or these Rules shall apply to all Joint Members in the aggregate as if the Ship had been entered by the Senior Member only.
- Communications** **8(6)** Unless the Managers have otherwise agreed in writing, all communication from or on behalf of the Association to the Senior Member or any Joint Member shall be deemed to be within the knowledge of the Senior Member and all ~~the~~ Joint Members and any communication from the Senior Member or any Joint Member to the Association or to the Managers shall be deemed to have been made with the full approval and authority of the Senior Member and all the Joint Members.

Provided always that:

There shall be no recovery in respect of any liabilities, costs or expenses which arise as the result of a claim brought between any of the Joint Members or with the Senior Member.

EXPLANATION: *Amendments are being proposed to the Class 3 Rules to incorporate various categories of Co-Assureds to clarify the categories and scope of the Co-assurance. The above changes have been made to bring this Rule into line with those proposed revisions.*

Amend Rule 16 as follows:

Rule 16 COVER FOR ASSOCIATED COMPANIES

16(1) The Managers may accept the entry of any Ship upon terms that the benefit of the cover afforded by the Association to a Member in respect of that Ship shall be extended to Associated Companies of that Member. The rights and obligations as between the Association and any such Associated Company shall be such as may be agreed between the Member and the Managers.

...

Receipt of Reimbursement 16(3) The receipt by the Member, or any Associated Company to whom cover has been extended in accordance with Rule 16(1), of any ~~payment~~ reimbursement by the Association shall be deemed to be the receipt by the Member and all such Associated Companies jointly and shall fully discharge ~~the obligations of~~ the Association ~~in respect of such payment~~ from any further liability to the Member and any Associated Companies in respect of the loss and damage in respect of which the claim was brought.

EXPLANATION: *Amendments are being proposed to the Class 3 Rules to incorporate various categories of Co-Assureds to clarify the categories and scope of the Co-assurance. The above changes have been made to bring this Rule into line with those proposed revisions.*

Amend Rule 18 as follows:

Rule 18 EXTENT OF COVER

The cover provided under Rule 17 in accordance with the provisions of Rule 3 applies to the following claims, disputes and proceedings involving the Entered Ship:

Freight, Hire and Demurrage 18(1) Claims in respect of freight, deadfreight, hire, demurrage, ~~or~~ despatch or other remuneration arising under any contract of affreightment, charter party, bill of lading or other contract ~~of carriage~~ connected with the employment of an Entered Ship.

EXPLANATION: *This change clarifies that claims for earnings under other contracts connected with the employment of an Entered Ship are covered claims under Class 6.*

Amend Rule 20 as follows:

Rule 20 RISKS SPECIFICALLY EXCLUDED

Subject always to the absolute discretion of the Board (or, in the case of claims not exceeding USD 2 million, the Committee) under Rule 32(1), there shall be no recovery from the Association in respect of Costs which arise in respect of:

...

Sanctions 20(8) Matters where the provision of cover or a payment by the Association in respect thereof may expose the Association or the Managers to the risk of being subject to ~~any sanction~~ Sanction, penalty, prohibition or any adverse action by a state, international or supranational organisation or other competent authority.

EXPLANATION: *This change implements recommendations made by US lawyers aimed at ensuring more comprehensive protection for Britannia and its Members from the risks of sanctions imposed by US governmental authorities.*

Cyber Risks 20(9) Unless otherwise agreed by the Managers in writing:

- (A)** Subject only to Rule 20(9)(C) below, there shall be no recovery from the Association in respect of any loss, damage, liability, cost or expense directly or indirectly caused by or contributed to by or arising from the use or operation, as a means for inflicting harm, of any computer, computer system, computer software programme, malicious code, computer virus, computer process or any other electronic system;
- (B)** Subject otherwise to the terms of entry, the indemnity otherwise recoverable under this insurance 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;
- (C)** Where this insurance otherwise affords cover in respect of the 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, Rule 20(9)(A) shall not operate to exclude losses (which would otherwise be recoverable) 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.

