

ENFORCEABLE UNDERTAKINGS TO THE FINANCIAL MARKETS AUTHORITY

Pursuant to s 46 of the Financial Markets Authority Act 2011

Southern Cross Benefits Limited

1 Parties

- 1.1 These undertakings are given to the Financial Markets Authority (**FMA**) – Te Mana Tātai Hokohoko, an independent Crown entity established under s 6 of the Financial Markets Authority Act 2011 (**FMA Act**).
- 1.2 The FMA has regulatory oversight in relation to the Financial Markets Conduct Act 2013 (**FMC Act**).
- 1.3 The undertakings are given by Southern Cross Benefits Limited, trading as Southern Cross Travel Insurance (**SCTI**). SCTI is a company incorporated in New Zealand in 1982 and has its registered office at Level 1, Te Kupenga, 155 Fanshawe Street, Auckland.
- 1.4 SCTI is a licensed insurer under the Insurance (Prudential Supervision) Act 2010, a registered financial service provider under the Financial Service Providers (Registration and Dispute Resolution) Act 2008 and a licensed financial institution under the FMC Act. It offers travel insurance products to the public.

2 Background and admissions

- 2.1 These undertakings are given by SCTI in relation to the following three discounts offered by SCTI to prospective customers:
 - (a) A discount for being a member of Southern Cross Medical Care Society (**Membership Discount**);
 - (b) A discount for purchasing an SCTI policy online (**Online Discount**); and
 - (c) A discount for purchasing an SCTI policy using certain promotion codes (**Promotion Code Discount**).

Admissions

Membership Discount

- 2.2 During the period 1 October 2016 to 24 April 2023:
 - (a) statements made on the SCTI website represented that SCTI would apply the Membership Discount to customers' entire premiums rather than just the base premiums (**Membership Discount Representations**);
 - (b) SCTI's policy administration systems reflected the intent that the Membership Discount only applied to the base premium not to entire premium; and
 - (c) SCTI applied the Membership Discount to customers' base premiums only.
- 2.3 The Membership Discount Representations were:
 - (a) liable to mislead the public with respect to the characteristics of SCTI's insurance services, namely the price payable under its policies (in breach of s 21 of the FMC Act); and
 - (b) false or misleading representations:

- (i) that SCTI's insurance services had particular benefits, namely the extent of the Membership Discount (in breach of s 22(d) of the FMC Act);
- (ii) with respect to the price to be paid for SCTI's insurance services (in breach of s 22(f) of the FMC Act); and
- (iii) as to the rights of the affected customers to the Membership Discount (in breach of s 22(h) of the FMC Act).

2.4 By virtue of paragraphs 2.2 to 2.3 above, SCTI admits that it breached ss 21 and 22(d), (f) and (h) of the FMC Act.

Online Discount

2.5 During the period 1 October 2016 to 31 March 2018:

- (a) statements made on the home page of SCTI's website represented that SCTI would apply the Online Discount to customers' entire premiums rather than just the base premiums (**Online Discount Representations**);
- (b) SCTI's policy administration systems reflected the intent that the Online Discount only applied to the base premium not to entire premium; and
- (c) SCTI applied the Online Discount to customers' base premiums only.

2.6 The Online Discount Representations were:

- (a) liable to mislead the public with respect to the characteristics of SCTI's insurance services, namely the price payable under its policies (in breach of s 21 of the FMC Act); and
- (b) false or misleading representations:
 - (i) that SCTI's insurance services had particular benefits, namely the extent of the Online Discount (in breach of s 22(d) of the FMC Act);
 - (ii) with respect to the price to be paid for SCTI's insurance services (in breach of s 22(f) of the FMC Act); and
 - (iii) as to the rights of the affected customers to the Online Discount (in breach of s 22(h) of the FMC Act).

