

# Client Alert

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## Montreal Convention Limits of Liability to Rise 13.1% by End of Year

The Montreal Convention, an international treaty to which over ninety-one countries are parties, sets the liability limits for lost and damaged baggage, cargo, delay of passengers and cargo, and compensation for passenger death or injuries. Those limits of liability are based on SDRs, an artificial basket of currency created by the International Monetary Fund.<sup>1</sup> Under Article 24 of the Montreal Convention, the limits of liability set forth in Articles 21 (compensation for death or injury of passengers), 22 (limits of liability for lost or delayed baggage and cargo) and 23 (conversion of monetary units into Special Drawing Rights) “shall be reviewed by the depository at five year intervals”. The Montreal Convention took effect on November 4, 2003, and, accordingly, a first five year review was conducted by the International Civil Aviation Organization (ICAO). In its Working Paper issued earlier this year,<sup>2</sup> ICAO concluded that the inflation factor had exceeded 10%, the threshold stipulated in Article 24(1) for adjustments of limits of liability, and that an upward revision of the limits was required. ICAO determined the inflation factor is 13.1%, resulting in an upward revision of 13.1% of the current limits of liability.

Accordingly, based on the current conversion rate of 1 SDR into the U.S. dollar, \$1.59 as of September 23, 2009, the recommended revised Convention limits of liability are as follows:

Cargo – 19 SDRs per kilo (\$30.21)

Baggage – 1,131 SDRs (\$1,798)

Passenger Delay – 4,694 SDRs (\$7,463)

Death or Personal Injury – 113,100 SDRs (\$179,829)

As provided in paragraph 2 of Article 24 of the Convention, the revised limits become effective six months after notification to the Member States (which occurred in June 2009) unless, within three months after notification (September 30, 2009), the majority of the Member States register their disapproval (forty-seven Member States who are parties to the Montreal Convention would be required to object). Therefore, the effective date for the revised limits of liability, assuming no disapproval by a majority of the Member States, is December 30, 2009.



If you should have any further questions, or would like further information, please contact:

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<sup>1</sup> The value of the SDR fluctuates daily and can be obtained from the IMF homepage on the internet, <http://imf.org>.

<sup>2</sup> Working Paper No. C-WP/13342 issued May 22, 2009.