



**GARD AS**

**Circular No. 1/2010**

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**To the Members**

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Dear Sirs,

**Re: Iran sanctions – notice of Rule changes**

The purpose with this Circular is to update the Members of Assuranceforeningen Gard – gjensidig and Gard P. & I. (Bermuda) Ltd (hereafter individually called the “Association” or the “Club” and collectively the “Associations” or the “Clubs”) of recent developments with regard to Iran sanctions and consequences for the Club cover. Identical Rule changes have been adopted by the Boards of both Associations.

**Rule changes during the year**

Rule 92.2 in the Rules for Ships and Rule 60.2 in the Rules for MOUs allow Rule changes to be made during the year in special circumstances. The Boards of the two Associations are of the view that the situation that has arisen with regard to the pending US legislation regarding Iran represents a substantial alteration of risk that enables the Associations to determine changes in the standard terms of cover on two months notice during the year for the purpose of protecting the Clubs. This circular shall be deemed to be a notice of Rule changes given pursuant to Rule 92.2 in the Rules for Ships and Rule 60.2 in the Rules for MOUs, respectively.

**Legislation**

USA

The main underlying concern is current and pending legislation in the United States. A number of Iranian shipping companies are already “specially designated” by the US Treasury Office of Foreign Asset Control (OFAC). The effect of this designation is to prohibit dealings (which would include provision of insurance services) with these companies.

Of greater concern, under the pending US legislation (Iran Refined Petroleum Sanctions Act of 2009 H.R.2194), sanctions could be imposed against both domestic and foreign entities “*underwriting or otherwise providing insurance or reinsurance*” for “*any activity that could contribute to the enhancement of Iran’s ability to import refined petroleum resources*”.

This provision would extend the risk of sanctions to any insurance or reinsurance activity covering the export of refined petroleum to Iran. As such the effect would be to prohibit insurance cover for any vessel(s), regardless of country of flag/registry/beneficial ownership, trading refined products into Iran. Sanctions for transgression could include barring sanctioned persons/companies from access to US financial institutions and blocking of assets and dollar transactions of an offending insurer located within or routed through the United States. The sanctions may also affect individuals being officers or directors of companies being involved in prohibited activities.

In addition to the House bill, there is a parallel Senate bill, the “Comprehensive Iran Sanctions, Accountability and Divestment Act” which in many respects mirrors the House bill. Also the Senate bill provides for imposition of sanctions against any person, including an insurer of ships, engage in activity that could contribute to the enhancement of Iran’s ability to import refined petroleum resources.

#### UK and Bermuda

The Financial Restrictions (Iran) Order 2009 came into effect on 12 October 2009. The material provisions of the Order prohibit the provision of insurance cover to Islamic Republic of Iran Shipping Lines (IRISL) owned/controlled/operated vessels, as well as Bank Mellat. No further actions by the UK authorities (UK Treasury) are announced for the time being in relation to insurance arrangements for other Iranian companies or in relation to trading to Iran, but depending on developments in the United States this possibility cannot be ruled out.

The Bermudian authorities have followed the initiative of the UK Treasury. The Anti-Terrorism (Financial Restrictions Iran) Order 2010 determined by the Bermuda Ministry of Finance on 15 January 2010, and which entered into force the same day, prohibits dealings with IRISL and Bank Mellat.

#### **Measures to protect the Associations – Rule changes**

##### Sole purpose of the changes is to protect the Clubs

In anticipation of potentially widespread problems arising out of the pending US legislation, it is considered necessary to amend the Rules to broaden the current cesser/termination of cover provisions. The sole purpose of the changes is to protect the Clubs from being caught by the proposed sanctions if and when they come into force. The consequences of being subject to the sanctions may be serious and may affect the quality and efficiency of the services the Associations are offering their Members.

##### Rule for Ships

Against this background the Boards of the two Associations have adopted the following changes in the Rules for Ships:

(i) *Termination – Rule 24*

A new Rule 24. 3 is introduced giving the Association power to terminate an entry or entries if the relevant Ship(s) are involved in activities that may expose the Club or the Member to the risk of being or becoming the target or subject to sanctions or other actions from the State of the Ship’s flag, the State where the Club is domiciled or has

a permanent place of business, a State being a permanent member of the UN Security Council or the United Nations or the EU.

