

Financial Markets Conduct (Insurance Australia Group 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.

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Notice

1 Title

This notice is the Financial Markets Conduct (Insurance Australia Group Limited) Exemption Notice 2016.

2 Commencement

This notice comes into force on 6 May 2016.

3 Revocation

This notice is revoked on the close of 31 July 2016.

4 Interpretation

(1) In this notice, unless the context otherwise requires,—

AASB 134 means Australian Accounting Standards Board pronouncement AASB 134 Interim Financial Reporting

Act means the Financial Markets Conduct Act 2013

IAG means Insurance Australia Group Limited (ABN 60 090 739 923), a company incorporated in Australia

IAG Group means IAG and all of its subsidiaries at the date of the PDS

interim accounting period means the IAG Group's interim accounting period from the balance date of the most recent period and ending on 31 December 2015

most recent period means the IAG Group's most recently completed accounting period before the date of the PDS

offer means the regulated offer of unsecured subordinated convertible notes by IAG

PDS means the product disclosure statement for the offer

P-1 means the IAG Group's accounting period that immediately precedes the most recent period

P-2 means the IAG Group's accounting period that immediately precedes P-1

qualified auditor means an accountant who is qualified under the law of Australia to give an opinion as to whether financial statements or group financial statements comply with Australian GAAP

Regulations means the Financial Markets Conduct Regulations 2014

register entry means the register entry for the offer in the register of offers of financial products

relevant period means each of P-2, P-1, the most recent period, and the interim accounting period.

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

5 Matters relating to Australian GAAP

- (1) In this notice, **Australian GAAP** means generally accepted accounting principles required or permitted in Australia.
- (2) In this notice, an amount or information is **determined in accordance with Australian GAAP** or **prepared in accordance with Australian GAAP** if—
- (a) it is taken or derived from interim financial statements, prospective financial statements, financial statements, or group financial statements that are prepared in accordance with Australian GAAP; or
 - (b) the amount or information would have appeared in interim financial statements, prospective financial statements, financial statements, or group financial statements prepared in accordance with Australian GAAP if those statements had included the amount or information.
- (3) For the purposes of subclause (2), **Australian GAAP** means—
- (a) in the case of information for accounting periods that have ended before the relevant date:
 - (i) Australian GAAP as in effect on the relevant date; or
 - (ii) Australian GAAP as in effect during those accounting periods; and
 - (b) in any other case, Australian GAAP as in effect on the relevant date.
- (4) In subclause (3), **relevant date** means—
- (a) the date of lodgement of the PDS or information for the register entry; or

- (b) if the information is not lodged, the date of the information.

6 Exemption from clauses 37(1) of Schedule 2 of the Regulations

IAG is exempted, in relation to the offer, from clause 37(1) of Schedule 2 of the Regulations.

7 Conditions of exemption in clause 6

- (1) The exemption in clause 6 is subject to the conditions that section 7 of the PDS must include the following information and statements—

- (a) a table headed "Selected financial information and ratios" that contains, at a minimum, the following information for the IAG Group for each of the relevant periods:
- (i) revenues as determined in accordance with Australian GAAP; and
 - (ii) net profit after tax plus interest, tax, depreciation, and amortisation (EBITDA) as each of those items is determined in accordance with Australian GAAP; and
 - (iii) net profit after tax as determined in accordance with Australian GAAP; and
 - (iv) net cash flows from operating activities as determined in accordance with Australian GAAP; and
 - (v) cash and cash equivalents as determined in accordance with Australian GAAP; and
 - (vi) total assets as determined in accordance with Australian GAAP; and
 - (vii) total debt (being total interest-bearing liabilities as determined in accordance with Australian GAAP); and
 - (viii) total liabilities as determined in accordance with Australian GAAP; and
 - (ix) equity as determined in accordance with Australian GAAP; and
 - (x) debt/EBITDA, where debt is determined in accordance with subclause (vii) (but this subclause does not apply to a relevant period of less than 12 months); and
 - (xi) interest expense as determined in accordance with Australian GAAP; and
 - (xii) EBITDA/interest expense, where interest expense is determined in accordance with Australian GAAP; and
- (b) under the row for debt/EBITDA in the table referred to in subclause (a), a statement in the following form must be included:
- "Debt/EBITDA is an indicator of the degree to which an entity has borrowed against earnings. The higher the number, the greater the risk that the entity will not be able to pay off its debts."
- (c) under the row for EBITDA/interest expense in the table referred to in subclause (a), a statement in the following form must be included:
- "EBITDA/interest expense is a measure of the ability of an entity to pay interest on borrowings. The lower the number, the greater the risk that the entity will not be able to pay interest."

