

FD&D Rule Changes 2020/2021



Freight Demurrage &
Defence Insurance
2020/2021

Proposed FD&D rule changes 2020/21

Rules 5 and 6 – apart from an editorial change there is a new paragraph enabling the Association to recover costs, in the event costs have been spent to support a dispute, from the paying party in case of a judgement or award.

FD&D Rule 5 Discretion of the Association

The Association shall have absolute discretion to determine whether any particular case merits the support of the Association and without prejudice to the generality of the foregoing the Association shall, in exercising its discretion, be entitled to take into account the consideration whether support of the Member in respect of any particular case is in the interest of the Membership.

The Association may at any and all times impose such terms as a condition of supporting the Member in any particular case as it thinks fit.

The Association may at any time withdraw its support from the Member in any particular case if it considers that such case ought to be settled or otherwise discontinued and the Association shall not be liable for any costs and expenses incurred in connection with such case after the time of such withdrawal of support.

~~If a claim or dispute for which the Member is insured is settled without the prior consent of the Association or without a provision for reasonable costs, the Association shall be entitled to recover a reasonable contribution to such costs or expenses incurred by the Association from the Member, provided such costs would otherwise have been recoverable.~~

FD&D Rule 6 Recovery from the Association

No costs or expenses shall be recoverable from the Association unless

- (a) they have been incurred with the prior consent of the Association,
- (b) they have been incurred by the Association on behalf of the Member in accordance with FD&D Rule 7,
- (c) the Association in its absolute discretion shall decide that they were reasonably incurred and ought in all the circumstances to be borne by the Association.

~~If a claim or dispute for which the Member is insured is settled without the prior consent of the Association or without a provision for reasonable costs, the Association shall be entitled to recover a reasonable contribution to such costs or expenses incurred by the Association from the Member, provided such costs would otherwise have been recoverable.~~

~~The Association shall be entitled to recover costs incurred by the Association which the Member pursuant to an award or judgment shall recover from a party. In the event the funds recovered from that party are insufficient to satisfy both the Member's and the Association's claim the funds shall be apportioned on a pro rata basis.~~

Change: The fourth paragraph in Rule 5 has been moved to Rule 6 for editorial reasons. In addition, a new paragraph has been added to safeguard the Association's right to recover paid costs in full or at least on a pro rata basis in the event the Member is awarded costs in legal proceedings and also that the cover is for "mis-directed arrows".