



HIH Insurance Limited (In Liquidation)
ACN 008 636 575 (“HIH Insurance”)
HIH Casualty and General Insurance Limited (In Liquidation and Subject to Schemes of Arrangement)
ACN 008 482 291 (“HIH C&G”)
FAI General Insurance Company Limited (In Liquidation and Subject to a Scheme of Arrangement)
ACN 000 327 855 (“FAIG”)

1. Notice to Shareholders

1.1 By letter dated 2 April 2019, the Liquidators of HIH Insurance and Scheme Administrators of HIH C&G and FAIG wrote to shareholders who, according to the share registry records of HIH Insurance, purchased shares in HIH Insurance on or after 25 August 1999 (**Circular**). The Circular:

- (a) informed shareholders of the matters contained in this notice;
- (b) provided a summary of the claim each shareholder appears to have against HIH Insurance, HIH C&G and FAIG that their respective Liquidators or Scheme Administrators propose to admit/determine in the Liquidation or Schemes of Arrangement (**Proposed Claim Summary**); and
- (c) provided an objection form to be completed and returned if the shareholder objects to the Liquidators' and Scheme Administrators' calculation and wishes to assert that they are entitled to some other amount.

1.2 If you purchased shares in HIH Insurance on or after 25 August 1999, but **have not received a Circular**, please refer to the Questions and Answers section of the HIH website at www.hih.com.au or write to the HIH Help Desk at the following without delay:

Email: enquiries@hih.com.au

or

Address: HIH Insurance Limited, GPO Box 2707, Sydney NSW 2001

2. Court decision

2.1 The Supreme Court of New South Wales has determined that certain shareholders of HIH Insurance suffered loss in connection with their purchase of shares in HIH Insurance on or after 25 August 1999. On 20 April 2016, the Honourable Justice Brereton handed down his written reasons for judgment in those proceedings (**Primary Reasons**).¹ On 10 March 2017, further reasons for judgment (**Further Reasons**)² were given by his Honour and final orders in the proceedings were made on 28 April 2017 (**Final Orders**).

2.2 In the Primary Reasons, the Court found that certain shareholders of HIH Insurance who had purchased shares on or after 25 August 1999 suffered damage, by reason of the misleading conduct of HIH Insurance in overstating financial accounts released to the market, in

¹ *In the matter of HIH Insurance Limited (In Liquidation) (ACN 008 636 575) and others* [2016] NSWSC 482.

² *In the matter of HIH Insurance Limited (In Liquidation) (ACN 008 636 575) and others* [2017] NSWSC 380.

contravention of s 52 of the *Trade Practices Act 1974* (Cth) and ss 995 and/or 999 of the *Corporations Law* (Cth).

2.3 In summary, the Court held that shareholders who had purchased shares during the period:

- (a) 25 August 1999 to 2 March 2000 were entitled to damages equivalent to 6.25% of the price paid for those shares, with such damages arising in connection with overstated HIH consolidated FY1999 final results;
- (b) 3 March 2000 to 17 October 2000 were entitled to damages equivalent to 9.5% of the price paid for those shares, with such damages arising in connection with overstated HIH consolidated FY2000 interim results; and
- (c) after 17 October 2000 were entitled to damages equivalent to 13% of the price paid for those shares, with such damages arising in connection with overstated HIH consolidated FY2000 final results,

(each of those periods being a “**Relevant Period**”, and together, the “**Relevant Periods**”).

3. **Schemes of Arrangement in respect of HIH C&G and FAIG**

3.1 The Primary Reasons determined that HIH C&G and FAIG were liable to shareholders who acquired shares in HIH Insurance during the Relevant Periods.

3.2 However, clause 25.1(b) of the Schemes of Arrangement in respect of HIH C&G and FAIG (**Schemes**) required Scheme Creditors to lodge a Final Claim Form (as defined in the Schemes) by no later than midnight on 2 September 2013 (British Summer Time)(**Cut-Off Date**).³

3.3 The Scheme Administrators do not have any discretion under the Schemes to consider or admit claims against HIH C&G or FAIG which have not been so notified to them before the Cut-Off Date, absent an extension of time from Court for the consideration of a claimant's claim.

