



FEBRUARY 19, 2016

CIRCULAR NO. 09/16

TO MEMBERS OF THE ASSOCIATION

Dear Member:

COVERAGE BY INTERNATIONAL GROUP CLUBS OF INCIDENTS INVOLVING COUNTRIES SUBJECT TO US ECONOMIC SANCTIONS: TRADING TO AND FROM IRAN

The guidance contained in paragraphs 1 to 10 below is being circulated by all International Group (IG) clubs to their respective memberships.

It contains an explanation of the current International Group position in regard to insurance and reinsurance coverage relative to incidents arising in countries subject to US, and other, economic sanctions, and the impact on the clubs and their members of continuing prohibitions on US reinsurers. As Members will note, the guidance makes reference to the American Club and, in this context, should be read in conjunction with Club Circulars **07/16**, of February 9, 2016, and **04/16**, of January 18, 2016.

Background

1. As mentioned above, Members are referred to Circulars, **04/16** and **07/16**, of January 18 and February 9, 2016 respectively, concerning developments with regard to Iran sanctions. This Circular is intended to elaborate on earlier Circulars and assist Members when deciding whether to trade to/from Iran by explaining what P&I cover is available, as well as identifying any possible shortfalls in cover. Some of the matters detailed below may also apply when Members' ships trade to/from other countries which are subject to US sanctions.
2. In recent years sanctions have been imposed on Iran, primarily by the UN, the US and the EU, including in broad terms prohibitions on:
 - (a) US persons, including US financial institutions, from doing business in or relating to Iran;
 - (b) dealings with designated entities and individuals; and
 - (c) Iranian related trade, prohibiting the purchase/sale and/or transport of certain Iranian cargoes (primarily crude oil, petroleum or petrochemical products or gas) or the provision of insurance (including P&I insurance) in respect of the carriage of those cargoes.
3. In July 2015 the Joint Comprehensive Plan of Action (JCPOA) was agreed between the P5+1 countries and Iran. On January 16, 2016 (Implementation Day) the majority of the US and EU trade sanctions noted in (c) above were lifted. However, the sanctions noted in (a) and (b) above remain in place. It is also important to note that sanctions remain in place in respect of a number of other countries (e.g. Cuba, Russia/Crimea, North Korea, Sudan and Syria).

The interaction between sanctions and IG club P&I cover

4. The Rules of all of the IG clubs:
 - (a) contain a cesser or non-insurance rule, under which the member has no P&I cover in respect of activities or liabilities which breach applicable sanctions; and
 - (b) prohibit or limit (reduce) a member's right of recovery from its club if, because of the application of sanctions, there is a shortfall in the club's reinsurance (which includes any shortfall under the IG Pooling Agreement, General Excess of Loss program or any other reinsurance arrangement).

Effect of sanctions on Pooling and the Group Excess of Loss program (GXL program)

5. For the 2016/17 policy year, individual International Group clubs will retain the first USD10 million of liabilities arising from an incident. Between USD10 million and USD80 million, liabilities are shared between all 13 IG clubs (the Pool). If any of the 13 IG clubs is prohibited (by sanctions applicable to that club) from contributing their share of any Pool claim, the individual member will bear that shortfall in accordance with the applicable club's rules. The Managers understand that the only IG club domiciled in the US (the American Club), and therefore still subject to US primary sanctions against Iran, now benefits from a license which in most circumstances would enable it to contribute its full share of any Pool claim notwithstanding the involvement of an Iranian entity or person (other than an Iranian SDN).
6. Liabilities above USD80 million fall within the GXL program and, if sanctions apply, the same approach as with Pool claims (para 5 above) is followed. However, if the liability arises under an approved certificate or guarantee e.g. a CLC, Bunker Convention or Wreck Removal Convention Blue Card, the STOPIA/TOPIA agreement (so-called "certificated liabilities") then in the event of a reinsurance shortfall under the GXL program, the 13 IG clubs have agreed to re-pool that shortfall, again subject to individual clubs being permitted by applicable sanctions to contribute. If an individual club cannot contribute, then that club's shortfall would be borne by the member.
7. If the GXL program shortfall arises in respect of a liability for which the club is not directly liable under an approved certificate or guarantee e.g. collision/FFO liabilities (so-called non-certificated liabilities), the loss is not re-pooled by the 13 IG clubs and will be borne by the member under the applicable club's rules.
8. The US-domiciled reinsurer participation on the GXL remains directly affected by US primary sanctions. A significant further proportion of the program has a US nexus, which may impact upon the ability of non-US domiciled, but US affiliated or subsidiary, reinsurers to pay a claim which their US domiciled parent or affiliate would be prevented from paying by virtue of the continuing US primary sanctions. This could result in a significant shortfall in recovery under the GXL program and the exposure detailed in paras 5-7 above. This shortfall could apply to liabilities incurred by vessels trading anywhere in the world (if for example a vessel was involved in a collision with an Iranian owned vessel) as well as vessels that trade to/from Iran, and Iranian-owned vessels.

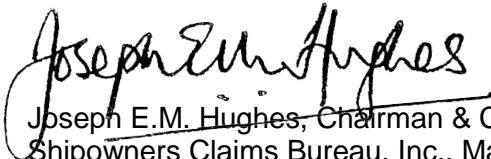
Finding a solution with OFAC

9. Given the potential extent of a reinsurance shortfall, both in scope and amount, the International Group has engaged directly with the US authorities (State Department and OFAC). The aim is to achieve a long term solution which would enable all participants in the GXL program to honor their commitments.
10. Discussions with OFAC with regard to general or specific licensing possibilities are ongoing. In the meantime, in an effort to find an interim solution in respect of Iran, the IG has asked OFAC for confirmation that “fall-back” insurance (i.e. insurance to bridge either fully or partially any GXL program shortfalls) would be non-objectionable. If OFAC does not object to such insurance, this may provide a short term solution, but obtaining such cover is not a straightforward task and, because of difficulties associated with market capacity and the likely available limit of such cover, it may be limited to certificated liabilities at this stage. Any solution, whether on an interim or permanent basis, may take some time to put in place. The Group will continue its active engagement with the State Department and OFAC in an effort to achieve interim and long-term solutions. Members will be kept informed of developments.

Questions and further guidance

For any questions regarding any aspect of the foregoing, or for confirmations as to the availability of cover for voyages involving Iran or other countries, please contact: Charles J. Cuccia, Senior Vice President – Compliance & Enterprise Risk Management, ph +1 212 847 4539, mob +1 917 215 2883, charles.cuccia@american-club.com.

Yours faithfully,



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Shipowners Claims Bureau, Inc., Managers for
THE AMERICAN CLUB

All clubs in the International Group have issued a similar circular.