



INTERNATIONAL  
OIL POLLUTION  
COMPENSATION  
FUND

ASSEMBLY  
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Agenda item 18

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## AMENDMENTS TO THE FINANCIAL REGULATIONS

### Note by the Director

#### Introduction

1 The IOPC Fund's Financial Regulations were adopted by the Assembly at its 3rd session (FUND/A.3/15, paragraph 7). They were amended by the Assembly at its 1st extraordinary session and at its 4th, 5th, 6th and 7th ordinary sessions (FUND/A/ES.1/13 paragraph 15(a), FUND/A.4/16 paragraph 13.4, FUND/A.5/15 paragraph 5.2, FUND/A.6/16 paragraph 15.1 and FUND/A.7/14 paragraph 15.1, respectively).

2 The Director has examined the Financial Regulations in the light of experience gained from the operations of the IOPC Fund. This examination has led him to propose amendments to Financial Regulations 5.1, 5.2 and 6.2.

3 The proposals are made after consultation with the IOPC Fund's External Auditor.

#### Financial Regulation 5

4 The IOPC Fund has a General Fund and one or more Major Claims Funds.

5 Under Financial Regulation 5.1(c), the money in the General Fund shall be used for:

- (a) the satisfaction of claims arising from "smaller" incidents, ie incidents where the aggregate payment by the IOPC Fund does not exceed 15 million (gold) francs (1 million SDR);
- (b) the payment of the first 15 million francs in respect of larger incidents;

- (c) provisional payments pursuant to Internal Regulation 8.6; and
- (d) the administrative costs of the IOPC Fund and any other expenditure authorised by the Assembly or the Executive Committee.

6 Separate Major Claims Funds shall be established in respect of each larger incident, ie each incident where the aggregate amount to be paid by the IOPC Fund for the satisfaction of claims exceeds 15 million francs (Financial Regulation 5.2(a)). Such a Major Claims Fund shall be used for the payment of claims arising from the relevant incident, provided that the first 15 million francs in respect of each incident are to be paid from the General Fund (Financial Regulation 5.2(c)).

7 When the Assembly recognises that the payments to be made by the IOPC Fund in respect of a given incident will exceed 15 million francs, it will levy contributions for the purpose of payments above that amount. Under the present practice of the Assembly concerning the date of payment of contributions, these contributions will be received by the IOPC Fund at the beginning of the year following that in which the Assembly's decision was taken.

8 It is possible, however, that payments exceeding 15 million francs may have to be made by the Director in respect of an incident before contributions have been levied to the relevant Major Claims Fund and sufficient money received from the contributors. This is due to the fact that, under Internal Regulation 8.4.1, the Director may make final settlement without the prior approval of the Executive Committee, if he estimates that the total cost to the IOPC Fund of satisfying all claims arising from the relevant incident is not likely to exceed 25 million francs (1.67 million SDR). In addition, under Internal Regulation 9.5, the Director may, without the prior approval of the Executive Committee, make final settlement as regards the indemnification of the shipowner or his guarantor up to a total amount of 25 million francs in respect of a particular incident.

9 These situations are not dealt with in the Financial Regulations. However, a somewhat similar situation is dealt with in Financial Regulation 5.1(c)(ii), where it is stated that the money in the General Fund shall be used to make provisional payments pursuant to Internal Regulation 8.6, ie provisional payments made in order to mitigate undue financial hardship to victims. Such provisional payments are made before the claims have been settled. In Financial Regulation 5.2(d) it is provided, inter alia, that any advances made from the General Fund for provisional payments under Regulation 5.1(c)(ii) shall be credited to the relevant Major Claims Fund.

10 In the Director's opinion, payments of claims in a situation of the kind described in paragraph 8 should not be delayed until a Major Claims Fund has been established and sufficient money paid into it. One solution would be for the Director, under the authority given to him in Internal Regulation 10.1, to take a bank loan for the purpose of making such payments. The Director considers, however, that it would be more appropriate to take a loan from the General Fund or from another Major Claims Fund for the payment of the claims arising out of such an incident. This loan should then be repaid to the General Fund or the Major Claims Fund, as the case may be, together with interest, from the new Major Claims Fund when this is established and sufficient money paid into it.

11 The Director proposes that Financial Regulation 5 be amended, as set out in the Annex, in order to deal explicitly with such a situation. In addition, the Director proposes certain technical amendments to Financial Regulation 5 in order to bring it into line with the practice of the IOPC Fund and to make the provisions relating to the General Fund and those relating to Major Claims Funds conform.

