

中国船东互保协会文件

中船保董字〔2019〕3号

关于修改协会保险条款的通知

各会员公司：

中国船东互保协会第三十八届会员大会（特别）于2019年3月1日下午在上海市召开。会议审议并通过了《关于修改协会2019年保险条款的提案》。

新的保险条款中第三条和第四条及与之有关的条款追溯自2019年2月20日格林威治标准时间12时起实施；第五条及与之有关的条款追溯自2019年1月1日北京时间零时起实施。

特此通知。

附件：协会2019年保险条款修订表



附件

中国船东互保协会 2019 年保险条款修订表

中文条款	英文条款	修改说明
1. 定义 对第一条第 7 项 船舶的定义进行修改, 增加黑体字部分: 7) 船舶 系指被用于或者被意图用于在水上、水面、水中或者水下航行或者其他目的的任何船舶、船艇、水翼船、气垫船、或者其他种类的船舶（包括驳船、游艇以及以任何方式推进的相类似船舶，但是不包括为了进行与开采或者生产石油或天然气有关的钻探作业而建造或者改装的装置或者船舶，也不包括固定平台或固定设备及地效翼船），或者他们的任何部分或任何吨位或者任何份额。	1. Definitions <i>Amend Rule 1 7.Ship by addition of the words in bold type indicated below</i> 7. Ship Means any ship, boat, hydrofoil, hovercraft or other description of vessel (including a lighter, barge or similar vessel howsoever propelled but excluding (a) a unit or vessel constructed or adapted for the purpose of carrying out drilling operations in connection with oil or gas exploration or production and (b) a fixed platform or fixed rig and (c) a wing-in-ground craft) used or intended to be used for any purpose whatsoever in navigation or otherwise on, under, over or in water or any part of such ship, boat, hydrofoil, hovercraft or other description of vessel or an proportion of the tonnage thereof or any share therein.	为符合国际保赔协会集团分摊协议的规定, 特对定义条款中的“船舶”内容进行修改, 在船舶除外部增加了“地效翼船”(wing-in-ground craft), 排除其适用。
2. 定义 对第一条第 17 项 “公约责任限额”的定义进行修改, 增加黑体字部分: 17) 公约责任限额 就一条船舶而言, 系指该船船东在巨灾索赔发生日对索赔案（不包括人身伤亡索赔案）的责任限额, 即根据1976年国际海事赔偿责任限制公约（“公约”）第 6.1（b）条规定计算的（但500总吨以下船舶为每吨334计算单位），按经本协会最终确认的在巨灾索赔发生日实行的兑换率, 从特别提款权换算成美元的数额, 但是, （1）如某船仅以其部分	2. Definitions <i>Amend Rule 1 17.Convention Limit by addition of the words in bold type indicated below:</i> 17. Convention Limit In respect of a ship, the limit of liability of the owner of that ship for claims (other than claims for loss of life or personal injury) at the Overspill Claim Date, calculated in accordance with Article 6 paragraph 1(b) (but applying 334 Units of Account to each ton up to 500 tons) of the International Convention on Limitation of Liability for Maritime Claims 1976 (the “Convention”) and converted from Special Drawing Rights into United States Dollars at	为符合国际保赔协会集团分摊协议的规定, 特对定义条款中的“公约责任限额”进行修改, 增加了“对 500 总吨以下船舶”的单独规定。

（“相关比例”）吨位入会保险时，公约限额应是以前述计算和换算的责任限额按相关比例计算的数额；且，（2）即使公约条款中有任何相反的规定，每条船舶应被视为是适用公约的海船。	the rate of exchange conclusively certified by the Association as being the rate prevailing on the Overspill Claim Date, provided that, (1) where a ship is entered for a proportion (the “relevant proportion”) of its tonnage only, the Convention Limit shall be the relevant proportion of the limit of liability calculated and converted as aforesaid and (2) each ship shall be deemed to be a sea-going ship to which the Convention applies, notwithstanding any provision in the Convention to the contrary.	
3. 人员伤、病或死亡—除入会船员外的其他人员及对旅客的责任 <i>修改第三条（二）款第 3 项但书 4）的规定：</i> 4）会员对旅客在离开入会船的旅途中死亡或受伤依据一份合同需承担的契约责任时，在以下任一情况下不能根据本款第3项从本协会获得赔偿： （1）旅客已另行订立了一项关于该旅途风险的合同已由旅客另行订立，不论该合同是否是与会员订立的；或 （2）会员已放弃了其就有关旅客旅途风险向任何分包人或其他第三者的任何或全部追索权。	3. Injury, illness or death of persons other than seamen and liability to passengers <i>Amend Rule 3 Section 2 d. by addition of the words in bold type and deletion of the words indicated below:</i> d. There shall be no recovery from the Association under this paragraph [C] in respect of the contractual liability of a Member, incurred under a contract, for death or injury to a passenger whilst on an excursion from the entered ship in circumstances where either: i a separate that contract has been separately entered into by the passenger for the excursion, whether or not with the Member, or ii the Member has waived any or all of his rights of recourse against any sub-contract or other third party in respect of the excursion.	为符合国际保赔协会集团分摊协议的规定，避免语句产生歧义，特对旅客在离船后依据单独合同产生的伤亡责任的除外规定进行修改，使之更加明确。
4. 油污责任 <i>对第八条第（三）款第 3 项第二段进行修改，删除带删除线部分的内容：</i> 除非董事会另作决定，上述责任限额不仅应适用于任何一条入会船发生的每件事件，也应适用于不论是涉及一条船舶还是数条船舶的溢漏油或溢漏油威胁事件，还应适用于入会船会员或共同入会会员根据第三条任何一条或数条条款所	4. Oil pollution <i>Amend Rule 8 C. iii. paragraph 2 by deletion of the words indicated below:</i> Unless the Directors otherwise decide, such limit shall apply in respect of any one entered ship each event and shall apply irrespective of whether the event involves the escape or threatened escape of oil from one or more than one ship and to all claims in respect of oil	此处修改删除了多余的、并且可能产生歧义的语句。

提出的所有油污索赔。如果所有此种索赔的总额超过了该责任限额，则本协会对每一索赔的赔付责任应限于该责任限额按每一索赔金额与所有索赔总金额的 比例计算的数额。	pollution brought by the Member or Joint Member of the entered ship whether under one Section or more than one Section of Rule 3. If the aggregate of such claims exceeds that limit, the liability of the Association for each claim shall be limited to such proportion of that limit as such claim bears to the aggregate of all such claims.	
5. 制裁风险 <i>对第八条第（十七）款第1项进行修改，增加粗体字部分内容，删除带删除线部分的内容：</i> 1.如果由于协会对于船东的任何责任、开支或费用提供保险、进行赔付或者给予任何利益，而使协会招致 成为或将要成为 任何相关主管当局或政府的制裁、禁令、限制或打压行为 的对象或遭受此类风险 时，协会将对此等责任、开支、费用不予补偿。	5. Sanctions Risks <i>Amend Rule 8 Q i by addition of the words in bold type and by deletion of the words indicated below:</i> i. The Association shall not indemnify an Owner 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 the risk of being or becoming subject to any sanction, prohibition, restriction or adverse action by any competent authority or government.	根据英国法院的最新判例（【2018】EWHC2643(Comm)），同时参考国际保赔协会的条款，为了避免歧义，对制裁条款进行修改。