

January 2020

TO ALL MEMBERS

## War Risks P&I Excess cover and Bio-Chem cover for the 2020/21 policy year – International Group arrangements

### WAR RISKS P&I EXCESS COVER

Although war risks are excluded from standard P&I cover (Rule 30.4.1), Assuranceforeningen Skuld (Gjensidig) (“the Association”), in conjunction with other P&I Clubs in the International Group, continues to provide War Risks P&I Excess Cover on the same basis as in the 2019/20 policy year for Members entered on a full mutual basis.

The limit of cover remains at USD 500 million. The cover is subject to an excess of the proper value of the entered vessel, or whatever sums are recoverable from other war risks covers. However, for the 2020 policy year there is a change to the definition of the excess. This change is in respect of the minimum excess of the policy which has increased from the proper value of the entered ship (as agreed by the relevant Association) or USD 100 million whichever is the less, to the proper value of the entered ship (as agreed by the relevant Association) or USD 500 million whichever is the less.

The full wording now reads as follows:

*“This policy to pay claims excess of amounts recoverable under vessels’ war or crew war risks Protection and Indemnity policies subject to a minimum excess of the proper value of the entered ship (as agreed by the relevant Association) or USD 500 million whichever is the less (applicable to owners’ entries and not to Charterers’ entries), and further subject to a minimum excess of USD 50,000 any one event.”*

The brokers and reinsuring underwriters are concerned that the intent of this clause should be clearly understood and, following discussions with the International Group, the brokers have issued the following clarification with the approval of reinsuring underwriters:

*“It is therefore our understanding that in respect of Owners’ entries this policy will respond excess of underlying insurances with a limit of at least the proper value of a vessel.*

*In the event that a vessel is not so insured, this policy will respond as if an underlying policy with a limit up to the proper value were in place, except that for a vessel with a proper value of more than USD 500 million, the deemed underlying excess shall be USD 500 million.*

*Further we understand that this policy will be in excess of all other policies placed by owners for vessels’ or crew war risks P&I. We do not believe that corporate general liability umbrellas placed on behalf of organisations of which shipping forms a part are underlying policies hereon (even if they might include some war and terrorism cover).*

*We believe reinsurers understand that Club boards may exercise their discretion as to what constitutes the proper value of an entered vessel, but the payment of claims under this policy remains subject to the criteria above.”*

Members should note that they are deemed to have underlying cover with conditions equivalent to the cover above (“P&I - War Risks”) equal to at least the proper value of the ship. Furthermore, this cover is excess of any cover which the Member has actually taken out which covers the risk, unless the cover is a corporate general liability umbrella cover.

The effect of this change is that Members who have ships valued individually at more than USD 100 million and who do not purchase primary war risks insurance will have a larger gap in their cover for the 2020 policy year (to fund for their own account). Members are therefore recommended to review their war risks arrangements to ensure they are aware of their exposures in respect of any ship valued at more than USD 100 million.

The cover is subject to a deductible of USD 50,000 any one event each vessel.

The cover is for P&I risks as set out in Part II of Skuld’s Rules and which are excluded from standard cover by virtue of the war risks exclusion in Rule 30.4.1. The cover is subject to the Statutes and Rules (save for the exclusion in Rule 30.4.1) and to any terms and conditions separately agreed with members.

#### **MEMBERS SHOULD NOTE THE FOLLOWING:**

- Since this is an excess cover only, Members must maintain their primary war risks P&I cover with a minimum limit of the value of the entered vessel or USD 500 million, whichever is the less. Members should ensure that this cover is maintained at a level which accurately reflects the proper value of their vessels in the prevailing market.
- If Members choose to insure for amounts in excess of the value of the vessel, the cover provided by the Association will apply in excess of the total amounts recoverable under all other P&I war risks policies.
- The limit of USD 500 million is subject to aggregation (see Appendix 1).
- The cover is subject to cancellation, automatic termination and nuclear and bio-chem exclusions, full details of which appear in Appendix 1. Liabilities which Members may incur under TOPIA 2006 (as amended in 2017) are excluded.
- Members are reminded that where payment by the Club under a guarantee or a certificate is in respect of war risks, Members shall indemnify the Club to the extent such payment is recovered or would have been recoverable under a standard P&I war risk policy.

#### **BIO-CHEM POOL**

The War Risks P&I Excess Cover is subject to the bio-chem exclusion contained in Appendix 1.

In order to provide a degree of cover to Members, the P&I Clubs in the International Group agreed in 2004 to cover bio-chem risks relating to crew claims and for legal costs relating to other P&I liabilities. This arrangement will continue in the 2020/21 policy year. Cover is provided through a special pooling arrangement and is subject to a limit of USD 30 million in the aggregate.

Details of the cover are set out in Appendix 2.

Yours faithfully,  
Assuranceforeningen Skuld (Gjensidig)



Ståle Hansen  
President and CEO

## APPENDIX 1: WAR RISKS P&I EXCESS COVER

### Notice of Cancellation, Automatic Terminations of Cover and War and Nuclear Exclusion Clause

#### 1. Cancellation

1.1. The Association may in its discretion determine that any ports, places, countries, zones or areas (whether on land or sea) be excluded from the insurance provided by this insurance for war risks ("Prohibited Areas"). Save as otherwise provided by the Association this insurance shall cease in respect of Prohibited Areas at midnight on the seventh day following the issue of notice of such determination. Unless and to the extent that the Association in its discretion decides otherwise, there shall be no recovery from the Association under this insurance in respect of any losses, liabilities, costs and expenses howsoever arising out of any event, accident or occurrence within the Prohibited Areas after such date.

