

Updated ESS DSUA version 2013.1:

Electronic (Paperless) Trading Systems – Electronic Shipping Solutions and Bolero International Ltd

This circular confirms approval by International Group of P&I Clubs (the Group) of an updated version of Electronics Shipping Solutions (ESS)'s electronic trading system. This version is called DSUA 2013.1 and it enables electronic trading both in respect of bills of lading and waybills. It supersedes ESS's previous electronic trading system DSUA 2009.3 which remains approved for the purposes of Club cover. DSUA 2013.1 will come into effect as of 18 March 2013.

Members will recall as reported in our Notice to Members No. 18 2010/2011 – Electronic (Paperless) Trading Systems – Bolero International Limited and Electronic Shipping Solutions that until February 2010 the Rules of all of the Clubs comprising the Group specifically excluded liabilities in respect of the carriage of cargo under all electronic, that is paperless, trading systems to the extent that the liabilities under such systems would not have arisen under a 'normal' paper system, that is one using transferable paper documentation.

The Group, after reviewing a number of electronic trading systems, agreed that liabilities arising in respect of the carriage of cargo under such systems would be covered from 20 February 2010 provided that the system had first been approved by the Group. The two systems approved in their versions current at the date of Notice to Members No. 18 2010/2011 – Electronic (Paperless) Trading Systems – Bolero International Limited and Electronic Shipping Solutions were that administered by Electronic Shipping Solutions (the ESS system – version DSUA 2009.3) and that administered by Bolero International Ltd (the Bolero system – Rulebook/Operating Procedures September 1999). Both those systems continue to be approved. The websites are www.essdocs.com and www.bolero.net

The legal documentation associated with the use and operation of the two systems is reviewed by the Group and its legal advisers if and when amended by either of the organisations, to ensure that any modifications introduced by them meet the Group's requirements.

Traditional exclusions of cover under Club Rules relating to the carriage of cargo, will of course continue to apply in respect of ESS and Bolero in the same way as for paper systems e.g. discharge at a port or place other than the port or place provided for in the contract of carriage, the issue/creation of an ante or post dated electronic document/record, delivery of cargo without the production of the negotiable electronic document/record.

Members should also be aware that participation in an electronic trading system may expose them to certain liabilities which are not of a traditional P&I nature. These may arise through shipowners or charterers who wish to participate in either the ESS or Bolero systems being required to be party to particular contractual arrangements under which they assume obligations necessary for the system to operate. Examples of such liabilities may be for breach of confidentiality undertakings or of obligations to maintain computer links. Members should be aware that, in so far as such risks are not of a traditional P&I nature, other insurance arrangements may be required.

Finally it would be helpful to the Group, in monitoring the use and development of the systems, if Members who are using either of them would advise their Club that they are doing so and of any benefits or difficulties which they encounter, legal or practical, in the operation.

All Clubs in the Group have issued a similar Circular.

