



NOVEMBER 26, 2012

CIRCULAR NO. 33/12

TO MEMBERS OF THE ASSOCIATION

Dear Member:

THE ATHENS CONVENTION/EU PASSENGER LIABILITY REGULATION (PLR): SAFEGUARD GUARANTEE COMPANY LTD: "WAR PASSENGER BLUE CARDS"

Members are referred to Circular No. 24/12 of September 25, 2012 which contained an update on the entry into force of the Regulation (EC) 392/2009 of the European Parliament and of the Council of 23 April 2009 on the Liability of Carriers of Passengers by Sea in the Event of Accidents (PLR).

As mentioned in that circular, all clubs in the International Group have agreed to provide the required non-war risk PLR "blue card" to enable owners to apply to EU/EEA member states for PLR certificates in advance of December 31, 2012. In conjunction with this, it has been agreed that claims arising under the non-war risk blue cards will be poolable within the International Group's pooling and reinsurance arrangements subject to the \$2 billion limit placed by the International Group on passenger claims.

As mentioned in Circular No. 24/12, owners will also be required to obtain a war risks blue card which will be signed by an insurer or other provider of financial security who will in effect guarantee the owner's liability to passengers for injury and death arising out of acts of war and terrorism. The form and procedure for the war risks blue card are contained in the 2006 IMO Guidelines.

Since there was not a majority of Group clubs in favor of including cover for war and terrorism risks going forward, alternative arrangements have emerged to ensure that operators of passenger vessels subject to the new regime are in a position to comply. As will be recalled, your Managers undertook to keep Members fully informed of developments in this regard.

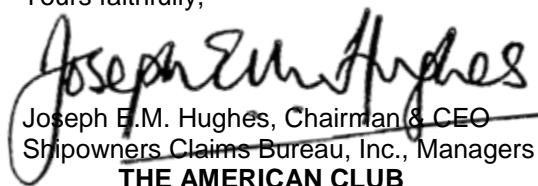
To this end, your Managers attach hereto details of an insurance and guarantee facility to cover war and terrorism liabilities which fall outside the scope of regular P&I insurance. The facility is being offered by Safeguard Guarantee Company Ltd (Safeguard), a wholly owned subsidiary of Gard P&I (Bermuda) Ltd (Gard). Safeguard will issue a separate guarantee, known as the "war passenger blue card" which will cover owners against third party claims for the first SDR250,000 per passenger for these risks with an overall limit of SDR340 million per vessel, per event.

As will be noted, the new insurance and guarantee cover will be available for any owner regardless of whether or not the vessel(s) in question are insured in Gard for P&I risks. Members who require such documentation in addition to the non-war blue card, which will be issued by the Club itself in due course, are requested to note the existence of this facility and the services it provides, all of which are described in detail in the attached document.

Further developments, including the development of other facilities for this purpose, will be reported to Members as they occur.

In the meantime, your Managers will be pleased to respond to any enquiries which Members may have in regard to the Safeguard initiative, or in reference to this subject generally.

Yours faithfully,


Joseph E.M. Hughes, Chairman & CEO
Shipowners Claims Bureau, Inc., Managers for
THE AMERICAN CLUB

To the Members

Dear Sirs,

**The Athens Convention/EU Passenger Liability Regulation
Safeguard Guarantee Company Ltd as provider of financial security for War and
Terrorism Risk falling outside standard club cover****Introduction**

The EU Passenger Liability Regulation no. 329/2009 ("PLR") will enter into force from 31 December 2012 and will apply in all European Union (EU) and European Economic Area (EEA) Member States¹ from 31 December 2012. The PLR incorporates the key provisions of the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974, as amended by the Protocol of 2002 (the "Athens Convention"). The PLR will give direct effect in the EU and the EEA area to the liability, compulsory insurance and certificate provisions in the Athens Convention.

The provision of financial security required under the Athens Convention/PLR will entail an exposure to war risks, in practice the terrorism risk. The Reservation and Guidelines for Implementation of the Athens Convention adopted by the Legal Committee of the International Maritime Organization on 19 October 2006 (the "IMO Guidelines") governing the implementation of the Athens Convention (which are included in the PLR) distinguish between, on the one hand, the war risk and, on the other hand, the non-war risk. This enables the Clubs of the International Group ("IG") to issue guarantees covering the non-war risk, comprising liabilities falling within the scope of standard club cover - the so-called "Non-War Passenger Blue Cards". Further details about the Non-War Passenger Blue Cards are found in Circular No 08/2012: [Entry into force of the Regulation \(EC\) No 392/2009 of the European Parliament and of the Council of 23 April 2009 on the Liability of Carriers of Passengers by Sea in the Event of Accidents \(the "PLR"\)](#) dated September 2012.

