

## Financial Markets Conduct (Conduct of Financial Institutions - ACS (NZ) Limited) Exemption Notice 2024

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 (Conduct of Financial Institutions - ACS (NZ) Limited) Exemption Notice 2024.

#### 2 Commencement

This notice comes into force on 31 March 2025.

#### 3 Revocation

This notice is revoked on the earlier of the close of 30 March 2029 or when the Insurer's licence is cancelled by RBNZ, whichever is the earlier.

#### 4 Interpretation

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

**Act** means the Financial Markets Conduct Act 2013

**Consumer** has the same meaning as in s446P of the Act

**Insurer** means ACS (NZ) Limited

**Manager** means Ansvar Insurance Limited

**Outstanding Claim** means, in respect of a Policyholder, a claim made by a Policyholder under a consumer insurance contract entered into with the Insurer prior to the commencement date of this notice which the Insurer has not settled or rejected

**Policyholder** means a consumer who has entered into a contract of insurance with the Insurer

**Relevant Policyholder** means a Policyholder in respect of whom:

- (a) the Insurer has been notified of an Outstanding Claim by the Policyholder, the Policyholder's representative or Toka Tū Ake – Natural Hazards Commission; and
- (b) the Insurer has commenced handling the Outstanding Claim made by the Policyholder before commencement of this notice.

**RBNZ** means the Reserve Bank of New Zealand

- (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 or the Regulations (as applicable).

## **5 Exemptions**

The Insurer is exempt from the following requirements of the Act:

- (a) section 388(ca); and
- (b) section 446G; and
- (c) 446H; and
- (d) 446I.

## **6 Conditions**

- (1) The exemptions in clause 5 are subject to the following conditions—
  - (a) the Insurer must not enter into any consumer insurance contract or any life or health insurance policy (including any contract that has the effect of operating as a renewal of the same); and
  - (b) the Insurer has a contract in place with the Manager that provides for the Manager to handle any claims made by or complaints received from Policyholders on behalf of the Insurer; and
  - (c) the Insurer must, through its arrangements with the Manager, ensure that—
    - (i) any claim made or complaint received from a Policyholder is handled in a manner that treats that Policyholder fairly, and takes action when it has concerns regarding fairness; and
    - (ii) it is made aware of any claims or complaints that the Manager receives from any Policyholder as soon as reasonably practicable after they are received; and
    - (iii) claims, complaints and other policyholder activity are considered by a governance committee or board of the Manager as a standing agenda item for assessment and reporting to the board of the Insurer on whether the Manager has treated Policyholders fairly and the steps the Manager intends to take to mitigate any actual or potential adverse effects of a failure to treat a Policyholder fairly (if any) on the Policyholder; and
    - (iv) it receives regular reporting from the Manager about the progress of any Outstanding Claims and about any failures to treat a Policyholder fairly;
  - (d) the Insurer must provide a Policyholder with the information in subclause (2) in writing:
    - (i) within 10 working days of commencing to handle an Outstanding Claim made by that Policyholder; or

- (ii) within 10 working days from commencement of this notice, if the Policyholder is a Relevant Policyholder.
  - (e) the Insurer must ensure that the information that is set out in subclause (2) is published on an Internet site maintained by, or on behalf of, the Insurer; and
  - (f) the Insurer must provide the FMA with a written update every 6 months on its progress towards ceasing to carry on an insurance business in New Zealand, which includes details of any complaints, any new claims or potential claims, and the progress of any Outstanding Claims, with the first report to be made six months after the commencement of this notice.
- (2) For the purposes of subclause 1(d) and (e), the information is—
- (a) a statement to the effect that the Insurer is relying on the exemptions in the notice; and
  - (b) a brief summary of the effect of the notice including that the notice requires the Insurer to ensure that any claim made, or complaint received, from a Policyholder is managed in a manner that treats the Policyholder fairly; and
  - (c) a brief description of both the complaints and claims processes put in place by the Insurer and how a Policyholder can make a complaint or a claim; and
  - (d) the name, telephone number, Internet site address, and email address of the Insurer's dispute resolution scheme in New Zealand.
- (3) The information must be provided under subclause (1)(d) by giving it to the person or delivering or sending it to the address known by the Insurer for that Policyholder or the Policyholder's representative.

Dated at Auckland this 11<sup>th</sup> day of December 2024.



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Clare Bolingford  
Executive Director of Regulatory Delivery  
Financial Markets Authority

## Statement of Reasons

This notice comes into force on 31 March 2025 and is revoked on the close of 30 March 2029. It applies to ACS (NZ) Limited (**ACS**), an insurer that is a Financial Institution. ACS is in run-off and only has a few remaining consumer insurance contracts, which are in the process of being resolved. ACS expects to be free of any liabilities under contracts of insurance within the term of the notice.

This notice exempts ACS from the requirements under Part 6 of the Financial Markets Conduct Act 2013 (**the Act**) to:

- (a) be licensed as a financial institution; and
- (b) establish, implement, maintain, and comply with an effective fair conduct programme, and make information about the fair conduct programme available.

The exemptions are subject to a condition that prevents ACS from issuing any more consumer insurance contracts. Other conditions require ACS to ensure that its remaining consumer policyholders are informed of this exemption and provided with information about the complaints and claims processes, including how to make a complaint.

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

- where an insurer is in run-off with remaining liabilities under a very small number of consumer insurance contracts, the costs of becoming licensed and complying with fair conduct programme obligations under the Act are likely to outweigh the benefits for consumers;
- given the very small number of consumer policyholders ACS should be in a position to manage any claims or complaints in a bespoke manner, specific to those consumers; and
- ACS will have appropriate contractual arrangements in place with Ansvar Insurance Limited to ensure the conditions of this notice of exemption are met.

As such, the FMA is satisfied that the granting of the exemptions is desirable in order to promote the purposes of the Act, specifically to avoid unnecessary compliance costs.

The FMA is further satisfied that the extent of the exemptions are not broader than reasonably necessary given that—

- the exemptions are limited to the provision of relief where an insurer is in run-off with liabilities under a very small number of consumer insurance contracts and has only a short, expected time remaining before it ceases to carry on insurance business in New Zealand; and
- the limited application of the exemptions, and conditions that restrict the insurer from entering into any new consumer insurance contracts.