1.2. The Association may cancel this insurance for war risks by giving seven days' notice, such cancellation becoming effective at midnight on the seventh day following the issue of notice of cancellation the Association. The Association may at any time after the issue of notice of such cancellation resolve to reinstate cover on such terms and conditions and subject to such limit as the Association in discretion may determine.

#### 2. Automatic Termination of Cover

Whether or not such notice of cancellation has been given cover hereunder in respect of the risks of war, etc, shall terminate automatically

2.1. upon the outbreak of war (whether there be a declaration of war or not) between any of the following: United Kingdom, United States of America, France, the Russian Federation, the People's Republic of China;

2.2. in respect of any vessel, in connection with which cover is granted hereunder, in the event of such vessel being requisitioned either for title or use.

#### 3. Five Powers War and Nuclear Exclusions

This insurance excludes:

3.1. loss damage liability or expense arising from

- 3.1.1. the outbreak of war, whether there be a declaration of war or not between any of the following: United Kingdom, United States of America, France, the Russian Federation, the People's Republic of China;
- 3.1.2. requisition either for title or use

3.2. loss damage liability or expense directly or indirectly caused by or arising from

- 3.2.1. ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel, or
- 3.2.2. the radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof, or
- 3.2.3. any weapon of war employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter.

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**Chemical, Biological, Bio-chemical, Electromagnetic Weapons and Computer Virus Clause**

This clause shall be paramount and shall override anything contained in this insurance inconsistent therewith:

1. In no case shall this insurance cover loss damage liability or expense directly or indirectly caused by or contributed to by or arising from

1.1. any chemical, biological, bio-chemical or electromagnetic weapon;

1.2. the use or operation, as a means for inflicting harm, of any computer virus.

1.3 Clause 1.2 shall not operate to exclude losses (which would otherwise be covered under the terms of this policy) 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.

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**Aggregated limit**

Where the Member and another party or other parties are insured under more than one owner's and/or charterer's entry with the Association or with any other insurers which participate in the Pooling Agreement and the International Group Reinsurance policies, the aggregate of claims brought against the Association and such other insurers under this I P&I war risk cover shall be limited to USD 500 million any one event each vessel. If such claims exceed this limit, the liability of the Association in respect of each certificate of entry shall be limited to that proportion of that limit that claims recoverable from the Association under that certificate of entry bear to the aggregate of the said claims recoverable from the Association and other insurers.

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**Law**

This cover is subject to English law and practice.

## APPENDIX 2: BIO-CHEM POOL

### 1. Cover

The member shall be covered for liability in respect of

- 1.1. damages, compensation or expenses in consequence of the personal injury to or illness or death of any seaman (including diversion expenses, repatriation and substitute expense and Shipwreck unemployment indemnity), and
- 1.2. legal costs and expenses incurred solely for the purpose of avoiding or minimising any other P&I liability (other than under the Omnibus Rule),

where such liability would be recoverable under

- a) cover provided by the Association under the Rules but for the exclusion of war risks in Rule 30.4.1, and
- b) any other policy for the risks excluded by Rule 30.4.1 save only for the operation of an exclusion of liabilities, costs, losses and expenses directly or indirectly caused by or contributed to by or arising from
  - i. any chemical, biological, biochemical or electromagnetic weapon, or
  - ii. the use or operation, as a means for inflicting harm, of any computer, computer system, computer software program, malicious code, computer virus or process or any other electronic system,

other than liabilities, costs, losses and expenses arising from

- a) explosives or the methods of the detonation or attachment thereof,
- b) the use of the entered Ship or its cargo as a means for inflicting harm, unless such cargo is a chemical or bio-chemical weapon, or
- c) the use of any computer, computer system or computer software program or any other electronic system in the launch and/or guidance system and/or firing mechanism of any weapon or missile.

### 2. Excluded Areas

2.1. Unless and to the extent the Association may in its discretion otherwise decide, there shall be no recovery in respect of any liabilities, costs, losses and expenses directly or indirectly caused by or contributed to by or arising out of any event, accident or occurrence within the ports, places, zones or areas or during such period as may be specified by the Association.

2.2. At any time or times before, or at the commencement of, or during the Policy Year, the Association may by notice to the Member change, vary, extend, add to or otherwise alter the ports, places, countries, zones and periods specified in Paragraph 2.1 from a date and time specified by the Association not being less than 24 hours from midnight on the day the notice is given to the Member.

### 3. Cancellation

Cover hereunder may by notice to the Member be cancelled by the Association from a date and time specified by the Association, not being less than 24 hours from midnight on the day notice of cancellation is given to the Member.

#### **4. Limit of Liability**

4.1. Subject to Paragraph 4.2, the limit of the liability of the Association under this extension of cover in respect of all claims shall be in the aggregate USD 30 million each ship any one accident or occurrence or series thereof arising from any one event.

4.2. In the event that there is more than one entry by any person for bio-chem cover as provided herein in respect of the same ship with the Association and/or any other insurer which participates in the Pooling Agreement or International Group Reinsurance Policies, the aggregate recovery in respect of all liabilities, costs, losses and expenses arising under such entries shall not exceed the amount stipulated in Paragraph 4.1 and the liability of the Association under each such entry shall be limited to such proportion of that amount as the claims arising under that entry bear to the aggregate of all such claims recoverable from the Association and any such other insurer.

#### **5. Deductible**

The deductible shall be the deductible applicable to the relevant cover.

#### **6. Law and Practice**

This cover is subject to English law and practice.