Financial security for the War and Terrorism Risk, the so-called "War Passenger Blue Card" has to come from another source as outlined below.

War Passenger Blue Cards - Safeguard

The War and Terrorism Risk, and the financial security covering the war risk – the War Passenger Blue Cards – will not fall within the scope of the risks covered by the IG Clubs'

¹ EU membership is comprised of the 27 States: Austria, Belgium, Bulgaria, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the United Kingdom. EEA States: Iceland, Norway and Liechtenstein. Croatia will accede to the EU on 1 July 2013 and will apply the Regulation from 31/12/2012.

Pooling Agreement, which is the basis for the IG Clubs' claims sharing and collective purchase of market reinsurance. Therefore we wish to meet the new demand in the market through the expansion of the scope of the business of Safeguard Guarantee Company Ltd ("Safeguard") to include War Passenger Blue Cards.

Safeguard is a wholly-owned subsidiary of Gard P. & I. (Bermuda) Ltd and managed by Lingard Limited in Bermuda. Safeguard is today the issuer of blue cards under the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001 ("Bunker Convention") for tonnage reinsured outside the IG structure. The company will now extend its scope of business to include the provision of financial security required for War and Terrorism Risk - War Passenger Blue Cards - under the Athens Convention/PLR.

Safeguard has since 2008 been approved as a security provider by flag states under the Bunker Convention. The financial security requirements under the Athens Convention/PLR have features in common with the requirements under the Bunker Convention.

Against the background of the scope of Safeguard's business being expanded to include the offering of War Passenger Blue Cards, the equity capital of Safeguard has been increased to USD 30 million.

Reinsurance

Safeguard has arranged reinsurance predominantly in the Lloyd's market for the full limit under the Athens Convention/PLR amounting to SDR 340 million per ship per event with unlimited reinstatements for the period from 31 December 2012 to 20 February 2014.

Further details about the War Passenger Blue Card Insurance

The War Passenger Blue Card insurance will be offered both to members of Gard P. & I. (Bermuda) Ltd and Assuranceforeningen Gard – gjensidig as well as shipowners entered for P&I risks in other IG Clubs or insured outside the IG structure. The new cover will supplement standard club P&I cover. Key features of the new guarantee and insurance facility are as follows:

- *Safeguard as guarantor:* Safeguard shall as the guarantor provide the financial security required pursuant to article 4bis of the Athens Convention covering the carrier's liability in respect of death of or injury to passengers caused by any of the risks referred to in paragraph 2.2 of the IMO Guidelines, i.e. the War Passenger Blue Card.
- *Safeguard as insurer.* Safeguard will insure the carrier's liability in respect of death of or injury to passengers caused by any of the risks referred to in paragraph 2.2 of the IMO Guidelines, to the extent cover is not available under the carrier's original war risk policies and the liability falls within the scope of the War Passenger Blue Card.
- *Limits of liability:* The limit of liability is SDR 250,000 (approx. USD 387,500) per passenger on each distinct occasion with a maximum limit of SDR 340 million per ship on each distinct occasion.

- *Condition of cover:* It shall be a condition for the insurance cover that:
 - the ship is insured for P&I risks with an approved P&I insurer and has hull and machinery insurance for the full value of the ship, including cover for collision liabilities, either under the terms of the P&I insurance or under the hull and machinery insurance or under a combination of both;
 - the ship is insured against war risks for not less than the full value insured on the hull and machinery policy plus all amounts on any interest policies on terms no narrower than the Institute Protection and Indemnity War Strike Clauses Hulls – Time (20/7/87), with insurers whose financial security rating by Standard & Poor's and/or AM Best is no lower than 'BBB' or as specifically agreed, subject to an absolute minimum rating of 'BB', throughout the period of insurance.
- *Safeguard's right of recourse against original war risk policies subordinate to the owner's own right:* Safeguard's right of recourse under the original war risk policies shall be subordinate and secondary to the owner's own right of recovery.

Standard Terms and Conditions – application form

Safeguard's standard Terms and Conditions for the War Passenger Blue Card insurance and application form are available on request and are also available on Safeguard's website [www. safeguardguarantee.bm](http://www.safeguardguarantee.bm).

