

## TO ALL OWNERS AND MEMBERS

14 April 2016

Dear Sirs

### IRAN TRADING – P&I cover

The Standard Club is able to provide P&I cover to owners/members who wish to trade to and from Iran as a result of the lifting of the nuclear-related UN and EU sanctions and US secondary sanctions against Iran under the Joint Comprehensive Plan of Action (JCPOA) which came into effect on 16 January 2016.

#### **Summary**

US “primary” sanctions were not lifted under the JCPOA and continue to apply which means that US persons (including US companies) are still prohibited from exporting goods and services to Iran (unless the transactions are exempt from regulation or authorised by the US Treasury Department’s Office of Foreign Assets Control) (US OFAC).

The economic sanctions which were lifted relate to the financial, banking, energy, petrochemical, shipping, shipbuilding, and automotive sectors; Iran’s port operators; Iran’s trade in gold and other precious metals; trade with Iran in graphite, raw or semi-finished metals such as aluminium, steel, coal and software for integrating industrial processes (but subject to prior authorisation under the EU sanctions regime); and the provision of insurance, re-insurance and underwriting services in respect of these activities. Sanctions which relate to human rights abuses and support for terrorism remain in place. We refer owners/members who are considering trading to Iran to the web alerts and guidance/FAQs that appear on the Standard Club website for further details ([linked here](#)).

Owners/members will still need to exercise due diligence to ensure that they do not trade with or provide material support to any individuals or entities that remain on the EU or US sanctions lists (i.e. the EU Consolidated sanctions list or US SDN list) or engage in conduct that seeks to evade US restrictions on transactions with Iran or causes the export of US goods or services from the US to Iran, as such conduct is still prohibited and will prejudice their P&I cover.

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[www.standard-club.com](http://www.standard-club.com)

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### ***US primary sanctions***

The fact that US primary sanctions continue to apply means that US domiciled insurers and reinsurers are unable to respond to claims involving Iran. There are a number of US domiciled reinsurers who participate on the International Group (IG) General Excess of Loss (GXL) reinsurance programme. The IG is currently engaged in discussions with the US State Department/US OFAC to persuade them to issue a license that will allow the US domiciled reinsurers participating on the IG GXL reinsurance programme to respond to claims. Whilst these discussions are ongoing and in order to find a short-term solution the IG has obtained approval from US OFAC to arrange a “fall-back” reinsurance.

### ***Fall-back reinsurance***

Shortfalls in reinsurance recoveries from US domiciled reinsurers under the IG GXL reinsurance programme which arise from “certified liabilities” (e.g. under a CLC, Wreck Removal, or Bunker Convention Blue Card) are already capable of being pooled under the IG Supplemental Pooling Agreement (SPA). The IG has recently agreed that claims arising from “non-certified liabilities” (e.g. collision and contact damage claims) will also be capable of being pooled under the SPA provided there is fall-back reinsurance cover in place which has not been exhausted. Further details are provided in our circular dated 22 March 2016 (linked [here](#)).

The fall-back reinsurance cover has now been placed for the current policy year. It initially had a policy limit of €70m per event but due to additional reinsurance capacity becoming available the limit has been increased to €100m per event, in the aggregate, with two full reinstatements.

The fall-back cover will respond to claims involving Iranian interests that are not recoverable from US domiciled reinsurers (because of US primary sanctions) within the first and second layers and/or the private placement and/or the Hydra reinsurance of the IG GXL reinsurance programme. By increasing the limit of cover to €100m means that the fall-back cover will be able to respond to a shortfall from US domiciled reinsurers for a claim of around US\$960m.

As explained above and in our circular of 22 March, shortfalls from US domiciled reinsurers in respect of certified liabilities are automatically capable of being pooled under the SPA, which means that owners/members should not bear the risk of the reinsurance shortfall themselves. However, with respect to claims arising under non-certified liabilities, once the fall-back cover has been exhausted, the reinsurance shortfall is not automatically pooled under the SPA i.e. it shall be for the member’s own account unless 75% of clubs agree that it can be pooled (under clause 4.2 of the Pooling Agreement). The risk of the fall-back cover becoming exhausted is extremely limited, given the increased limit of cover which is now in place (i.e. €100m plus two reinstatements) and as also explained in our circular of 22 March, the largest historical loss to the GXL reinsurance programme involving Iranian liabilities would have produced an exposure of only €20m to the fall-back cover.

The cost of the fall-back reinsurance has been shared between clubs. The Standard Club has decided to absorb this cost and not pass it onto owners/members. As explained above, this is only a short-term measure and the IG will continue in its efforts to ensure that a long-term solution is in place for the 2017/18 policy year.

### **Banking**

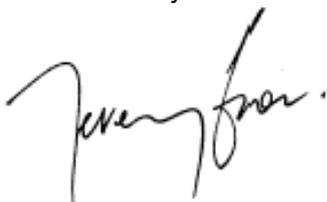
The fact that US primary sanctions continue to apply, means that US banks are still prohibited from processing payments that relate to Iran through the US banking system which means that it will not be possible for owners/members to engage in trade to/from Iran in US dollars. This may also affect the club's ability to provide security (in the form of a club LOU or bank guarantee) at least in the short-term as many non-US banks are still very cautious about processing payments (i.e. in other currencies) that relate to Iran. We are closely monitoring this issue and exploring possible solutions.

### **Snap-back**

Owners/members should be aware that the JCPOA contains a "snap-back" provision which permits the re-imposition of EU and US secondary sanctions against Iran in the event that Iran reneges on its commitments under the JCPOA. If sanctions snap-back, they will not be applied retroactively against legitimate business undertaken after the lifting of Iranian sanctions. We advise owners/members who are considering trading to Iran to include provisions in their contracts providing for suspension or termination of the contract in the event that sanctions snap-back into place or new sanctions are imposed.

*We advise owners/members to carry out their own due diligence if they are considering trading to Iran to ensure that the particular trade is not restricted and the transaction does not involve sanctioned entities and if they have any concerns, we recommend that they seek independent legal advice.*

Yours faithfully



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