Federal Maritime Commission

§ 515.23 Claims against an ocean transportation intermediary.

The Commission or another party may seek payment from the bond, insurance, or other surety that is obtained by an ocean transportation intermediary providing coverage pursuant to this section. Each group or association of ocean transportation intermediaries or its financial responsibility provider shall notify the Commission within 30 days of any changes to its list.

(3) The group or association shall provide the Commission with a sample copy of each type of existing financial responsibility coverage used by member ocean transportation intermediaries.

(4) Each group or association of ocean transportation intermediaries shall be responsible for ensuring that each member’s financial responsibility coverage allows for claims to be made in the United States against the Surety, Insurer or Guarantor for any judgment for damages against the ocean transportation intermediary arising from its transportation-related activities under the Act, or order for reparations issued pursuant to section 11 of the Act (46 U.S.C. 41301–41302, 41305–41307(a)), or any penalty assessed against the ocean transportation intermediary pursuant to section 13 of the Act (46 U.S.C. 41107–41109). Each group or association of ocean transportation intermediaries shall be responsible for requiring each member ocean transportation intermediary to provide it with valid proof of financial responsibility annually.

(5) Where the group or association of ocean transportation intermediaries determines to secure on behalf of its members other forms of financial responsibility, as specified by this section, for damages, reparations or penalties not covered by a member’s individual financial responsibility coverage, such additional coverage must:

(i) Allow claims to be made in the United States directly against the group or association’s Surety, Insurer or Guarantor for damages against each covered member ocean transportation intermediary arising from each covered member ocean transportation intermediary’s transportation-related activities under the Act, or order for reparations issued pursuant to section 11 of the Act (46 U.S.C. 41301–41302, 41305–41307(a)), or any penalty assessed against each covered member ocean transportation intermediary pursuant to section 13 of the Act (46 U.S.C. 41107–41109); and

(ii) Be for an amount up to the amount determined in accordance with §515.21(b), taking into account a member’s individual financial responsibility coverage already in place. In the event of a claim against a group bond, the bond must be replenished up to the original amount of coverage within 30 days of payment of the claim; and

(iii) Be in excess of a member’s individual financial responsibility coverage already in place; and

(6) The coverage provided by the group or association of ocean transportation intermediaries on behalf of its members shall be provided by:

(i) in the case of a surety bond, a surety company found acceptable to the Secretary of the Treasury and issued by such a surety company on Form FMC–69; and

(ii) in the case of insurance and guaranty, a firm having a financial rating of Class V or higher under the Financial Size Categories of A.M. Best & Company or equivalent from an acceptable international rating organization, Underwriters at Lloyd’s, or surplus line insurers named on a current “white list” issued by the Non-Admitted Insurers’ Information Office of the National Association of Insurance Commissioners and issued by such firms on Form FMC–67 and Form FMC–68, respectively.

(e) All forms and documents for establishing financial responsibility of ocean transportation intermediaries prescribed in this section shall be submitted to the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, DC 20573. Such forms and documents must clearly identify the name; trade name, if any; and the address of each ocean transportation intermediary.

§ 515.24 Agent for service of process.

(a) Every ocean transportation intermediary not located in the United States and every group or association of ocean transportation intermediaries not located in the United States which provides financial coverage for the financial responsibility of a member ocean transportation intermediary shall designate and maintain a person in the United States as legal agent for the receipt of judicial and administrative process, including subpoenas.

(b) If the designated legal agent cannot be served because of death, disability, or unavailability, the Secretary, Federal Maritime Commission, will be deemed to be the legal agent for service of process. Any person serving the Secretary must also send to the ocean transportation intermediary, or group or association of ocean transportation intermediaries which provide financial coverage for the financial responsibilities of a member ocean transportation intermediary, by registered mail, return receipt requested, at its address published in its tariff, a copy of each document served upon the Secretary, and shall attest to that mailing at the time service is made upon the Secretary.

(c) Service of administrative process, other than subpoenas, may be effected upon the legal agent by mailing a copy of the document to be served by certified or registered mail, return receipt...