3.4 However, the Supreme Court of New South Wales has:

- (a) extended the time period within which the Scheme Administrators may determine that shareholders have an Acknowledged Creditor Claim under the respective Schemes of HIH C&G and FAIG in accordance with the Primary Reasons and the Further Reasons to 15 June 2019 (irrespective of whether they have previously notified the Scheme Administrators of a claim); and
- (b) directed that the Scheme Administrators would be justified in determining that you have a claim under the Schemes of HIH C&G and FAIG in accordance with the Primary Reasons and the Further Reasons.

³ A copy of the Schemes is at the following website: www.hih.com.au/scheme.html

3.5 The Scheme Administrators propose to thereafter make final distributions under the Schemes without making provision for any claim of a current or former shareholder of HIH Insurance who does not have an Acknowledged Creditor Claim.

4. Calculation of claims

4.1 The Primary Reasons and Further Reasons of the Court provide guidance as to how claims should be assessed for shareholders who purchased shares on or after 25 August 1999.

4.2 The Further Reasons set out how subsequent sales of shares purchased during a Relevant Period are to be accounted for in calculating the amount of a shareholder's claim. Specifically, a shareholder who acquired shares during the inflationary period and then sold shares during the inflationary period must give credit for a percentage of the selling price which reflects the inflationary factor applicable at the time of the sale.

4.3 The applicable percentages in this regard are as follows:

Relevant Period	Applicable percentage for calculating claims
25 August 1999 to 2 March 2000	Purchases: Damages equivalent to 6.25% of the purchase price paid for shares purchased during this period Sales: Total damages reduced by 6.25% of the sell price received for shares sold during this period
3 March 2000 to 17 October 2000	Purchases: Damages equivalent to 9.5 % of the purchase price paid for shares purchased during this period Sales: Total damages reduced by 9.5% of the sell price received for shares sold during this period
After 17 October 2000	Purchases: Damages equivalent to 13% of the purchase price paid for shares purchased during this period Sales: Total damages reduced by 13% of the sell price received for shares sold during this period

4.4 The claim amounts are also subject to other adjustments (for example, to account for any transfers of shares between share trading accounts of the same shareholder during the period, and, in some cases, ad valorem brokerage costs and ad valorem stamp duty).

4.5 Based on the methodology applied by the Court and the transactions trading data provided to us by HIH Insurance's corporate share registry, the Liquidators and Scheme Administrators have calculated the claims of HIH Insurance shareholders which they consider to be admissible in the Liquidation and should be determined to be Acknowledged Creditor Claims under the Schemes.

- 4.6 Where there is sufficient evidence to indicate that shareholders have multiple accounts, shareholders should note that these accounts have been considered together in order to determine the net claim of individual shareholders (for example, by not including in the claim calculation the transfer of certain shares from one share trading account of a particular shareholder to another trading account of that shareholder).
- 4.7 The Liquidators and Scheme Administrators intend to make a decision to admit or determine such claims on and from 16 May 2019, subject to consideration of any objections shareholders may have, and then make dividends payments from the Liquidation of HIH Insurance and the Schemes of HIH C&G and FAIG by cheque to eligible shareholder creditors who have not previously been paid a dividend or Scheme payment.

We recommend that shareholders of HIH Insurance regularly review the FAQ section of the HIH website at www.hih.com.au, which provides further information on common queries that shareholders may have, and will be updated with additional information in due course. Shareholders may wish to seek independent legal and financial advice in relation to the above matters.



Jason Preston

Liquidator of HIH Insurance Limited (In Liquidation)

Liquidator and Scheme Administrator of HIH Casualty and General Insurance Limited (In Liquidation and Subject to Schemes of Arrangement)

Liquidator and Scheme Administrator of FAI General Insurance Company Limited (In Liquidation and Subject to a Scheme of Arrangement)

Date: 16 April 2019