

CIRCULAR

SETTING THE STANDARD FOR SERVICE AND SECURITY

TO ALL OWNERS AND MEMBERS

16 February 2012

Dear Sirs

SANCTIONS AGAINST IRAN AND IMPACT ON CLUB COVER

Sanction regimes have continued to develop in relation to several states, but especially in relation to Iran. The board of the club has made changes to the class rules of the club to clarify that no claims will be covered if they arise out of an unlawful trade or if it is unlawful to provide insurance thereof.

Further sanctions have been imposed upon Iran by the UK, US and EU following the report of the International Atomic Energy Agency into Iran's nuclear programme.

UK sanctions

On 21 November 2011 HM Treasury imposed new financial restrictions against Iran under the *Financial Restrictions (Iran) Order 2011*. Financial institutions (including insurers such as the club) are required to cease business relationships and transactions with all Iranian banks, including their branches and subsidiaries, and the Central Bank of Iran. This means that UK credit and financial institutions are prohibited from entering into transactions or business relationships with these entities and continuing existing transactions and business relationships with them, unless licensed to do so by HM Treasury. Accordingly, the club would be prohibited from making any payments through any bank which are ultimately paid to an Iranian bank. This limits the extent to which the club can make payments to claimants or service providers such as local correspondents and surveyors. It also limits the ability of the club to undertake to make a payment to or via an Iranian bank. This impacts on the club's ability to assist owners/members trading in this region. The effect of the UK sanctions is limited to UK financial institutions. However, given the impact that it has on the club and all UK banks, it may have far-reaching consequences to any ship operator wanting to use a UK bank to make payments to Iran.

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The Standard Steamship Owners' Protection and Indemnity Association (Asia) Limited

www.standard-club.com

Incorporated in Singapore No. 199703224R. Authorised and regulated by the Monetary Authority of Singapore

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US sanctions

Also on 21 November 2011, the US issued further sanctions under *Executive Order 13590* designed to increase Iran's economic isolation. EO 13590 applies extra-territorially and targets Iran's petroleum and petrochemical industries. Previous US sanctions targeted the provision of refined petroleum products to Iran and Iran's ability to develop and maintain refineries and domestic RPP production. The EO sanctions the sale, lease, or provision of goods, services, technology, or support to Iran that could directly and significantly contribute to the enhancement of Iran's ability to develop petroleum resources located in Iran. The development of petroleum resources is expressly defined as "to explore for, or to extract, refine, or transport by pipeline, petroleum resources". Iran is defined as the physical territory of Iran plus its marine areas, such as its continental shelf and exclusive economic zone. The prohibition on developing Iran's petroleum resources thus prohibits the development of Iranian offshore oil exploration, extraction and transportation. Sanctions may be triggered if a single transaction has a fair market value of \$1 million or more, or if a series of transactions with the same entity have a fair market value of \$5 million or more in a twelve-month period.

The EO also expressly prohibits the sale, lease, or provision of goods, services, technology, or support to Iran that could directly and significantly facilitate the maintenance or expansion of its domestic production of petrochemical products. Sanctions may be triggered if a single transaction has a fair market value of \$250,000 or more, or if a series of transactions with the same entity have a fair market value of \$1 million or more in a twelve-month period.

The US Government has also identified Iran as a jurisdiction of 'Primary Money Laundering Concern' under section 311 of the *USA Patriot Act*. This now effectively bars all transactions with Iranian entities in US dollars regardless of whether such transactions are sanctionable.

These sanctions should be read in conjunction with the *US Comprehensive Iran Sanctions, Accountability and Divestment Act 2010* (CISADA); they not only impact US persons, but also any individual or corporate body wherever located. The impact of continuing trading relations with Iran in breach of these sanctions could include severe fines and restrictions to US capital markets which could have a catastrophic impact on many operators. It is clear that the US Government is looking to further undermine Iran's oil and gas industry and to curtail further development.

EU

On 23 January 2012 the EU issued *Decision 2012/35/CFSP*, which is binding upon member states. It does not (yet) bind individuals and companies. An implementing Regulation will be needed to implement the oil ban and restrictions on Iran's petrochemical industry. Such a Regulation is being drafted and is likely to be implemented shortly. It is likely to be of immediate effect although it should reflect the transition provisions within the EU Decision, that is, it should include an allowance for contracts made before 23 January 2012 and executed before 1 July 2012. It is likely that the Regulation will follow the pattern of previous Regulations and will apply to transactions by EU nationals (even if working for a non-EU company in a non-EU state), transactions within the EU and the use of ships under the jurisdiction of EU states (eg EU flag or within EU waters). The details of the EU Regulation are awaited but they are likely to prohibit the provision directly or indirectly of insurance related to the import, purchase or transport of Iranian crude oil and petroleum products or of Iranian petrochemical products.

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The latest sanctions issued by the US, UK and other countries further demonstrate the intention of the international community to address political issues with Iran by restricting trade. Whilst both the UK and US stress that the sanctions imposed are not a trade embargo, the latest restrictions send a clear message to the international community that any party wishing to conduct business in Iran must carefully consider whether or not they will be in breach of international sanctions. The sanctions pose further difficulties for owners/members trading to/from Iran and will limit the club's ability to issue letters of undertaking to Iranian entities. The US Government is considering a draft 'Iran, North Korea and Syria Non-proliferation Reform and Modernization Act of 2011' (the 'Act'). If passed, this Act may prohibit any ship, wherever registered, from trading to a US port if it has knowingly entered a port in Iran, North Korea or Syria during a period of 180 days prior to the ship's arrival at a US port. It is unclear whether the Act will have retrospective effect. It is possible that the UK/EU may also seek to implement similar legislation, although there has been no official confirmation of this as yet.

Rule change

The association's articles were changed in October 2010 so that the board could introduce substantive rule changes at any time in order to comply with any changes in legislation or regulation. States and regional bodies, such as the US and the EU, have continued to use sanctions as a means of implementing foreign policy. Appropriate rule changes as set out below have now been made by the board, to take effect from Monday 20 February 2012 at 12.00 noon GMT. The rules have been clarified so that it is clear that no claims will be covered if they arise out of an unlawful trade or if it is unlawful to provide insurance thereof.

The rule change is set out below:

1. Change rule 4.8 to read as follows:

"No claim is recoverable if it arises out of or is consequent upon the ship blockade-running or being employed in an unlawful, prohibited or sanctionable carriage, trade, voyage or operation, or if the provision of insurance for a carriage, trade, voyage or operation is unlawful, prohibited or sanctionable or if the board determines that the carriage, trade, voyage or operation was imprudent, unsafe, unduly hazardous or improper. For the purposes of this rule 'unlawful, prohibited or sanctionable' means unlawful, prohibited or sanctionable under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom, United States of America, the place of incorporation or domicile of the member or the ship's flag state."

The equivalent rule change to the Standard Offshore rules is to rule 4.9.



There are a number of issues arising out of sanction regimes and owners/members are encouraged to consult their lawyers if they believe that they may be involved in trades which put them in breach thereof. The managers will provide further information or clarification as it becomes available.

Yours faithfully

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