

Financial Markets Conduct (AIA International Limited) Exemption Notice 2016

Pursuant to section 556 of the Financial Markets Conduct Act 2013, the Financial Markets Authority, being satisfied of the matters set out in section 557 of that Act, gives the following notice.

Contents

	Page
1 Title	1
2 Commencement	1
3 Revocation	1
4 Application	1
5 Interpretation	2
6 Exemptions	2
7 Conditions	2

Notice

1 Title

This notice is the Financial Markets Conduct (AIA International Limited) Exemption Notice 2016.

2 Commencement

This notice comes into force on 24 March 2016.

3 Revocation

This notice is revoked on the close of 23 March 2021.

4 Application

(1) An exemption granted by this notice applies to the following accounting periods of AIAI:

- (a) the accounting period ending 30 November 2015; and
- (b) subsequent accounting periods.

(2) However, an exemption granted by this notice does not apply to AIAI in respect of an accounting period if AIAI is an FMC reporting entity in that accounting period because it is an issuer of a regulated product within the meaning of section 451(a) of the Act.

5 Interpretation

- (1) In this Notice unless the context otherwise requires—

Act means the Financial Markets Conduct Act 2013

AIAI means the licensed insurer AIA International Limited, an overseas company incorporated in Bermuda

approved auditor means an accountant who is qualified under the law of Hong Kong to give an opinion as to whether financial statements comply with IFRS

External Reporting Board means the independent Crown entity continued under section 11 of the Financial Reporting Act 2013

IFRS means –

- (a) International Financial Reporting Standards and International Accounting Standards that have been issued or adopted by the International Accounting Standards Board in accordance with the constitution of the International Financial Reporting Standards Foundation; and
- (b) final interpretations by the IFRS Interpretations Committee approved by the International Accounting Standards Board in accordance with that constitution

qualified auditor has the same meaning as in section 461E of the Act

Regulations means the Financial Markets Conduct Regulations 2014.

- (2) Any term or expression that is defined in the Act or Regulations and used, but not defined, in this notice has the same meaning as in the Act or Regulations.

6 Exemptions

AIAI is exempted from—

- (a) subpart 3 of Part 7 of the Act to the extent that group financial statements that comply with generally accepted accounting practice are required to be prepared; and
- (b) sections 455(1)(c), 461B, 461D, and 461G of the Act.


7 Conditions

The exemptions in clause 6 are subject to the conditions that—

- (a) AIAI, in relation to the financial statements that are required to be prepared under subpart 3 of Part 7 of the Act, must complete financial statements in relation to AIAI that comply with the law and regulatory requirements of Hong Kong that relate to the preparation, content, and audit of those statements and, in particular, AIAI must ensure that—
 - (i) those financial statements comply with IFRS; and
 - (ii) those financial statements are audited by an approved auditor; and
 - (iii) an audit report is prepared by the approved auditor in respect of that audit; and
- (b) AIAI must ensure that there are kept at all times accounting records that will enable AIAI to ensure that—
 - (i) the entity financial statements of AIAI prepared under subpart 3 of Part 7 of the Act comply with paragraph (a)(i); and

- (ii) its New Zealand business financial statements (if any) under paragraph (c) comply with generally accepted accounting practice; and
- (c) financial statements for AIAI's New Zealand business (if any) must be prepared as if that business were conducted by a company formed and registered in New Zealand, and must comply with generally accepted accounting practice; and
- (d) the financial statements of AIAI's New Zealand business (if any) must be audited by a qualified auditor; and
- (e) the auditor, in carrying out the audit on the financial statements for AIAI's New Zealand business under paragraph (d), and the auditor's report on those financial statements, must comply with all applicable auditing and assurance standards; and
- (f) if the auditor's report indicates that the requirements of generally accepted accounting practice in respect of AIAI's New Zealand business financial statements under paragraph (d), or IFRS in respect of AIAI's entity financial statements under paragraph (a), have not been complied with, AIAI must, as soon as reasonably practicable, send a copy of the report, and a copy of the financial statements to which it relates, to—
 - (i) the FMA; and
 - (ii) the External Reporting Board; and
- (g) the entity financial statements of AIAI, prepared under subpart 3 of Part 7 of the Act, that are delivered to the Registrar for lodgement under section 461H of the Act must be accompanied by —
 - (i) the financial statements for AIAI's New Zealand business together with a copy of the auditor's report on those financial statements; and
 - (ii) written notification to the Registrar that AIAI is relying on this notice in respect of the accounting period to which the statements relate; and
- (h) AIAI is not required by the laws of Bermuda to prepare group financial statements and continues to satisfy any relevant conditions (including the Direction of the Bermuda Monetary Authority that allows AIAI to file accounts prepared in accordance with the laws of Hong Kong in place of those usually required under the law of Bermuda); and
- (i) the Bermuda Monetary Authority must continue to be a full signatory to the International Organization of Securities Commission's Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information; and
- (j) AIAI must be the only party liable under the insurance policies issued by it and none of its subsidiaries guarantee the obligations of AIAI in relation to those insurance policies.

Dated at Auckland this *18th* day of *March* 2016.



Nick Kynoch
General Counsel
Financial Markets Authority

Statement of Reasons

This notice, which comes into force on 24 March 2016 and is revoked on 23 March 2021, applies to AIA International Limited (**AIAI**) an insurer licensed by the Reserve Bank of New Zealand (the **Reserve Bank**).

