



**HIH Casualty and General Insurance Limited**  
**ACN 008 482 291**  
**(In Liquidation and subject to Schemes of**  
**Arrangement)**

**Scheme Administrators' Annual Report to Creditors**

30 June 2020



McGrathNicol



## Contents

1	Introduction & Background .....	2
1.1	Introduction.....	2
1.2	Background.....	2
2	Principal Developments To Report During The Period .....	2
3	Current and Projected Scheme Payment Percentages .....	3
3.1	The Current Scheme Payment Percentages.....	3
3.2	Estimated ultimate Scheme Payment Percentages .....	4
4	Financial Position .....	4
4.1	Estimated balance sheet at 30 June 2020 .....	4
4.2	Receipts and payments to 30 June 2020 .....	4
5	Closure.....	4
5.1	Finalisation of the Schemes .....	4
6	Responsibilities .....	5
6.1	Scheme Administrators .....	5
6.2	Creditors' Committee .....	5
7	Contact Details.....	5
7.1	Creditor Enquiries in Australia.....	5
	Appendix 1.....	6
	Appendix 2.....	7

# 1 Introduction & Background

## 1.1 Introduction

This is the fourteenth annual report to the Creditors of HIH Casualty and General Insurance Limited (In Liquidation and subject to Schemes of Arrangement) (**HIH C&G**).

The report has been prepared in accordance with clause 43.2 of the Scheme of Arrangement, which became operative in Australia on 30 May 2006. Under the terms of the clause: "Within three months after each anniversary of the date, being either 31 December or 30 June, at the discretion of the Scheme Administrators, after The Australian Scheme becomes effective, the Scheme Administrators shall report to the Scheme Creditors on the progress of The Australian Scheme, including details of remuneration paid to the Office Holders, since the date of the last such report". Accordingly this report has been prepared for the period to 30 June 2020. It also covers any significant events between that date and completion of the report.

Following the last annual report, the Scheme Administrators of the HIH C&G Scheme in the UK have paid a final distribution to its Scheme Creditors in October 2019 and issued their final report to Creditors covering the period to 31 October 2019. The English Scheme Administrators final report is available on the HIH website.

The English Scheme Administrators will terminate the HIH C&G English Scheme following consultation with their Scheme Creditors Committee.

## 1.2 Background

HIH Insurance Limited and certain of its major subsidiaries were placed into Provisional Liquidation on 15 March 2001, and subsequently into liquidation on 27 August 2001. In total, eighty-two HIH Group companies in Australia have been placed into liquidation.

Summary details of the history of the group, its failure and background information are available on the HIH website at [www.hih.com.au](http://www.hih.com.au). The HIH Royal Commission established by the Australian Federal Government has also prepared an extensive report on the failure of the group.

Schemes of Arrangement for the eight licensed insurance companies in the HIH Group in Australia, including HIH C&G, became effective on 30 May 2006, following approval by Creditors and the Court. Schemes of Arrangement for the UK branches of four of these companies, including HIH C&G, became effective in the UK on 13 June 2006.

Each of the Schemes has a Record Date (the date at which liabilities are measured) of 27 August 2001 and an estimation date of 31 May 2013 wherein all outstanding claims are valued.

The bar date for submission of Final Claim Forms by Scheme Creditors against the eight licensed insurance companies in the HIH Group was set at midnight British Summer Time on 2 September 2013 (**Bar Date**). Under the terms of the Schemes, no further claims can be accepted after this date.

Five of the eight Schemes in Australia have now been finalised and terminated in accordance with clause 63.1. The three remaining Schemes of the HIH Group in Australia are in respect of HIH C&G, FAI General Insurance Company Limited (**FAIG**) and CIC Insurance Limited.

The HIH C&G Australian Scheme remains in the "Estimation" phase. The Scheme Administrators have agreed and quantified all claims lodged by Scheme Creditors prior to the Bar Date and all claims of HIH Insurance Limited (**HIH Insurance**) shareholders as awarded by the NSW Supreme Court in 2016.