8 Exemption from clause 38(3) of Schedule 2 of the Regulations

IAG is exempted, in relation to the offer, from clause 38(3) of Schedule 2 of the Regulations.

9 Condition of exemption in clause 8

The exemption in clause 8 is subject to the condition that section 7 of the PDS must, in a table, include the following financial information for IAG, stated as at 31 December 2015, if that information would be materially different from the equivalent information for the IAG Group—

- (a) total assets as determined in accordance with Australian GAAP; and
- (b) total tangible assets (being total assets less total intangible assets and goodwill as determined in accordance with Australian GAAP); and
- (c) total liabilities as determined in accordance with Australian GAAP; and
- (d) total net tangible assets (being total tangible assets under subclause (b) less total liabilities under subclause (c)).

10 Conditions of exemptions in clause 6 and clause 8

- (1) The exemptions in clause 6 and clause 8 are subject to the condition that the information in section 7 of the PDS prepared under clause 7 and clause 9 must comply with the rules specified in subclause (2).
- (2) The following rules apply—
 - (a) IAG may add other financial measures and non-financial information to a table if IAG reasonably considers that the added information is likely to be useful for investors, provided that the PDS must:
 - (i) identify any information derived from financial statements or other information that has not been prepared in accordance with Australian GAAP; and
 - (ii) refer to where reconciliations to information prepared in accordance with Australian GAAP can be obtained on the offer register; and
 - (b) interim financial information using amounts prepared in accordance with Australian GAAP may be added to a table; and
 - (c) in relation to the interim accounting period, the table under clause 7(1)(a) must also include the information under clause 7(1)(a)(i) to (iv) for the corresponding interim accounting period for the IAG Group ending on 31 December 2014; and
 - (d) if there are any factors that would materially affect the comparability or usefulness of the information reflected in a table (for example, changes to accounting policies, business combinations, or dispositions):
 - (i) pro forma financial information may be added to a table or substituted for financial information for a period; or
 - (ii) the PDS must include explanatory notes about those factors if those notes are necessary or desirable to explain the effect of the factors on that comparability or usefulness; and
 - (e) in the case of subclause (d), the PDS must:
 - (i) identify any information derived from financial statements or other information that has not been prepared in accordance with Australian GAAP; and
 - (ii) briefly describe the basis on which pro forma information has been prepared; and
 - (iii) refer to where information on the principal assumptions on which the pro

