

Financial Markets Conduct (Conduct of Financial Institutions – QBE Insurance (Australia) Limited) Exemption Notice (No. 2) 2025

This exemption is granted by the Financial Markets Authority under section 556 of the Financial Markets Conduct Act 2013 after being satisfied of the matters set out in section 557 of that Act.

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Notice

1 Title

This notice is the Financial Markets Conduct (Conduct of Financial Institutions – QBE Insurance (Australia) Limited) Exemption Notice (No. 2) 2025.

2 Commencement

This notice comes into force on 19 May 2025.

3 Revocation

This notice is revoked on the close of 18 May 2030.

4 Interpretation

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

Act means the Financial Markets Conduct Act 2013

aircraft has the meaning set out in section 5 of the Civil Aviation Act 2023

aviation policy means a consumer insurance contract entered into by QBE with a New Zealand policyholder that indemnifies the policyholder for physical loss or damage to aircraft or third-party liability arising from the operation of aircraft, and which may also offer extended cover for other risks including personal accident

commencement date means the date this notice comes into force

QBE means QBE Insurance (Australia) Limited

relevant person means a New Zealand policyholder who enters into an aviation policy with QBE wholly or predominantly for a personal, domestic or household purpose

relevant service has the same meaning as in s446F of the Act.

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

5 Application of exemptions

The exemptions in clause 6 apply to QBE in respect of a relevant service to the extent that service is provided in relation to an aviation policy.

6 Exemptions

QBE is exempted from section 388(ca) and subpart 6A of Part 6 of the Act.

7 Condition

- (1) The exemptions in clause 6 in respect of the provision of a relevant service by QBE in relation to an aviation policy are subject to the condition that QBE must give a relevant person the information in subclause (2) in writing—
- (a) within 10 working days from the commencement date, if the relevant person is an existing New Zealand policyholder under an aviation policy on the commencement date; or
 - (b) not less than 10 working days before it enters into an aviation policy with a relevant person other than a contract that has the effect of operating as a renewal of an aviation policy.
- (2) For the purposes of subclause (1), the information is—
- (a) A statement to the effect that the provision of the aviation policy by QBE is principally regulated by the laws and regulatory requirements of the overseas jurisdiction that is identified by QBE and not those of New Zealand.
 - (b) A statement to the effect that any dispute that arises in respect of QBE's provision of the aviation policy is to be determined by the laws and the dispute resolution processes of the overseas jurisdiction that is identified by QBE and not those of New Zealand.
 - (c) A statement to the effect that QBE has been granted an exemption from requirements under the Act to be licensed as a financial institution and to treat consumers fairly and a brief description of any steps QBE will take to ensure any dealings or interactions with the relevant person are handled in a manner that treats that person fairly.
 - (d) A brief description of how to lodge a claim under the aviation policy and how to make a complaint in relation to the QBE's provision of the aviation policy, including how to make a complaint to any external dispute resolution scheme if applicable.

Dated at Auckland this 15th day of May 2025



Clare Bolingford
Executive Director, Regulatory Delivery
Financial Markets Authority

Statement of Reasons

This notice comes into force on 19 May 2025 and is revoked on the close of 18 May 2030.

This notice applies to QBE Insurance (Australia) Limited (**QBE**), an insurer that is incorporated in Australia and licensed as an insurer in New Zealand by the Reserve Bank of New Zealand.

In New Zealand, QBE operates as a commercial insurer, and its products are distributed by insurance intermediaries and generally not designed for or targeted to consumers. QBE issues aviation policies to New Zealand-based commercial and private aircraft operators from time to time. While its aviation policies are mainly entered into for commercial purposes, they are also ordinarily entered into wholly or predominantly for personal, domestic or household purposes (e.g. by individuals who operate private aircraft for personal use). Therefore, QBE's aviation policies are consumer insurance contracts under the Financial Markets Conduct Act 2013 (**the Act**).

This notice exempts QBE from:

- (a) section 388(ca) of the Act, which requires a provider to be licensed as a financial institution; and
- (b) subpart 6A of Part 6 of the Act, which regulates the conduct of financial institutions.

The broad effect of the exemptions is that QBE does not have to be licensed or comply with requirements designed to ensure that financial institutions treat consumers fairly in respect of relevant services provided in relation to the aviation policies.

The exemptions are granted on conditions that require QBE to give certain information to a person who enters into an aviation policy for personal use including that QBE has been granted an exemption from requirements under the Act to be licensed as a financial institution and to treat consumers fairly and that provision of the aviation policy, and any disputes, will primarily be regulated by the laws of an overseas jurisdiction and not New Zealand law. QBE must also explain any steps it will take to ensure that such a person is treated fairly, and how that person can lodge a claim or make a complaint.

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

- The exemptions support continued access to a specialist insurance product typically provided for commercial purposes and in circumstances where there is a limited consumer market for such insurance in New Zealand that is only serviced by overseas insurers. The exemptions ensure continued access to aviation insurance for New Zealand consumers.
- The exemptions also support a level playing field and consistency of treatment for QBE with other overseas licensed insurers that also provide aviation insurance but are not licensed insurers in New Zealand and therefore not subject to the CoFI regime (with the associated compliance costs). The exemptions recognise that, but for QBE's separate commercial business in New Zealand for which it has obtained a prudential licence as an insurer, it would not be a 'financial institution' that is required to comply with the CoFI regime when providing aviation insurance to New Zealand consumers from overseas.
- Given aviation insurance provided by QBE is governed by overseas law and QBE is an Australian-licensed insurer regulated by the Australian Prudential Regulation Authority, the costs of compliance by QBE with the CoFI regime to enable provision of this single product would outweigh the benefits for a small group of consumers who are likely to be relatively sophisticated or well-resourced.
- Conditions will ensure that consumers acquiring aviation insurance for personal use are informed that provision of the aviation policy, and any disputes, will primarily be regulated by

the laws of the overseas jurisdiction specified by QBE and not by New Zealand law, that QBE has been granted an exemption from requirements under the Act to be licensed as a financial institution and to treat consumers fairly, of any steps QBE will take to ensure any dealings or interactions with the consumer are handled in a manner that treats that person fairly and how a consumer can make a claim or lodge a complaint. In these circumstances, granting the exemption supports the informed participation of New Zealand consumers in being able to access a specialist overseas insurance product without unnecessary barriers, inconvenience and costs.

- The granting of the exemptions is therefore desirable in order to promote the purposes of the Act, specifically to promote and facilitate the development of fair and efficient financial markets, avoid unnecessary compliance costs, promote confident and informed participation of consumers in financial markets, and promote flexibility in the financial markets.
- Given the exemptions only apply to a single type of insurance policy that is a specialist product provided by QBE to a small number of individuals in New Zealand who acquire the product for personal use, the FMA is also satisfied that the exemptions are not broader than is reasonably necessary to address the issues that gave rise to them.