# 2 Principal Developments To Report During The Period

The principal developments to report during the period were:

- the agreement of further Scheme Payment Percentages by the Scheme Creditors' Committee, bringing total Scheme Payment Percentages paid to those detailed below:

Creditors with insurance liabilities in Australia	Creditors with insurance liabilities outside of Australia	Creditors with non-insurance liabilities in Australia	Creditors with non-insurance liabilities outside of Australia
51.0%	48.2%	38.5%	35.0%

- as stated in the previous report, the HIH C&G Scheme Administrators together with the FAIG Scheme Administrators and HIH Insurance Liquidators have in 2019 determined and paid the claims of the HIH Insurance shareholders, except for the dividends due to certain shareholders (**Remaining Shareholder Creditors**). The Scheme Administrators and Liquidators intended to seek Court directions on the dividends due to these Remaining Shareholder Creditors as the dividends were sought by certain interested parties who claimed to have acted for these shareholders.

In light of the above, we prepared and attended at a Court hearing in December 2019 seeking directions to whom the dividends should be paid to.

At the December 2019 hearing, the NSW Supreme Court handed down its judgment and agreed that the HIH C&G and FAIG Scheme Administrators and HIH Insurance Liquidators were justified in paying the dividends directly to the Remaining Shareholder Creditors unless the interested parties could establish an obligation that the dividends should be paid to them rather than to the Remaining Shareholder Creditors.

The HIH C&G and FAIG Scheme Administrators and HIH Insurance Liquidators are currently liaising with the interested parties to finalise the dividends of these Remaining Shareholder Creditors however, as one of the interested parties has commenced legal proceedings against its clients (the shareholders) for the dividends, finalisation of the dividend payments by the Scheme Administrators will be dependent on the outcome of that legal action.

- the agreement and payment by the HIH C&G and FAIG Scheme Administrators and HIH Insurance Liquidators of the cost orders granted in favour of the various groups of shareholders in the previous legal proceedings.

### 3 Current and Projected Scheme Payment Percentages

#### 3.1 The Current Scheme Payment Percentages

The current Scheme Payment Percentages paid to the different HIH C&G creditor groups are set out below:

Creditors with insurance liabilities in Australia	51.0%
Creditors with insurance liabilities outside of Australia	48.2%
Creditors with non-insurance liabilities in Australia	38.5%
Creditors with non-insurance liabilities outside of Australia	35.0%

The Scheme Administrators have made final distributions out of reinsurance assets in Australia, to creditors with insurance liabilities in Australia, totalling 16.05%. They have also made final distributions out of reinsurance assets outside of Australia to creditors with insurance liabilities outside of Australia of 16.05%. A further final distribution of 4.28% has been made from reinsurance assets outside of Australia to all creditors with insurance liabilities worldwide. As any distribution to creditors with insurance liabilities from assets other than reinsurance recoveries, is made after accounting for any proceeds that have been received from reinsurance assets, the effective total Scheme Payment percentage to date for creditors with Australian insurance liabilities is 51.0%. The effective total Scheme Payment percentage to date for creditors with insurance liabilities outside of Australia is 48.2%.

Scheme Payment Percentages totalling 48.2% for those US domiciled creditors eligible to be paid from the US Trust Fund assets have also been paid. All of the US Trust Fund assets have now been exhausted and US domiciled creditors eligible to be paid from those assets will continue to be paid the same Scheme percentage as all other creditors with insurance liabilities outside of Australia.

The Scheme Administrators have made distributions from the realisations of non-reinsurance assets in Australia, to creditors with liabilities in Australia, totalling 38.5%. They have also made distributions totalling 35.0% to all other non-insurance creditors worldwide.

## 3.2 Estimated ultimate Scheme Payment Percentages

The Scheme Administrators' latest estimate of the ultimate Scheme Payment Percentages for the various HIH C&G creditor groups is set out below:

	As at 30 June 2019	Updated as at 30 June 2020
Creditors with insurance liabilities in Australia	51.3%	53.3%
Creditors eligible to be paid from US Trust Funds	48.2%	48.2%
Creditors with insurance liabilities outside of Australia	48.2%	48.2%
Creditors with non-insurance liabilities in Australia	38.9%	41.4%
Creditors with non-insurance liabilities outside of Australia	35.0%	35.0%

The Scheme Administrators have paid Scheme Payment Percentages close to the ultimate levels set out above. The Scheme Administrators hope to be in a position to pay the final Scheme Payment by the second half of 2021 however, timing of payment will be dependent on the finalisation of the Remaining Shareholder Creditors dividends and realisation of the remaining intercompany debts owing by other HIH entities.

