

30 April 2025

By email: [REDACTED]

Dear [REDACTED]

Your questions / request for information pursuant to the Official Information Act 1982 (OIA) – CAS-147251

We refer to your email dated 4 April 2025 in which you referred to the Conduct of Financial Institutions (CoFI) regime, amendments to the Credit Contracts and Consumer Finance Act (CCCFA) and the conduct of IAG.

CoFI and CCCFA Alignment

Your question:

How does the FMA expect the CoFI regime and the CCCFA amendments to function coherently? How can a conduct regime centred on fairness and transparency coexist with legislative changes that remove penalties for non-disclosure?

CoFI requires financial institutions to treat consumers fairly throughout the lifecycle of a financial product, and the overarching fair conduct principle applies. This is not affected by amendments to other sector-specific legislation, such as CCCFA, that institutions must also comply with.

The Minister of Commerce and Consumer Affairs and the Ministry of Business, Innovation, and Employment (MBIE) are responsible for the proposed policy changes to the CCCFA regime. The policy of the draft legislation is a matter for MBIE and the Minister in the first instance. Publicly available information indicates that the changes do not remove penalties for non-disclosure but seek to limit them to where there is loss or damage and other orders (such as damages) are insufficient.

For further information please see:

- The General Policy Statement [Credit Contracts and Consumer Finance Amendment Bill 137-1 \(2025\), Government Bill Explanatory note – New Zealand Legislation](#)
- The Minister's press release [Freeing up access to finance for Kiwi households | Beehive.govt.nz](#)
- Fact sheet on financial services reform [Fact sheet - Financial services reform package.pdf](#)

Your OIA Request:

Please provide any internal or external advice received by the FMA discussing or acknowledging the apparent conflict between the CoFI regime and the proposed CCCFA amendments.

We do not hold any advice “discussing or acknowledging the apparent conflict between the CoFI regime and the proposed CCCFA amendments”. We therefore refuse this request pursuant to section 18(g) of the OIA, on the basis that the information requested is not held by the FMA.

Conduct of IAG

Your questions:

How many IAG staff or directors are currently facing, or being considered for, criminal prosecution?

In light of IAG’s failure to disclose double-charging and excess fees—clearly relevant information under the contract of insurance—when will:

- 1. Full refunds be issued to the 269,000 affected customers?*
- 2. Those contracts be voided, consistent with how insurers treat customer non-disclosure?*
- 3. IAG’s licence to sell insurance in New Zealand be suspended or cancelled?*
- 4. IAG has profited illegally to the tune of \$35 million. People in New Zealand are jailed for far less. Please explain why, to date, no individuals have been charged or remanded in custody for this admitted wrongdoing.*

According to the Insurance Fraud Bureau of New Zealand (www.ifb.org.nz): “Insurance fraud is wrongful or criminal deception intended to result in financial or personal gain by falsifying some or all information in an insurance claim or when taking out an insurance policy. Insurance fraud is against the law.”

Does the FMA take the position that insurance fraud only occurs when a customer forgets or misstates something—intentionally or not—on a claim or application, but not when a company like IAG “accidentally” overcharges \$35 million through systemic errors? If not, please explain:

- When criminal charges will be laid in relation to IAG’s conduct.*
- If not, why not?*

The proceeding filed by the FMA has eight causes of action relating to 11 alleged breaches of section 22, under Part 2 of the Financial Markets Conduct Act (**FMCA**). Section 38 of the FMCA provides that a contravention of section 22 may give rise to civil liability (see subpart 3 of Part 8 of the FMCA). Consequently, the FMA initiated civil proceedings in accordance with the enforcement regime specified in the relevant legislation. The FMA will not be initiating criminal proceedings or cancelling or suspending any of IAG’s FMCA licences in response to this matter.

We recommend you contact IAG directly in relation to questions 1 and 2 above (regarding refunds and customer contracts).

Your OIA Request:

Please provide any internal or external advice received regarding the potential suspension or cancellation of IAG's licence to sell insurance in New Zealand, in light of its systemic non-disclosure and consumer harm. If no such advice exists, please explain why not.

We do not hold any advice on the potential suspension or cancellation of IAG's licences. We therefore refuse this request pursuant to section 18(g) of the OIA, on the basis that the information requested is not held by the FMA. Please see our answer above regarding the enforcement response taken by the FMA in response to this matter.

You have the right to make a complaint to the Ombudsman in respect of our decision on your OIA Requests. You can find more information on how to make a complaint on the Ombudsman's website at <https://www.ombudsman.parliament.nz/>

Yours sincerely

A handwritten signature in blue ink, appearing to be 'Ariarna Hakaraia', with a stylized flourish at the end.

Ariarna Hakaraia
Manager, Internal Governance