- forma financial information is based can be obtained on the offer register; and
- (iv) refer to where reconciliations to information prepared in accordance with Australian GAAP can be obtained on the offer register; and
- (f) if the PDS includes an Australian non-GAAP profit measure, the PDS must:
- (i) state that the measure is not determined in accordance with Australian GAAP; and
 - (ii) refer to where reconciliations to information prepared in accordance with Australian GAAP can be obtained on the offer register; and
- (g) if the PDS includes an Australian GAAP financial measure or an Australian non-GAAP financial measure and either of the following applies, the PDS must include a statement to that effect:
- (i) any information used to calculate the financial measure is derived from financial statements, or group financial statements, that have not been audited by a qualified auditor; and
 - (ii) any information used to calculate the financial measure is derived from audited financial statements, or audited group financial statements, in respect of which the auditor's report was qualified or referred to a fundamental matter in any respect; and
- (h) if subclause (g)(ii) applies, the PDS must explain what the qualification or fundamental matter was.
- (3) For the purposes of subclause (2), —
- Australian GAAP financial measure** means a numerical measure of IAG's or IAG Group's historical or future financial performance, financial position, or cash flows that is determined in accordance with Australian GAAP
- Australian non-GAAP financial measure** means a numerical measure of IAG's or IAG Group's historical or future financial performance, financial position, or cash flows that is used as an alternative to, or to supplement, an Australian GAAP financial measure
- Australian non-GAAP profit measure** means an Australian non-GAAP financial measure that is used as an alternative to, or to supplement, net profit after tax
- determined in accordance with Australian GAAP**, in relation to a measure, means that the measure may be calculated and presented in accordance with Australian GAAP.
- (4) The exemptions contained in clause 6 and clause 8 are subject to the further condition that section 7 of the PDS must—
- (a) refer to this notice; and
 - (b) contain a clear and concise statement to the effect that the financial information included in the PDS has been determined in accordance with Australian GAAP instead of the usually required GAAP.

11 Exemption from clause 64 of Schedule 2 of the Regulations

IAG is exempted, in relation to the offer, from clause 64 of Schedule 2 of the Regulations.

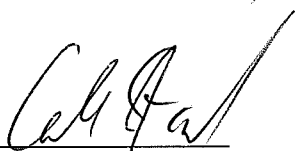
12 Conditions of exemption in clause 11

- (1) The exemption in clause 11 is subject to the conditions that—

- (a) the register entry must contain group financial statements for the IAG Group for each relevant period, together with any auditor's report on those statements (see subclause (b)); and the register entry must contain interim financial statements for the IAG Group for:
 - (i) the interim accounting period; and
 - (ii) the corresponding interim accounting period ending on 31 December 2014; and
 - (b) if the group or interim financial statements referred to in subclause (a) or (b) are not prepared in accordance with Australian GAAP, the register entry must contain:
 - (i) a statement to that effect; and
 - (ii) a statement to the effect that those financial statements may contain different financial information from the information in section 7 of the PDS; and
 - (iii) a statement explaining why those financial statements are not prepared in accordance with Australian GAAP; and
 - (c) for the purposes of subclause (a):
 - (i) the group financial statements for the most recent period must be prepared in accordance with Australian GAAP (applied with all necessary modifications as if IAG were an FMC reporting entity with a higher level of public accountability than other FMC reporting entities as referred to in section 461K(1) of the Act); and
 - (ii) those group financial statements must be audited by a qualified auditor; and
 - (iii) the register entry must contain a copy of the auditor's report on those statements; and
 - (d) the interim financial statements included under subclause (a) or (b) must be:
 - (i) prepared in accordance with AASB 134 (but need not be audited); and
 - (ii) accompanied by the audit or review report on those statements (if any); and
 - (e) if a table prepared under clause 7 or clause 9 includes pro forma financial information, the register entry must contain a description of the principal assumptions on which the pro forma financial information contained in the PDS is based; and
 - (f) in the case of clause 10(2)(a)(ii) or clause 10(2)(e)(iv), the register entry must contain a reconciliation for the purposes of that subclause and that reconciliation must:
 - (i) be a tabular reconciliation to Australian GAAP; and
 - (ii) disclose each material adjustment; and
 - (iii) include explanatory notes about those adjustments if those notes are necessary or desirable in order to explain the tabular information; and
 - (g) the register entry must:
 - (i) refer to this notice; and
 - (ii) contain a clear and concise statement to the effect that the financial information and financial statements included in the register entry have been prepared in accordance with Australian GAAP instead of the usual GAAP.
- (2) For the purposes of subclause (1)(a) and without limiting subclause (1)(b), the register entry may, instead of including separate group financial statements for each of the most recent period, P_{-1} , and P_{-2} , include group financial statements for the IAG Group for the most recent period that incorporate comparative information for P_{-1} and P_{-2} .