Contact details are as follows:

Lingard Limited,
Trott & Duncan Building,
17A Brunswick Street,
PO Box HM 3038,
Hamilton HM NX,
Bermuda
Telephone: + 1 441 292 67 66

Update on implementation of the financial security requirements

Ships licensed to carry more than twelve passengers and registered in an EU/EEA Member State or entering or leaving a port in the territory of an EU/EEA Member State, will be required to maintain insurance which meets the requirements of the Athens Convention/PLR and to obtain a certificate issued by an EU/EEA Member State attesting that such insurance is in force. EU/EEA States will issue one PLR certificate on receipt of two blue cards, i.e. the War Passenger Blue Card and the Non-War Passenger Blue Card. The State issued certificate must be carried on board at all times. The certificates attesting that insurance or other financial security is in force covering the owner's liability shall be issued to each ship when the appropriate authority of a State Party has determined that the requirements under the Athens Convention/PLR are met.

Further details as to the implementation of the PLR in each individual EU/EEA member state for ships in domestic trade only are included in Annex I to this circular.

Gard AS, P.O. Box 789 Stoa, NO-4809 Arendal, Norway Tel: +47 37 01 91 00, Fax: +47 37 02 48 10,
Outside office hours: +47 90 52 41 00

For and on behalf of an entity of the Gard Group comprising, inter alia; Gard P. & I. (Bermuda) Ltd, Assuranceforeningen Gard - gjensidig - and Gard Marine & Energy Limited. Gard AS is registered as an insurance intermediary by the Norwegian Financial Supervisory Authority. Company Code : 982 132 789

Further questions can be directed to Lingard Limited, Cymone Williams (e-mail address: cymone.williams@lingard.bm), Kjetil Eivindstad (e-mail address: kjetil.eivindstad@gard.no) (Chairman of Safeguard) or Gard AS, Sara Burgess (e-mail address: Sara.burgess@gard.no) or Knut Goderstad (e-mail address: knut.goderstad@gard.no).

Yours faithfully,

GARD AS



Claes Isacson
Chief Executive Officer

Annex 1**Further details as to the implementation of the PLR in each individual EU/EEA member state for ships in domestic trade**

The EU Passenger Liability Regulation no. 329/2009 (“PLR”) applies with immediate effect to Class A & Class B vessels engaged in sea-going voyages within a single EU/EEA State. However, EU/EEA States have the option to defer application as follows:

- Class A vessels until four years after the date of application of the PLR i.e. 31 December 2016; and
- Class B vessels until six years after the date of application of the PLR i.e. 31 December 2018.

In addition, States have the option of extending the scope of the PLR to include all ships in domestic sea-going traffic. In practice this means including Class C and Class D vessels.

Not all EU/EEA States have taken a policy decision yet on application of the PLR to those Classes of vessels engaged in domestic sea going voyages. It is understood that the current position of States is as follows:

PLR to apply to domestic carriage and Class A, B, C and D vessels from 31 December 2012

- Netherlands
- Finland
- Denmark

PLR to apply to Class A and B from 31 December 2012

- Croatia
- Poland
- Sweden
- France

PLR not to apply to domestic carriage until 31 December 2016 for Class A vessels and 31 December 2018 for Class B vessels

- UK
- Italy
- Spain
- Belgium
- Latvia
- Cyprus (to be formally decided soon)
- Greece (to be formally decided soon)

Not decided yet

- Norway
- Estonia

Members engaged in carriage in a single State or the domestic waters of an EU/EEA State are encouraged to contact the authorities in that State to determine the State's application of the PLR to domestic waters.

Class A, B, C and D vessels under Article 4 of EU Directive 98/18/EC are defined as follows;

Passenger ships are divided into the following classes according to the sea area in which they operate:

- 'Class A' means a passenger ship engaged on domestic voyages other than voyages covered by Classes B, C and D.
- 'Class B' means a passenger ship engaged on domestic voyages in the course of which it is at no time more than 20 miles from the line of coast, where shipwrecked persons can land, corresponding to the medium tide height.
- 'Class C' means a passenger ship engaged on domestic voyages in sea areas where the probability of exceeding 2.5 m significant wave height is smaller than 10 % over a one-year period for all-year-round operation, or over a specific restricted period of the year for operation exclusively in such period (e.g. summer period operation), in the course of which it is at no time more than 15 miles from a place of refuge, nor more than 5 miles from the line of coast, where shipwrecked persons can land, corresponding to the medium tide height.
- 'Class D' means a passenger ship engaged on domestic voyages in sea areas where the probability of exceeding 1.5 m significant wave height is smaller than 10 % over a one-year period for all-year-round operation, or over a specific restricted period of the year for operation exclusively in such period (e.g. summer period operation), in the course of which it is at no time more than 6 miles from a place of refuge, nor more than 3 miles from the line of coast, where shipwrecked persons can land, corresponding to the medium tide height.