

VI Cesser of Insurance

RULE 33 CESSER OF ALL INSURANCES

A Member shall cease to be insured by the Association in respect of all Ships entered by him upon the happening of any of the following events:

- Failure to pay 33(1)** If, having failed to pay when due and demanded by the Managers any sum due from him to the Association, he is served with a notice by or on behalf of the Managers or the Association requiring him to pay such sum and he fails to pay such sum in full on, or before, the date specified in such notice.
- 33(2)** If, being an individual, he shall die, is found lunatic or becomes of unsound mind, becomes bankrupt or makes any arrangement or composition with his creditors generally.
- 33(3)** If, being a corporation, it be wound up by an order of the court or by an effective resolution being passed for voluntary winding up or it be dissolved or upon the appointment of a receiver or manager in respect of all or part of the corporation's business or upon possession being taken of any property of the corporation under the provisions of a charge secured upon that property or upon its commencing proceedings under any bankruptcy or insolvency laws to seek protection from its creditors or to re-organise its affairs.

RULE 34 CESSER OF SHIP ENTRY

A Member shall cease to be insured by the Association in respect of an Entered Ship upon the happening of any of the following events in relation to such Ship:

- Transfer of 34(1)
interest** If the Member shall cease to have a legal, beneficial or other interest in the Ship, or if entire control and possession is transferred whether by demise charter or otherwise.
- 34(2)** If the managers or operators of the Ship shall be changed.
- Total loss 34(3)** If the Ship becomes a total loss or is accepted by the hull underwriters as being a constructive, compromised or arranged total loss, except as regards liabilities flowing from the casualty which gave rise to such total loss of the Ship.

34(4) If the Ship shall be missing for ten days from the date she was last heard of or from her being posted at Lloyd's as missing, whichever shall be the earlier.

Mortgage 34(5) If the Ship be mortgaged or otherwise hypothecated, unless an undertaking or guarantee approved by the Managers is given to pay all Contributions due or to become due in respect of the Ship.

Provided always that the Managers may waive this provision.

Classification 34(6) If the Member fails to meet the requirements of Rule 28 (classification).

Termination 34(7) If the entry of the Ship shall have been terminated in accordance with Rule 9(3) (termination of cover by the Committee or Managers) or Rule 28(7) (Ship Management Appraisal) or Rule 28(8) (Condition Survey).

RULE 35 EFFECT OF CESSER

**For failure 35(1)
to pay** If the cesser of insurance shall have occurred by virtue of Rule 33(1) (failure to pay) the Association shall not be liable for any claims under these Rules in respect of any Ship which has been entered by the Member, whether the incident giving rise to such claim occurred before or after the cesser of insurance, unless the incident giving rise to such claim occurred during a Policy Year which had been closed at the time of the cesser of insurance.

**For any other 35(2)
reason** If the cesser of insurance or cesser of the Ship's entry shall have occurred by virtue of any other reason, the Association shall remain liable for all claims under these Rules arising by reason of any incident which occurred before the cesser but shall be under no liability whatsoever by reason of any incident which occurred after the cesser.

Provided always that:

(i) the provisions of Rule 35(1) shall apply to the contract of insurance even if the entry of the Ship shall have ceased under the provisions of Rule 34 (cesser of Ship entry) before the notice specified in Rule 33(1) (failure to pay) shall have been issued or taken effect.

(ii) the Committee may in its discretion admit either wholly or partly any claim for which the Association is under no liability under this Rule whether the incident giving rise to such claim occurred before or after the cesser of insurance.

No waiver of 35(3) rights

Without prejudice to the generality of Rule 41 (forbearance) no act, omission, course of dealing, forbearance, delay or indulgence of any kind by or on behalf of the Association nor the granting of time, nor the acceptance by the Association (whether express or implied) of liability for, or the recognition of, any claim and whether occurring before or after the cesser of insurance, shall derogate from the effect of Rule 33 and Rule 34 (cesser of Ship entry) or be treated as a waiver of any of the Association's rights thereunder.

RULE 36 CONTRIBUTIONS DUE ON CESSER OF INSURANCE

36(1) Subject to his liability being otherwise agreed or assessed under Rule 13 (release), a Member whose Entered Ship or Ships cease to be insured by the Association for any reason, shall be and remain liable to pay to the Association all Contributions in respect of such Ship or Ships for all Policy Years which have not been closed under Rule 37(1) (Closing of Policy Years) as at the date of such cesser, including the Policy Year in which the insurance ceases which, under Rule 10 (Contribution), such Member would have been liable to pay had the insurance of such Ship or Ships not ceased.

Provided always that the Member shall be liable for Contributions for the Policy Year in which the insurance ceases pro rata only for the period beginning with the date of entry and ending with the happening of the event that occasioned the cesser of insurance if:

- (i) such cesser arises by virtue of Rule 9(3) (termination of cover by the Committee or Managers); or
- (ii) such cesser arises upon the happening of any of the events specified under Rule 34 (cesser of Ship entry) and the Member gives notice of the event in writing to the Managers within one month of the date thereof; or
- (iii) such cesser arises by virtue of Rule 33(1) (cesser for non-payment), in such case the Member's liability to pay Contributions shall include the sum specified in the notice given under that Rule.

Set-off 36(2) For the purpose of determining whether any (and, if so, what) sum is due for the purposes of Rule 36(1) or otherwise under these Rules no account shall be taken of any amount due or alleged to be due by the Association to the Member for any reason whatsoever, and no set-off of any kind (including any set-off which might otherwise have arisen by reason of the bankruptcy or winding up of the Member) shall be allowed

against such sum (whether or not any set-off against Contributions has been allowed at any time in the past), except to the extent (if any) to which any sum demanded by the Managers as due, and required to be paid in a notice served under Rule 33(1) (cesser for non- payment), may (in the Managers' discretion) in itself have already allowed for a set-off or credit in favour of the Member.