## 4 Financial Position

### 4.1 Estimated balance sheet at 30 June 2020

Included as Appendix 3 to the Australian Explanatory Statement section of the Scheme of Arrangement documentation (sent to creditors prior to the creditors' meeting on 29 March 2006), were balance sheets for each of the Scheme companies at 25 September 2005. An updated balance sheet for HIH C&G as at 30 June 2020 is included as Appendix 1 to this report.

### 4.2 Receipts and payments to 30 June 2020

A summary of the Scheme Administrators' receipts and payments from 1 July 2019 to 30 June 2020 is set out in Appendix 2 to this report.

Since the last annual report dated 30 June 2019, \$424,194.50 has been approved by the HIH C&G Scheme Creditors' Committee for payment to the Scheme Administrators in their role as Office Holders covering the period from 26 January 2019 to 27 March 2020.

## 5 Closure

### 5.1 Finalisation of the Schemes

The only issues preventing the closure of the HIH C&G Schemes are payment of the Remaining Shareholder Creditors' dividends and realisation of the intercompany debts owing by other HIH entities.

Once resolved, the Scheme Administrators hope to be in a position to make the final Scheme Payments by the second half of 2021, and terminate the Scheme 12 months after the final Scheme Payments are made.

## 6 Responsibilities

### 6.1 Scheme Administrators

The Australian Scheme Administrators are Jason Preston and Katherine Sozou, partners of McGrathNicol based in Sydney. Katherine Sozou replaced Tony McGrath as the Australian Scheme Administrator of HIH C&G following Tony McGrath's resignation on 1 July 2020.

The English Scheme Administrators of HIH C&G are Barry Gale and Darryl Ashbourne, partner and director respectively of KPMG LLP based in London.

### 6.2 Creditors' Committee

The interests of the HIH C&G creditors in the Australian Scheme are represented by a Creditors' Committee. The Committee sanctions significant transactions, is involved in the setting of the Scheme Payment Percentage and approves the Scheme Administrators' fees. It is currently reported to, and meets, on an ad-hoc basis. The constitution of the Committee at 30 June 2020 was as follows:

Member	Represented By
ACT Insurance Authority	Vacant
ACT Workers Compensation Supplementation Fund	Vacant
Lawcover Pty Limited	Mr Peter Candotti
NSW Motor Accidents Authority	Ms Mary Maini
Queensland Motor Accident Insurance Commission	Ms Lina Lee
HCSL – Australian Government Treasury	Ms Danielle Jakubowski
United Medical Protection	Ms Vikki Sellars-Jones
WA Workers Compensation & Rehabilitation Commission	Mr Harry Neesham
HIH Holdings (Asia) Limited	Mr Peter Whalley
Hong Kong Solicitors Indemnity Fund	Ms Orla McCoy
Building Insurers Guarantee Corporation NSW	Mr Michael Kelly
Motor Traders Association of NSW	Mr Greg Patten

## 7 Contact Details

Contact details for the Australian and English Scheme Administrators are set out on the HIH website, [www.hih.com.au](http://www.hih.com.au).

### 7.1 Creditor Enquiries in Australia

Please direct all enquiries to the HIH Help Desk at the following:

Email: [enquiries@hih.com.au](mailto:enquiries@hih.com.au)  
Tel: +61 (0) 2 9650 5777  
Address: GPO Box 2707, Sydney NSW 2001

Yours faithfully  
For HIH Casualty & General Insurance Limited (In Liquidation and subject to Schemes of Arrangement)