The new Rule 24. 3 shall read as follows:

*“Notwithstanding and without prejudice to Rules 24.1 and 24.2 and Rule 25.4, the Association may, on such notice in writing as the Association may decide, terminate the entry in respect of any and all Ship(s) in circumstances where the Member has exposed or may, in the opinion of the Association, expose the Member or the Association to the risk of being or becoming subject to any sanction, prohibition or adverse action in any form whatsoever against Iran by the State of the Ship(s) flag, by any State where the Association has its registered office or permanent place of business or by any State being a Major Power or by the United Nations or the European Union. For the purpose of this Rule 24.3 "Major Power" means any of the following States: United Kingdom, United States of America, France, the Russian Federation and the People's Republic of China.”*

(ii) *Cesser – Rule 25*

A corresponding amendment is introduced in Rule 25 regarding cesser. A Member shall cease to be covered in respect of Ship(s) employed by the Member in an activity which may expose the Club to the risk of being or becoming the target or subject to sanctions from the same group of States (save for the State of the ship’s flag) and international organizations as set out in the new Rule 24.3 above. The Club shall not be deemed to provide insurance for a prohibited activity.

The new Rule 25. 4 shall read as follows:

*“Notwithstanding and without prejudice to Rules 25.1, 25.2 and 25.3, a Member shall forthwith cease to be insured by the Association in respect of any and all Ship(s) entered by him if any Ship is employed by the Member in a carriage, trade or on a voyage which will thereby in any way howsoever expose the Association to the risk of being or becoming subject to any sanction, prohibition or adverse action in any form whatsoever against Iran by any State where the Association has its registered office or permanent place of business or by any State being a Major Power or by the United Nations or the European Union. For the purpose of this Rule 25.4 "Major Power" means any of the following States: United Kingdom, United States of America, France, the Russian Federation and the People's Republic of China.”*

The existing Rules 25.4 and 25.5 will be renumbered to Rules 25.5 and 25.6, respectively. Further, the new Rule 25.5 shall contain a reference to Rule 25.4.

The new Rule 25.5 shall read as follows (amendment underlined):

*“Notwithstanding the provisions of Rules 25.1, 25.2 and 25.4, the Association may decide in any particular case that cover shall be continued without interruption, or that cover shall be reinstated, in either case on such terms as the Association shall determine.”*

## Rules for MOUs

The corresponding provisions in the Rules for MOUs are Rules 15 and 16.

(i) *Termination – Rule 15*

The new Rule 15.3 shall read as follows:

*“Notwithstanding and without prejudice to Rules 15.1 and 15.2 and Rule 16.4, the Association may, on such notice in writing as the Association may decide, terminate the entry in respect of any and all Vessel(s) in circumstances where the Member has exposed or may, in the opinion of the Association, expose the Member or the Association to the risk of being or becoming subject to any sanction, prohibition or adverse action in any form whatsoever against Iran by the State of the Vessel(s) flag, by any State where the Association has its registered office or permanent place of business or by any State being a Major Power or by the United Nations or the European Union. For the purpose of this Rule 15.3 "Major Power" means any of the following States: United Kingdom, United States of America, France, the Russian Federation and the People's Republic of China.”*

(ii) *Cesser – Rule 16*

The new Rule 16. 4 shall read as follows:

*“Notwithstanding and without prejudice to Rules 16.1, 16.2 and 16.3, a Member shall forthwith cease to be insured by the Association in respect of any and all Vessel(s) entered by him if any Vessel is employed by the Member in a carriage, trade or on a voyage which will thereby in any way howsoever expose the Association to the risk of being or becoming subject to any sanction, prohibition or adverse action in any form whatsoever against Iran by any State where the Association has its registered office or permanent place of business or by any State being a Major Power or by the United Nations or the European Union. For the purpose of this Rule 16.4 "Major Power" means any of the following States: United Kingdom, United States of America, France, the Russian Federation and the People's Republic of China.”*

The existing Rules 16.4 and 16.5 will be renumbered to Rules 16.5 and 16.6, respectively. Further, the new Rule 16.5 shall contain a reference to Rule 16.4.

The new Rule 16. 5 shall read as follows (amendment underlined):

*“Notwithstanding the provisions of Rules 16.1, 16.2 and 16.4, the Association may decide in any particular case that cover shall be continued without interruption, or that cover shall be reinstated, in either case on such terms as the Association shall determine.”*

**Entry into force**

Pursuant to Rule 92.2 in the Rules for Ships and Rule 60.2 in the Rules for MOUs the above Rule changes shall enter into force on 23 April 2010.

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Please contact Kjetil Eivindstad, Senior Vice President, if you have any questions with regard to the above.

Yours faithfully,  
**GARD AS**



Claes Isacson  
Chief Executive Officer