



**GARD AS**

**Circular No. 24/2010**

February 2011

**To the Members**

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Dear Sirs,

**Sanctions provisions - Amendments to the Rules for Ships for 2011, Rules for Mobile Offshore Units for 2011 and the Terms and Conditions for Gard Additional Covers for 2011**

We refer to Circular 7/2010 sent to Members in January 2011 regarding Rule changes. Further changes to the Rules for Ships, the Rules for Mobile Offshore Units (MOUs) and Terms and Conditions for Gard Additional Covers of both Assuranceforeningen Gard - gjensidig - and Gard P. & I. (Bermuda) Ltd (hereinafter the "Associations") are required for reasons set out below. The changes will enter into force at noon GMT on 20 February 2011.

New sanctions clauses have been introduced in the reinsurance arrangements of the Associations for the 2011 policy year. The purpose of these sanctions clauses is to protect the reinsurers against exposure to any sanctions, prohibitions or restrictions by states and international organizations.

In order to ensure that the covers afforded by the Associations are harmonized with the reinsurance arrangements, the Associations have adopted sanctions provisions to form part of the Rules for Ships, the Rules for MOUs and the Terms and Conditions for Gard Additional Covers.

The sanctions provisions shall exclude from cover a Member's claim where payment of such claim may expose the Associations to any risk of sanction. Further, the sanctions provisions shall protect the Associations from any shortfall of recovery from the Pool or reinsurers in respect of sanction risks. This deals with the situation where payment of a claim or provision of cover by the Associations does not expose the Associations themselves to a sanction risk but another association in the International Group of P&I Clubs or reinsurer refuses to pay by reason of a sanction risk to which it is exposed (eg. in another jurisdiction).

The changes to the Rules for Ships, Rules for MOUs and Terms and Conditions for Gard Additional Covers for the 2011 policy year are as follows (amendments underlined):

1. Rules for Ships

**Rule 77 Administrative costs, insolvency and sanctions etc.**

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2 The Association shall not indemnify a Member against any liabilities, costs or expenses where the provision of cover, the payment of any claim or the provision of any benefit in respect of those liabilities, costs or expenses may expose the Association to any sanction, prohibition, restriction or adverse action by any competent authority or government.

3 The Member shall in no circumstances be entitled to recover from the Association that part of any liabilities, costs or expenses which is not recovered by the Association from any party to the Pooling Agreement and/or from any reinsurer because of a shortfall in recovery from such party or reinsurer by reason of any sanction, prohibition or adverse action by a competent authority or government or the risk thereof if payment were to be made by such party or reinsurer. For the purposes of this paragraph, "shortfall" includes, but is not limited to, any failure or delay in recovery by the Association by reason of the said party or reinsurer making payment into a designated account in compliance with the requirements of any competent authority or government.

2. Rules for MOUs

**Rule 30 Limitation of liability, sanctions and other restrictions on the right of recovery**

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3 The Association shall not indemnify a Member against any liabilities, costs or expenses where the provision of cover, the payment of any claim or the provision of any benefit in respect of those liabilities, costs or expenses may expose the Association to any sanction, prohibition, restriction or adverse action by any competent authority or government.

4 The Member shall in no circumstances be entitled to recover from the Association that part of any liabilities, costs or expenses which is not recovered by the Association from any reinsurer because of a shortfall in recovery from such reinsurer by reason of any sanction, prohibition or adverse action by a competent authority or government or the risk thereof if payment were to be made by such reinsurer. For the purposes of this paragraph, "shortfall" includes, but is not limited to, any failure or delay in recovery by the Association by reason of the reinsurer making payment into a designated account in compliance with the requirements of any competent authority or government.

3. Terms and Conditions for Gard Additional Covers

Standard Terms and Conditions for Gard Additional Covers offered as a supplement to a standard P&I cover were introduced in 2010. Members and clients having taken out such

additional covers will be familiar with these Terms and Conditions. Similar to the Rules for Ships and the Rules for MOUs, the Standard Terms and Conditions for Gard Additional Covers have to be harmonized with the terms of the underlying reinsurance treaty and for that reason the sanction clauses as outlined below have been introduced.

The changes to the Terms and Conditions for Gard Additional Covers for the 2011 policy year are as follows (amendments underlined):

**Section 26 Administrative costs, insolvency and sanctions etc.**

1 ...

2 ...

3 The Insurer shall not indemnify an Assured against any liabilities, costs or expenses where the provision of cover, the payment of any claim or the provision of any benefit in respect of those liabilities, costs or expenses may expose the Insurer to any sanction, prohibition, restriction or adverse action by any competent authority or government.

4 The Assured shall in no circumstances be entitled to recover from the Insurer that part of any liabilities, costs or expenses which is not recovered by the Insurer from any reinsurer because of a shortfall in recovery from such reinsurer by reason of any sanction, prohibition or adverse action by a competent authority or government or the risk thereof if payment were to be made by such reinsurer. For the purposes of this paragraph, "shortfall" includes, but is not limited to, any failure or delay in recovery by the Insurer by reason of the reinsurer making payment into a designated account in compliance with the requirements of any competent authority or government.

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The amendments incorporated in the updated Rules for Ships, the Rules for MOUs and the Terms and Conditions for Gard Additional Covers are available on the Gard website: [www.gard.no](http://www.gard.no).

If you have any questions or comments, please contact Gard's legal department.

Yours faithfully,

**GARD AS**



Claes Isacson  
Chief Executive Officer