Jason Preston  
Scheme Administrator



Katherine Sozou  
Scheme Administrator

## Appendix 1

Updated balance sheet at 30 June 2020

*All values in AUD*

	As at 30 June 2020 \$'000	As at 30 June 2019 \$'000
<b>Assets not specifically charged</b>		
<b>Cash</b>		
Cash on hand	1	1
Cash at bank	5,888	16,571
	<u>5,889</u>	<u>16,572</u>
<b>Receivables</b>		
Amounts owing by related bodies corporate (Interco rec)	3,679	16,662
	<u>3,679</u>	<u>16,662</u>
<b>Investments</b>		
Short term deposits	27,751	58,287
ADD back: Dividends Paid Less FAC Paid	1,289,397	1,225,064
	<u>1,317,148</u>	<u>1,283,352</u>
<b>Refund to Reinsurance Creditors</b>		
	(314)	(907)
	<u>(314)</u>	<u>(907)</u>
<b>Other</b>		
Adverse Legal Costs	(1,083)	(1,333)
HIH Shareholders Claim	(324)	(6,184)
	<u>(1,407)</u>	<u>(7,518)</u>
<b>TOTAL ASSETS</b>	<b><u>1,324,994</u></b>	<b><u>1,308,160</u></b>
<b>Amounts payable in advance of secured creditors</b>		
Provision for redundancy, employee entitlements and employee claims	(2,651)	(2,603)
<b>Total amounts payable in advance of secured creditors</b>	<b><u>(2,651)</u></b>	<b><u>(2,603)</u></b>
<b>Unsecured creditors</b>		
<b>Accounts payable</b>		
Trade Creditors (A/P and Special Principals) - ESC at Estimation Date	(44,357)	(44,357)
Goods and services tax	(677)	(701)
Sundry creditors - ARS - ESC at Estimation Date	(19,543)	(19,561)
	<u>(64,577)</u>	<u>(64,619)</u>
<b>Provisions</b>		
Others	0	(7,297)
	<u>0</u>	<u>(7,297)</u>
ACCs - ESC at Estimation Date	(2,070,681)	(2,062,135)
Commutations - ESC Verified	(42,203)	(42,050)
Add back: Creditors with Statutory Cut Through & s.562A(4) claims	41,027	41,027
	<u>(2,071,857)</u>	<u>(2,063,158)</u>
<b>Outstanding claims</b>		
<b>Other liabilities</b>		
Other creditors and accruals (Eurobonds)	(122,000)	(122,000)
Amounts owing to related bodies corporate (Interco liabilities)	(451,341)	(451,391)
	<u>(573,341)</u>	<u>(573,391)</u>
<b>Total unsecured creditors</b>	<b><u>(2,709,775)</u></b>	<b><u>(2,708,465)</u></b>
<b>TOTAL LIABILITIES</b>	<b><u>(2,712,425)</u></b>	<b><u>(2,711,068)</u></b>
<b>NET DEFICIT</b>	<b><u>(1,387,431)</u></b>	<b><u>(1,402,907)</u></b>

## Appendix 2

Summary of the Scheme Administrators' receipts and payments from 1 July 2019 to 30 June 2020

	\$	\$
<b>Opening balance at 1 July 2019</b>		<b>71,442,159</b>
<b>Receipts</b>		
MAIC Guarantee Payment Received from FAIG	17,998,565	
Distributions from Other Scheme Companies	11,156,143	
Central Expense Reimbursement from HHH Companies	2,609,764	
Dividend Payment Funding from UK	980,240	
Interest on Cash and Deposits	611,017	
GST Refund	397,081	
Reallocation of Settlement Proceeds	379,236	
Other Receipts	286	
<b>Total Receipts</b>		<b>34,132,332</b>
<b>Payments</b>		
Scheme Payments to Creditors	(60,217,009)	
HHH Shareholders Dividend Payments	(5,410,616)	
IT Outsource Costs	(1,424,010)	
Salaries / Annual Leave	(1,125,306)	
Rent and Outgoings	(999,402)	
Legal and Taxation Fees	(652,464)	
Refund of Reinsurance Debtor Payments	(596,339)	
Scheme Administrators' Fees	(424,195)	
GST Paid	(419,829)	
Contractors & Temporary Staff	(396,670)	
Computer/Systems Costs	(200,866)	
Superannuation Contributions	(98,319)	
Other Staff Costs	(68,603)	
Other Payments	(57,255)	
Cost Order for Scheme Extension	(35,000)	
Communication Costs	(21,683)	
Scheme Administrators' Disbursements	(16,374)	
Liquidators' Fees	(214)	
<b>Total Payments</b>		<b>(72,164,154)</b>
Adjustments for Unrealised Foreign Exchange Gain on Foreign Cash Accounts		<b>228,014</b>
<b>Balance at 30 June 2020</b>		<b>33,638,350</b>