#### Financial Regulation 6.2

12 Financial Regulation 6.2 lays down rules concerning the authority of the Director and other officers of the IOPC Fund to make payments and give instructions to bankers. The Regulation reads as follows (as amended by the 7th session of the Assembly in 1984):

"The Fund's bankers shall only be empowered to accept instructions on behalf of the Fund if such instructions are signed by the Director and, in respect of payment instructions for any sum in excess of £12 000, countersigned by one other properly authorised officer. The Director may empower another officer or other officers to sign instructions to the Fund's bankers on his behalf only in respect of payment instructions for any sum of less than £2 000. For payment of salaries the Director may exceptionally, in circumstances where he is unable to do so himself, empower two other officers to sign jointly instructions for any sum up to £12 000."

13 In the interest of efficient financial management in the IOPC Fund, and in view of possible increases in the total amount of salaries payable to the IOPC Fund's staff, it is suggested that the limits mentioned in Financial Regulation 6.2 are raised to £14 000, £3 000 and £14 000, respectively.

Action to be Taken by the Assembly

14 The Assembly is invited to consider for adoption the Director's proposal for amendments to the Financial Regulations as set out in the Annex to this document.

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ANNEX

Amendments to the Financial Regulations  
as Proposed by the Director

(amendments underlined)

Regulation 5.1

- (a) There shall be established a General Fund which shall consist of:
  - (i) the initial contributions;
  - (ii) annual contributions levied pursuant to Article 12.2(a) of the Fund Convention (including interest on unpaid contributions) in respect of claims of the kind referred to in Article 12.1(i)(b) of the Fund Convention and any monies borrowed in connection with such claims. Such contributions shall include those levied to meet the first 15 million francs of claims in respect of any one incident where the aggregate amount of all claims exceeds 15 million francs;
  - (iii) reimbursement with interest of any advances made under Regulation 5.1(c)(ii) below to a Major Claims Fund for provisional payments made by the Fund;
  - (iv) income received from the investment of monies in the General Fund, transfers from Major Claims Funds according to Internal Regulation 4.4.2 and other miscellaneous income;
  - (v) reimbursement with interest of any loans made under Regulation 5.1(c)(iv) below to a Major Claims Fund for payments of claims.
- (b) [not amended]
- (c) The monies in the General Fund shall be used:
  - (i) for the satisfaction of claims of the kind referred to in Article 12.1(i)(b) of the Fund Convention including the first 15 million francs of claims in respect of any one incident where the aggregate amount of all claims exceeds 15 million francs;
  - (ii) to make provisional payments pursuant to Internal Regulation 8.6;

- (iii) to meet the costs and expenses of the administration of the International Oil Pollution Compensation Fund and any other expenditure which may be authorized by the Assembly or the Executive Committee;
- (iv) to make loans to a Major Claims Fund for the satisfaction of claims of the kind referred to in Article 12.1(i)(c) of the Fund Convention, above the first 15 million francs in respect of any one incident, to the extent that sufficient money is not available in that Major Claims Fund.

Regulation 5.2

- (a) [not amended]
  - (b) Each Major Claims Fund shall consist of:
    - (i) annual contributions levied under Article 12.2(b) of the Fund Convention (including interest on unpaid contributions) for the satisfaction of payments of claims in respect of a particular incident giving rise to claims of the kind referred to in sub-paragraph (a) above, and any monies borrowed in connection with such claims;
    - (ii) income received from the investment of monies in the Major Claims Fund;
    - (iii) reimbursement with interest of loans made to the General Fund or another Major Claims Fund under sub-paragraph (d) below.
  - (c) Contributions to any Major Claims Fund shall be separately credited to the individual creditors.
  - (d) The monies in any Major Claims Fund shall be used for payment in respect of the particular claims referred to in sub-paragraph (a) above or otherwise be applied in accordance with Internal Regulations 4.4.1 and 4.4.2 <1>. Such monies may also be used to make loans to the General Fund or to another Major Claims Fund, to the extent that sufficient money is not available in the relevant Funds.
    - <1> This sentence at present part of sub-paragraph (c).
  - (e) Any loans taken pursuant to Internal Regulation 10.1, any advances made from the General Fund for provisional payments under Financial Regulation 5.1(c)(ii) above, and any loans taken from the General Fund under Regulation 5.1(c)(iv) above or from a Major Claims Fund under sub-paragraph (d) above shall be credited to the relevant Major Claims Fund <2>.
- <2> This paragraph at present sub-paragraph (d).

Regulation 6.2

The Fund's bankers shall only be empowered to accept instructions on behalf of the Fund if such instructions are signed by the Director and, in respect of payment instructions for any sum in excess of £14 000, countersigned by one other properly authorized officer. The Director may empower another officer or other officers to sign instructions to the Fund's bankers on his behalf only in respect of payment instructions for any sum of less than £3 000. For payment of salaries the Director may exceptionally, in circumstances where he is unable to do so himself, empower two other officers to sign jointly instructions for any sum up to £14 000.

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