- (3) However, group financial statements included in the register entry are not required to include comparative information for any period before P₂.

Dated at Auckland this 3rd day of May 2016.


Garth Stanish
Director of Capital Markets
Financial Markets Authority

Statement of reasons

This notice comes into force on 6 May 2016 and is revoked on 31 July 2016.

The notice exempts Insurance Australia Group Limited (**IAG**), in relation to its regulated offer of unsecured, subordinated convertible notes (**Offer**), from the following provisions of Schedule 2 of the Financial Markets Conduct Regulations 2014 (**FMC Regulations**) —

- Clause 37(1) (which requires the product disclosure statement for the Offer (**PDS**) to include a table containing certain financial information for the IAG Group determined in accordance with New Zealand generally accepted accounting practice (**NZ GAAP**) for each relevant period).
- Clause 38(3) (which requires the PDS to include a table containing certain financial information for IAG determined in accordance with NZ GAAP as at its most recent balance date).
- Clause 64 (which relates to the financial statements and reconciliations for the IAG Group that must be contained in the register entry for the Offer).

The Financial Markets Authority (**FMA**), after satisfying itself as to the matters set out in section 557 of the Financial Markets Conduct Act 2013 (**Act**) considers that it is appropriate to grant the exemptions because—

- The conditions of the exemptions effectively replicate the requirements of clauses 37(1), 38(3) and 64 of Schedule 2 of the FMC Regulations, except that the equivalent financial information for IAG and financial information and statements for the IAG Group required by the conditions, must be determined in accordance with, or prepared in accordance with, the generally accepted accounting principles required or permitted in Australia (**Australian GAAP**). This means that the PDS and register entry for the Offer will contain all the financial information for IAG and financial information and statements for the IAG Group for the relevant accounting periods that would ordinarily be required by Schedule 2 of the FMC Regulations, except that the financial information and statements must be determined in accordance with, or prepared in accordance with, Australian GAAP instead of NZ GAAP.
- The conditions of the exemption require that the financial statements for IAG Group's most recently completed accounting period must be audited by an accountant who is qualified under the law of Australia to give an opinion as to whether financial statements or group financial statements comply with Australian GAAP. The register entry must also contain a copy of the auditor's report on those statements. Additionally, the conditions require statements in the PDS and register entry informing prospective investors that the financial

information for IAG and the financial information and statements for the IAG Group have been determined in accordance with, or prepared in accordance with, Australian GAAP instead of the usually required NZ GAAP.

- IAG is listed on the ASX and NZX, is required to prepare financial statements in accordance with Australian GAAP, and is subject to appropriate financial reporting regulation in Australia. The FMA is satisfied that the financial reporting requirements, and the nature and extent of regulatory oversight for IAG and its auditors, are of high quality and at least equivalent to New Zealand entities. As such, prospective investors will have access to broadly similar, and equivalent, information in the PDS and register entry for the Offer to the information that they would otherwise receive.
- The cost associated with a requirement for IAG to prepare NZ GAAP-compliant financial statements and have those statements audited by a New Zealand licensed auditor, would outweigh the benefits to investors in receiving NZ GAAP-compliant financial information and statements in the PDS and register entry, rather than financial information and statements determined in accordance with, or prepared in accordance with, Australian GAAP.
- 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 financial markets.
- The exemptions only provide relief from the requirement that the PDS and register entry contain financial information for IAG and financial information and statements for the IAG Group required to be determined in accordance with, or prepared in accordance with, NZ GAAP, and instead imposes conditions that the PDS and register entry must contain the equivalent financial information and statements determined in accordance with, or prepared in accordance with, Australian GAAP. In these circumstances, the FMA is satisfied that the exemptions are not broader than reasonably necessary to address the matters that gave rise to the exemptions.

