



# SIGNALS

*Navigating the Regulatory Seas*

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*SIGNALS*<sup>TM</sup> provides detailed information on the regulations and activities of the U.S. Federal Maritime Commission (FMC) and related developments in the ocean freight industry.

## **FMC Votes to Finalize Rule Amendments Required by Shipping Act Amendment**

At its first meeting of 2020 the [Federal Maritime Commission](#) voted to publish two final rules and met in a closed session for a briefing on developments in the U.S. liner trades. The Commission voted to issue a final rule implementing the [Frank LoBiondo Coast Guard Authorization Act of 2018](#) (LoBiondo Act). This rule will update Commission regulations to:

- Clarify that persons that advertise or hold themselves out as Ocean Transportation Intermediaries (OTIs) must be licensed as OTIs and meet associated financial responsibility requirements;
- Expand the prohibition on common carriers knowingly and willfully accepting or transporting cargo for OTIs that do not have a tariff or do not meet financial responsibility requirements;
- Make clear that OTI licensing and financial responsibility requirements do not apply to a person performing OTI services on behalf of an OTI for which it is a disclosed agent;
- Make comments submitted to the Commission regarding filed ocean common carrier and marine terminal operator agreements confidential;
- Include provisions on “nonpublic collaborative discussions” between Commissioners.

These rule amendments will permit the Commission to consider policy issues more efficiently, more effectively address deceptive business practices of unlicensed OTIs, and will create an atmosphere that encourages more candid comments from the public in response to filed confidential agreements. The final rulemaking has not yet been released because it has not yet been published in the [Federal Register](#). Once this final rule is effective it will update the FMC regulations as provided in the [U.S. Code of Federal Regulations \(46 CFR\)](#). For additional information on the [Frank LoBiondo Coast Guard Authorization Act of 2018](#), which also bears the short title Federal Maritime Commission Authorization Act of 2017, please see our [SIGNALS issue of February 4, 2019](#); the updates to FMC regulations summarized here are only a small part of the Act.

The Commission also voted in January to issue the final rule in [FMC Docket 19-04](#) which modifies hearing procedures governing the denial, revocation, or suspension of an ocean transportation intermediary license. More specifically, it designates that the Commission’s Administrative Law Judge will preside over such hearings and sets out clear procedures for the hearings. The changes in these rules take effect on March 2, 2020 and are expected to streamline the OTI hearing process.

During a closed session at its January meeting the FMC Commissioners were briefed on global and domestic economic outlooks; developments and risks in the container shipping industry; and challenges the industry faces in 2020. The Commission was informed that US-China trade volumes were down by more than 5% during the first half of 2019 and that simultaneously, Southeast Asian nations have realized significant growth in export volumes to the United States. Monitoring if and how trade volumes and carrier service shifts in response to developments in global trade policy will be a key part of the ongoing work of the FMC in 2020.

## Transpacific Eastbound Carriers File GRIs Effective February 15 and March 1, 2020

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Several leading carriers serving the Trans Pacific container trades have recently updated their respective tariffs to include new **General Rate Increases (GRIs)** effective **February 15, 2020**, including American President Lines (APL), CMA CGM, COSCO, Evergreen, Hapag Lloyd, Hyundai Merchant, Ocean Network Express (ONE), and Yang Ming. See table below for GRI amounts per 40ft container; GRI amounts for all other container sizes are as per formula. The February 15th GRI will be the fourth GRI of 2020 for the East Asia/USA trade lane.

TRANSPACIFIC EASTBOUND (Asia to USA)	
GENERAL RATE INCREASE (GRI) Effective February 15, 2020	
Carrier	in USD, per 40ft ctr
APL	1000
CMA CGM	1000
COSCO (see note 1)	800
Evergreen	1000
Hapag Lloyd	700
Hyundai	1000
ONE	1000
Yang Ming	1000

NOTE 1: COSCO GRIs apply on all cargo moving under service contracts only.

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TRANSPACIFIC EASTBOUND (Asia to USA)	
GENERAL RATE INCREASE (GRI) Effective March 1, 2020	
Carrier	in USD, per 40ft ctr
APL	1000
CMA CGM	1000
COSCO (see note 1)	800
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## **HMM Joins Hapag Lloyd, ONE, and Yang Ming in THE Alliance Agreement**

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Effective January 5, 2020 the Federal Maritime Commission (FMC) approved an amendment to THE Alliance Agreement, [FMC Agreement No. 012439](#), to add South Korean container liner shipping company Hyundai Merchant Marine Co., Ltd. (HMM) as a party to this global vessel sharing agreement.

THE Alliance Agreement authorizes its parties to charter and exchange space on one another's vessels as well as coordinate ocean and intermodal transportation services and operations. The geographic scope of this Agreement is the trade between ports and points in the USA and ports of North Asia, South Asia, Middle East, Northern Europe, Mediterranean, Adriatic, Black Sea, Egypt, Panama, Mexico, Canada, Central America, and the Caribbean. THE Alliance currently coordinates the option and sharing of space on approximately 168 container vessels.

THE Alliance began with five members in April 2017, including Hapag-Lloyd, Kawasaki Kisen Kaisha, Ltd. (K Line), Mitsui O.S.K. Lines, Ltd. (MOL), Nippon Yusen Kaisha (NYK), and Yang Ming; container liner operations of K Line, MOL, and NYK have since merged to form ONE effective April 1, 2018.

There are now four members in THE Alliance: Hapag-Lloyd, Ocean Network Express Pte. Ltd. (ONE), Hyundai Merchant Marine Co., Ltd., and Yang Ming. A unique feature of THE Alliance Agreement is its requirement for each member carrier to provide a contingency contribution. Hyundai Merchant Marine Co., Ltd. will be required to add a contribution of USD 25 million to this contingency fund.

This amendment also changes to the validity date of THE Alliance Agreement. It will now "continue in effect until April 1, 2030." Member carriers have the option to withdraw from the agreement, subject to twelve (12) months written notice, provided that such notice may not be given prior to April 1, 2023.

THE Alliance Agreement is one of three FMC Global Vessel Sharing Agreements/Alliances. The other two are the OCEAN Alliance Agreement, and the Maersk/MSC Vessel Sharing Agreement which is also known as the 2M Alliance.

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### **Distribution-Publications, Inc.**

180 Grand Avenue, Suite 350, Oakland, CA 94612-3772

Tel: 1-510-273-8933, or 1-800-204-3622, Fax: 1-510-273-8959

E-mail: [signals@dpiusa.com](mailto:signals@dpiusa.com) Web: [www.dpiusa.com](http://www.dpiusa.com)

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