2.7 By virtue of paragraphs 2.5 to 2.6 above, SCTI admits that it breached ss 21 and 22(d), (f) and (h) of the FMC Act.

Promotion Code Discount

2.8 During the period 22 January 2015 to 7 June 2017:

- (a) statements made in some emails sent to customers represented that SCTI would apply the Promotion Code Discount to customers' entire premiums rather than just the base premiums (**Promotion Code Discount Representations**);
- (b) SCTI's policy administration systems reflected the intent that the Promotion Code Discount only applied to the base premium not to entire premium; and

- (c) SCTI applied the Promotion Code Discount to customers' base premiums only.
- 2.9 The Promotion Code Discount Representations were:
- (a) liable to mislead the public with respect to the characteristics of SCTI's insurance services, namely the price payable under its policies (in breach of s 21 of the FMC Act); and
 - (b) false or misleading representations:
 - (i) that SCTI's insurance services had particular benefits, namely the extent of the Promotion Code Discount (in breach of s 22(d) of the FMC Act);
 - (ii) with respect to the price to be paid for SCTI's insurance services (in breach of s 22(f) of the FMC Act); and
 - (iii) as to the rights of the affected customers to the Promotion Code Discount (in breach of s 22(h) of the FMC Act).
- 2.10 By virtue of paragraphs 2.8 to 2.9 above, SCTI admits that it breached ss 21 and 22(d), (f) and (h) of the FMC Act.
- 2.11 SCTI has fully remediated each of the breaches set out above.

3 Purpose and Effect of the Undertakings

- 3.1 Having admitted the breaches of the FMC Act set out in paragraphs 2.2 to 2.10 above, SCTI has offered the undertaking set out in paragraph 4.1 below to the FMA (**Undertakings**).
- 3.2 The Undertakings:
- (a) are accepted by the FMA as court enforceable undertakings in terms of sections 46, 46A and 47 of the FMA Act; and
 - (b) come into effect when executed by SCTI and signed as accepted by the FMA.

4 Undertakings

- 4.1 SCTI undertakes to pay the FMA a total of \$1,105,000 in lieu of a pecuniary penalty (**Penalty Sum**), and to do so within 10 working days of the Undertakings coming into effect.
- 4.2 The Penalty Sum will be paid into a Crown Bank Account, after deducting the FMA's actual costs incurred in connection with its investigation into this matter.

5 Breach

- 5.1 In the event that SCTI fails to pay the Penalty Sum within the time specified in paragraph 4.1 above, the FMA may at its absolute discretion pursue recovery of the Penalty Sum plus interest in accordance with the Interest on Money Claims Act 2016 and legal costs on a solicitor-client basis.

6 Record of commitment

- 6.1 In addition to providing the Undertaking at paragraph 4.1 above, SCTI also records its commitment to developing and maintaining effective policies, systems, and processes to support good customer outcomes and to prevent issues of the kind referred to in these Undertakings from occurring in the future.

7 Miscellaneous

- 7.1 No amendment to the Undertakings will be effective unless in writing, executed by SCTI, and signed as accepted by the FMA.
- 7.2 These Undertakings are properly executed if SCTI and the FMA sign the same copy, or separate identical copies of the execution page. Where separate copies are signed by SCTI and the FMA, the signed copy can be the original document or an emailed copy.
- 7.3 In providing these Undertakings, SCTI:
- (a) acknowledges that the FMA:
 - (i) will make these Undertakings publicly available by publishing them on the FMA's website, including by giving the notice required by s 46A(3) of the FMA Act;
 - (ii) will also publish on its website a brief description of the circumstances and nature of the contraventions to which the Undertakings relate;
 - (iii) may make public reference to the Undertakings including in media statements or other publications; and
 - (iv) in accepting the Undertakings, is not prevented from exercising its rights and powers under the relevant legislation in respect of any contravention of the Undertakings or in relation to any other matter not the subject of these Undertakings.
- 7.4 The parties will ensure that any public statements made by it (or related parties) relating to these Undertakings are consistent with Parts 2 to 6 above.

Execution

Signed by and on behalf of
Southern Cross Benefits Limited

JOANNE MCCALLEY

In the presence of:

Witness name

Witness address

Witness occupation

Level 34, RUC Tower, 15 Customs Street, Auckland

Date

11/07/2025

Hayden John Reyngoud
Solicitor

Signature

Acceptance

Accepted by
the Financial Markets Authority
by:

MSL

Authorised signatory

Margot Gutland

Name

In the presence of:

Head of Enforcement,

Signature

FMA.

Witness name Blair Horner

Witness address Auckland

Witness occupation Solicitor

Date 16-07-2025