EXPLANATION: *This amendment follows the reinsurers' exclusion of all claims relating to cyber-risks, subject to any extension of cover agreed by Britannia.*

Coronavirus 20(10) risks Notwithstanding anything else contained in the terms of entry to the contrary, unless otherwise agreed by the Managers in writing, there shall be no recovery whatsoever from the Association against:

- (A)** any loss, damage, liability, cost or expense arising directly from the transmission or alleged transmission of:

- (i) Coronavirus disease (COVID-19)
- (ii) Severe Acute Respiratory Syndrome Coronavirus (SARSCoV- 2); or
- (iii) any mutation or variation of SARS-CoV-2;

or from any fear or threat of any of the above;

(B) any liability, cost or expense to identify, clean up, detoxify, remove, monitor or test for those matters referred to in Rules 20(10)(A)(i),(ii) and (iii) above;

(C) any liability for or loss, cost or expense arising out 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 the matters referred to in Rules 20(10)(A)(i),(ii) and (iii) above or the fear or the threat thereof.

EXPLANATION: *This amendment follows the reinsurers' exclusion of all claims relating to Coronavirus risks, subject to any extension of cover agreed by Britannia.*

Amend Rule 21 as follows:

Rule 21 EXCLUSION OF CERTAIN SPECIALIST RISKS

There shall be no recovery from the Association in respect of any Costs relating to claims in respect of expenses of an Entered Ship which is:

Underwater Operations 21(6) Used as or in connection with the operation of a submarine, mini-submarine, ~~or~~ diving bell, or remotely operated underwater vehicle.

EXPLANATION: *This amendment brings the Class 6 Rules into line with the proposed revised wording of the Class 3 Rules and the Pooling Agreement.*

Amend Rule 33 as follows:

Rule 33 **CESSER OF ALL INSURANCES**

Sanctions 33(4) If, by virtue of any ~~sanction~~Sanction, prohibition or any adverse action by a state, international or supranational organisation or other competent authority, the Association is prohibited from insuring the Member.

EXPLANATION: *This change implements recommendations made by US lawyers aimed at ensuring more comprehensive protection for Britannia and its Members from the risks of sanctions imposed by US governmental authorities.*

Amend Rule 34 as follows:

Rule 34 **CESSER OF SHIP ENTRY**

Sanctions 34(8) If, by virtue of any ~~sanction~~Sanction, prohibition or any adverse action by a state, international or supranational organisation or other competent authority, the Association is prohibited from insuring the Entered Ship.

EXPLANATION: *This change implements recommendations made by US lawyers aimed at ensuring more comprehensive protection for Britannia and its Members from the risks of sanctions imposed by US governmental authorities.*

Amend Rule 45 as follows:

Rule 45 **NOTICES**

...

On a Member 45(2) A notice required under these Rules to be served on a Member may be served by sending it through the post in a pre-paid letter or by sending it by facsimile message or by electronic mail to such Member at his address as appearing in the Register or at any place of business of a broker or other intermediary through whom a Ship to which the notice relates is or was entered in the Association. In the case of Joint Members and Co-Assureds, a notice shall be served on any Joint Member and any Co-Assured respectively, and such service shall be sufficient service upon all Joint Members or Co-Assureds as the case may be.

EXPLANATION: *Amendments are being proposed to the Class 3 Rules to incorporate various categories of Co-Assureds to clarify the categories and scope of the Co-assurance. The above changes have been made to bring this Rule into line with those proposed revisions.*

...

Successors **45(5)** The successors of anyone who is or was at any time a Member of the Association shall be bound by a notice or other document served as aforesaid if sent to the last such address of such Member notwithstanding that the Association may have notice that the Member has become of unsound mind or is otherwise mentally unfit, or of the Member's death, ~~disability, lunacy,~~ bankruptcy or liquidation.

EXPLANATION: *This amendment modernises the language of the Rule.*