January 2017

To the Members

Dear Sirs,

Fall-back cover – Group Reinsurance Programme 2017/2018

Further to Club Circular L.289 advising that the International Group General Excess of Loss (GXL) reinsurance and Collective Overspill contracts and the Hydra reinsurance programme for the 2017/2018 policy year have been completed, the International Group has published a circular, (the full text of which appears below), advising that the contracts and programme are now written with no US domiciled reinsurer participation, with the aim of removing the risk of US reinsurer shortfalls by reason of sanctions. The risk of such shortfall arises due to the continuing application of US primary sanctions which, amongst other things, prohibit the provision of insurance/reinsurance cover by US-domiciled re/-insurers in connection with Iran-related activities. This potentially affects Iranian business entered in the IG Clubs, non-Iranian Members who trade to/from Iran and/or who may be involved in incidents or claims with an Iranian nexus.

As previously reported in Club circulars L.272, L. 273 and L. 274, the IG Clubs purchased "fall-back" insurance cover for the policy year 2016/2017 designed to respond to reinsurance recovery shortfalls that would result from the inability of US-domiciled reinsurers on the IG reinsurance programmes for that year to make payments due to the continuing application of US primary sanctions.

For the 2017/2018 policy year, whilst there will be no US domiciled reinsurers involved, some of the lines previously written by those US domiciled reinsurers have instead been written by their non-US subsidiary companies pursuant to OFAC General Licence H which permits an entity owned or controlled by a US person but established or maintained outside the US (a US owned or controlled foreign entity) to engage in transactions, directly or indirectly, with the Government of Iran or any person subject to the jurisdiction of the Government of Iran.

Based on the current US sanctions regime it is not therefore anticipated that there will be US reinsurance shortfall in the GXL, Overspill and Hydra programmes by reason of sanctions in the 2017/2018 policy year.

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However, the risk of shortfall cannot be entirely ruled out, should the sanctions landscape change, notably under the new Republican Government in the US, which may re-impose, or “snap-back”, some or all of the sanctions that were lifted under the JCPOA.

In the event of a snap-back of US sanctions, and whether this occurs is pure speculation at this stage, OFAC has indicated in its latest JCPOA FAQs (published on 15 December 2016) that:

- there would be no retroactive application of sanctions for lawful activities conducted prior to snap-back;
- non-US persons will be given 180 days to wind-down their Iranian business, but they will only be allowed to perform those activities that are necessary to wind-down.

The Managers continue to monitor, and will keep Members closely advised of, developments in this regard.

IG Circular - “International Group reinsurance 2017/18 placement – termination of “fall-back” cover”.

Placement of the International Group General Excess of Loss (GXL) reinsurance and Collective Overspill contracts and the Hydra reinsurance programme for 2017 have been completed. Due to the continuing application of US primary sanctions to the current participating US person/domiciled reinsurers, their lines on the contracts will not be renewed for 2017/18 and have been substituted with alternative capacity. As a result, the risk of a shortfall in US person/domiciled reinsurer contributions due to the current US primary sanctions has been removed, and there will be no need to renew the “fall-back” reinsurance programme beyond 20th February 2017.”

Yours faithfully,

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