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CIRCULAR FOR FRENCH MEMBERS ON CLAIMS PROCEDURE

ITIC has a large membership in France of hundreds of members, including numerous ship agents, shipbrokers, and naval architects.

Recently, a trend has emerged of members (a) appointing lawyers that do not know ITIC cover or how ITIC has operated so effectively over the past several decades, and (b) doing so without consulting ITIC first. One of the unintended consequences in this circumstance is that members are being advised by their lawyer to seek to force ITIC to join as a co-defendant in proceedings that the member is facing by their client/s, which is in breach of ITIC's Rules and usually completely unnecessary.

This circular sets out information to reassure ITIC's French membership and provide a refresher for how to work with us most effectively to handle your claims. To start with, please refer to the usual claims handling guidance for step by step guidance here: [Reporting and managing a Claim](#), this circular also draws your attention to the following points:

1. **NOTIFY EARLY.** As soon as you become aware of a claim being made against you, or a circumstance which may develop into a claim against you, please notify your usual ITIC contact straight away. This is primarily so ITIC can assist you from the outset of the incident. ITIC have a wealth of experience and have very possibly dealt with the situation you are facing before and can therefore offer guidance from the first day the claim is received.
2. **APPOINT ADVISORS TOGETHER.** Notifying as soon as possible also means ITIC can manage the case from the outset. Where expert legal advice and handling is required, ITIC have a number of trusted legal advisors on hand that can be appointed for you to assist in handling the claim. They are familiar with ITIC's ethos and understand how the policy's coverage works. Note that deciding on an appropriate legal advisor together sets the path for smooth handling of the claim from the start.
3. **AVOID DUPLICATING COST.** This also avoids circumstances where you may approach your usual lawyer, who may be for example a corporate lawyer with no experience of marine or transportation cases. As a result they may not be the most appropriate lawyer for the claim and it could lead to difficult conversations on the case about how to proceed if you have already incurred cost with a lawyer of your choosing, without ITIC's approval. It may then be necessary to appoint an alternative lawyer and there will be wasted costs of duplicate lawyers.

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4. **ITIC IS A MUTUAL.** ITIC is owned by the very assureds that are insured by us and ITIC's members sit on the board of directors and determine the direction of the company. There are many benefits and distinctions between a mutual insurer and the typical commercial insurer you would find in France. The key difference in respect of handling of claims is that ITIC's ethos is to assist you and look to offer support. Unlike a commercial insurer, ITIC will not look to use a technicality to avoid paying a claim.
5. **DISCRETIONARY COVER.** ITIC also has a discretionary cover rule where a claim which does not easily fit under any of the Rules can be referred to our board of directors for consideration and if suitable, will be provided with cover under this rule. This would not however include situations where the activity undertaken for example is so obviously not an insured service, i.e. a naval architect who is also performing direct installations or construction of the ship (as ITIC do not insure any hands on work) or where the claim is expressly excluded by ITIC's Rules.
6. **NO DIRECT ACTION SUITS.** As mentioned, ITIC has seen instances where members go-to lawyer has been appointed when the member receives formal claim proceedings against them, and because of their experience of commercial insurers in other markets they recommend that ITIC is brought directly into proceedings as co-defendant. It is ITIC's understanding that the desire to bring the insurer into the proceedings stems from local commercial insurers refusing to pay claims without a judgment directly against them from Court. This however, is not the case for ITIC being a mutual and in fact is against ITIC's Rules. ITIC will pay claims provided they fall within the scope of cover. ITIC does not need to first be a direct party to the proceedings. Bringing ITIC into the proceedings can often be unhelpful as it can cause conflicts (where none exist). ITIC may need to appoint separate lawyers which will increase the costs. Of course, in the very unlikely event there is a genuine dispute between the member and ITIC there is a procedure set out in the Rules to deal with this (Rule 28 Disputes and Differences).

ITIC is here to support you. Any questions, please speak to your usual ITIC contact or email ITIC-Europe@thomasmiller.com.

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