This notice exempts AIAI from the following provisions of the Financial Markets Conduct Act 2013 (the **Act**):

- subpart 3 of Part 7 of the Act to the extent that the subpart requires an FMC reporting entity that has one or more subsidiaries to prepare:
 - group financial statements; and
 - to comply with New Zealand generally accepted accounting practice (**NZ GAAP**):
- section 455(1)(c) (which requires accounting records to be kept that enable an FMC reporting entity to ensure that its financial statements comply with NZ GAAP):
- section 461B (which relates to financial statements for the New Zealand business):
- sections 461D and 461G (which require financial statements to be audited by a qualified auditor and an auditor's report in respect of those financial statements).

The exemptions are subject to a number of conditions including that AIAI prepares financial statements that comply with the financial reporting requirements of Hong Kong.

The main effects of the exemptions are as follows:

- AIAI is a licensed insurer, and so an FMC reporting entity. For this reason its financial statement preparation, audit and lodgement obligations are appropriately regulated by subpart 3 of Part 7 of the Act. This notice grants AIAI an exemption from the usual requirement in this subpart to prepare group financial statements. Instead, AIAI is required to prepare financial statements for the entity. In appropriate recognition of AIAI's status as an FMC Reporting Entity, the conditions of the notice recognise that these alternative financial statements continue to be required under subpart 3 of Part 7 of the Act, such that the provisions of the Companies Act 1993 that apply to companies that are not FMC reporting entities do not apply:
- the financial statements that are prepared under subpart 3 of Part 7 of the Act will comply with International Financial Reporting Standards (**IFRS**) issued or adopted by the International Accounting Standards Board and will be completed in relation to AIAI as an entity rather than AIAI's group:
- AIAI's financial statements will be audited by an approved auditor who is qualified under the laws of Hong Kong to give an opinion as to whether the financial statements comply with IFRS:
- AIAI's financial statements will be accompanied by AIAI's New Zealand business financial statements that comply with NZ GAAP and that are audited by a qualified auditor (as that term is defined in the Act).

The Financial Markets Authority (the **FMA**), after satisfying itself as to the matters set out in section 557 of the Act, considers it appropriate to grant the exemptions because—

- the Financial Markets Conduct (Overseas Registered Banks and Licensed Insurers) Exemption Notice 2015 (**class notice**) allows overseas registered banks and licensed insurers to prepare, have audited and lodge financial statements that comply with generally accepted accounting practice in their home jurisdictions rather than NZ GAAP. The class notice requires overseas registered banks and licensed insurers with one or more subsidiaries to prepare, audit and

lodge group financial statements that comply with generally accepted accounting practice in their home jurisdictions. AIAI cannot readily rely on the class notice because AIAI prepares its financial statements in accordance with the laws of Hong Kong (as permitted by the Bermuda Monetary Authority) rather than in accordance generally accepted accounting practice in its home jurisdiction of Bermuda. In Hong Kong, AIAI is exempt from preparing consolidated financial statements because its ultimate holding company produces consolidated financial statements in accordance with IFRS that are publicly available:

- the Reserve Bank assesses the financial reporting and audit requirements of the overseas jurisdiction of any overseas insurer seeking a licence in New Zealand. In this case the overseas jurisdiction of AIAI is Bermuda, however the Bermuda Monetary Authority allows AIAI to file accounts prepared in accordance with Hong Kong law in place of those usually required under the law of Bermuda. The FMA is satisfied the financial reporting and audit requirements of Hong Kong will provide sufficient and appropriate information to the Reserve Bank for it to undertake prudential regulation of AIAI. The FMA is also satisfied that AIAI's policy holders will have access to information broadly similar, and equivalent, to the information they would otherwise have had access to:
- AIAI is regulated in Hong Kong by the Office of the Commissioner of Insurance and in Bermuda by the Bermuda Monetary Authority. The Bermuda Monetary Authority is a signatory to the International Organization of Securities Commission's Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information. This means that the FMA and the Reserve Bank will be able to obtain co-operation from the Bermuda Monetary Authority if any compliance concerns arise in relation to AIAI:
- the additional cost of preparing and auditing group financial statements under New Zealand requirements in addition to costs associated with preparing and auditing financial statements in accordance with Hong Kong requirements would outweigh the benefits to policy holders of having access to financial statements prepared in accordance to NZ GAAP rather than IFRS. As such, the granting of the exemptions is desirable in order to promote the purposes of the Act, specifically by avoiding unnecessary compliance costs and promoting flexibility in the financial markets:
- the FMA is further satisfied that the extent of the exemptions is not broader than is reasonably necessary to address the matters that give rise to the exemptions, given that—
 - the exemptions only address the particular issue experienced by AIAI, that arises because it is not legally required in Bermuda or Hong Kong to prepare group financial statements, which means that it cannot readily rely on the class notice; and
 - the exemptions and conditions, consistent with the policy of the class notice, mean policy holders will have access to financial statements lodged in New Zealand that meet financial reporting requirements and auditing and assurance standards in Hong Kong; and
 - the exemptions will not apply if AIAI becomes an FMC reporting entity because it is an issuer of a regulated product within the meaning of section 451(a) of the Act in addition to being an FMC reporting entity due to the fact it is a licensed insurer.