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SHIPPING NOTICE NO. MACI 01/2010 – AMENDMENTS TO THE ISM CODE

**THIS SHIPPING NOTICE CONTAINS IMPORTANT INFORMATION AND
GUIDANCE ON FORTHCOMING AMENDMENTS TO THE ISM CODE**

THIS NOTICE IS DIRECTED PRIMARILY AT:

- Owners, managers and masters of all Cayman Islands ships (including commercial yachts of 500 GT and above)
- Designated Persons under the ISM Code.

1. Background

- 1.1 On 04 December 2008, the Maritime Safety Committee of IMO adopted Resolution MSC.273(85) which in turn adopted amendments to the ISM Code.
- 1.2 Under IMO procedures, these amendments were deemed accepted on 01 January 2010 and will enter force on 01 July 2010.
- 1.3 The amendments are intended to add clarity to the ISM Code and should not result in substantive changes to the safety management activities of companies operating robust and effective safety management systems.
- 1.4 However, companies should review their safety management systems against the amended text to confirm that the requirements of the ISM Code continue to be met both ashore and onboard their ships.

2. Amendments contained in MSC.273(85):

MSC.273(85) amends the ISM Code as follows:

GENERAL

In paragraph 1.1.10, the words “and includes” are replaced by the word “or”.

The definition of **Major Non-conformity** is now clear in that it means an “immediate threat to safety or the environment” OR a “failure to implement a requirement of the Code”.

The existing subparagraph .2 of paragraph 1.2.2 is replaced by the following:

“.2 assess all identified risks to its ships, personnel and the environment and establish appropriate safeguards; and”.

The need to perform risk assessments as part of the safety management activities is now explicit, rather than implied. When conducting risk assessments, the guidance given in the “Code of Safe Working Practices for Merchant Seamen” should be taken into account.

MASTER’S RESPONSIBILITY AND AUTHORITY

The word “periodically” is added at the beginning of paragraph 5.1.5.

With the addition of the word “periodically” it is now clear that the “master’s review” is an ongoing process aimed at improving the effectiveness of the safety management system.

SHIPBOARD OPERATIONS

The existing section 7 is replaced by the following:

“7 SHIPBOARD OPERATIONS

The Company should establish procedures, plans and instructions, including checklists as appropriate, for key shipboard operations concerning the safety of the personnel, ship and protection of the environment. The various tasks should be defined and assigned to qualified personnel”.

With this amendment it is now clear that it is the company’s responsibility to produce operating procedures, not to just have “procedures for their preparation”. This amendment may have an impact on companies providing “ISM services” to commercial yachts. It has been common for companies to leave the preparation of specific procedures to the master of each vessel. Although input from the master and crewmembers remains essential in developing effective procedures; the responsibility to establish the necessary “plans, procedures and instructions” rests with the company.

EMERGENCY PREPAREDNESS

The existing paragraph 8.1 is replaced by the following:

“8.1 The Company should identify potential emergency shipboard situations, and establish procedures to respond to them.”

This amendment is mainly editorial and now requires two distinct actions by the company. First potential emergency situations should be identified and secondly that procedures need to be put in place to respond to such situations.

REPORTS AND ANALYSIS OF NON-CONFORMITIES, ACCIDENTS AND HAZARDOUS OCCURRENCES

The existing paragraph 9.2 is replaced by the following:

“9.2 The Company should establish procedures for the implementation of corrective action, including measures intended to prevent recurrence”.

Where non conformities, accidents or hazardous occurrences have been identified, actions are to be implemented which not only “correct what is wrong” but are also aimed a preventing similar occurrences in the future.

MAINTENANCE OF THE SHIP AND EQUIPMENT

In paragraph 10.3, the words “establish procedures in its safety management system to” are deleted.

Again, this amendment clarifies the need to “take action”, rather than merely have a “procedure to take action”.

COMPANY VERIFICATION, REVIEW AND EVALUATION

Paragraph 12.1 is replaced by the following:

“12.1 The Company should carry out internal safety audits on board and ashore at intervals not exceeding twelve months to verify whether safety and pollution-prevention activities comply with the safety management system. In exceptional circumstances, this interval may be exceeded by not more than three months”.

Generally, most companies already choose to conduct internal audits annually. This amendment now makes twelve months the maximum period between audits. The extension that may be granted in “exceptional circumstances” should not be considered as three month “audit window”.

In paragraph 12.2, the words “efficiency of and, when needed, review” are replaced by the words “effectiveness of”.

This amendment is also mainly editorial. The purpose of the management review is to evaluate the effectiveness of the safety management system and this evaluation should be carried out in accordance with established procedures.

CERTIFICATION AND PERIODICAL VERIFICATION

The following new paragraphs 13.12, 13.13 and 13.14 are added after the existing paragraph 13.11:

“13.12 When the renewal verification is completed after the expiry date of the existing Safety Management Certificate, the new Safety Management Certificate should be valid from the date of completion of the renewal verification to a date not exceeding five years from the date of expiry of the existing Safety Management Certificate.

13.13 If a renewal verification has been completed and a new Safety Management Certificate cannot be issued or placed on board the ship before the expiry date of the existing certificate, the Administration or organization recognized by the Administration may endorse the existing certificate and such a certificate should be accepted as valid for a further period which should not exceed five months from the expiry date.

13.14 If a ship at the time when a Safety Management Certificate expires is not in a port in which it is to be verified, the Administration may extend the period of validity of the Safety Management Certificate but this extension should be granted only for the purpose of allowing the ship to complete its voyage to the port in which it is to be verified, and then only in cases where it appears proper and reasonable to do so. No Safety Management Certificate should be extended for a period of longer than three months, and the ship to which an extension is granted should not, on its arrival in the port in which it is to be verified, be entitled by virtue of such extension to leave that port without having a new Safety Management Certificate. When the renewal verification is completed, the new Safety Management Certificate should be valid to a date not exceeding five years from the expiry date of the existing Safety Management Certificate before the extension was granted.”

These amendments reflect the provisions of SOLAS I/14 and the Protocol of 1988 to the SOLAS Convention. The Safety Management Certificate (SMC) is now aligned with other certificates issued under the Harmonised System of Survey and Certification (HSSC).

INTERIM CERTIFICATION

In paragraph 14.4.3, the word “internal” is inserted after the words “planned the”.

This amendment clarifies the need for the company to conduct an Internal Audit within three months on an Interim Safety Management Certificate being issued.

3. External audits for Safety Management Certificates and Documents of Compliance.

- 3.1 All audits under Section 14 of the ISM Code by or on behalf of the Cayman Islands will be conducted against the ISM Code as amended by MSC.273(85).
- 3.2 Prior to 01 July 2010, an audit finding which would be classed as a “Non-conformity” under the amendments contained in MSC.273(85) will be raised as an “Observation” to bring the matter to the attention of the company and to enable corrective action to be put in place.
- 3.3 From 01 July 2010, any failure to meet the requirements of the amendments to the ISM Code contained in MSC.273(85) will be graded as either a “Non-conformity” or a “Major non-conformity” in accordance with ISM Code sections 1.1.9 or 1.1.10, as appropriate.