Statement by Tony McGrath, Provisional Liquidator of HIH Insurance Limited and 17 related entities ("HIH PL Companies")

Dated 18 June 2001

Legal representatives for the provisional liquidators of the HIH PL Companies appeared in the NSW Supreme Court today to provide a report to the Court on the progress of the provisional liquidation process.

The interim report will form the basis of discussions when the winding up proceedings resume before the Court on 2 July 2001.

"Today's report to the Court included our preliminary views of the financial position of the HIH PL Companies, based on the investigations to date."

"Specifically, the following matters were dealt with in the report; tasks undertaken since the date of appointment, convening of Consultative Group meetings, Government assistance, overseas applications, commercial transactions and preliminary investigations into the financial position of each company to which I have been appointed and the possible formulation of a scheme or schemes of arrangement."

The HIH group is an extremely complex group of over 200 companies, which are located in Australia and in many other jurisdictions, including the United States, New Zealand, the United Kingdom and Hong Kong.

"We have reported to the Court that each of the major insurance licence holding companies within the HIH PL Companies is insolvent and unable to pay its debts in full."

Until the Provisional Liquidators have formed a more reliable view of the financial position of each HIH company, it is difficult for us to consider whether a scheme or schemes of arrangement (in addition to or instead of a winding up) may be in the interests of the creditors.

We presently consider that, if the position in Australia could have been considered in isolation (that is, if there had been no non-Australian assets and no non-Australian liabilities), then it is likely that we would have recommended or be now recommending that each of the HIH PL Companies be wound up.

However, the fact that companies within the HIH Group have extensive assets in overseas jurisdictions, particularly the United States and the United Kingdom, has a significant effect on any consideration as to whether and when the HIH PL Companies should be wound up, and as to the possibility, and timing, of any scheme of arrangement. The overseas assets comprise in large part, although by no means exclusively, rights under reinsurance contracts which may be situated in those countries. FAI in particular has significant assets in the United States. We have not yet been able to complete our investigations in relation to the location and value of the assets of each of the relevant companies.

Regimes are now in place to protect the assets of the HIH PL Companies in the United Kingdom and the United States:

- Provisional Liquidators have been appointed to C&G, FAI, World Marine and FAI Insurances in the UK.

- We have been granted a temporary restraining order and a preliminary injunction in the United States Bankruptcy Court (pursuant to Section 304 of the United States Bankruptcy Code). This is to ensure the efficient administration of assets held by companies in the HIH Group in the United States and to prevent a "piecemeal grab" of the assets of those companies by creditors in the United States. The granting of the order effectively protects the assets of the companies.

The Provisional Liquidators intend, before making any recommendations to the court whether the HIH PL Companies should be placed into liquidation, to hold among other things further discussions with the relevant regulators in the United States and the United Kingdom to seek to ensure their support for the continuation of those regimes should the companies be placed into liquidation in Australia. The Provisional Liquidators do, however, expect that, subject to renewal of the current orders that they not remit assets to Australia without further application to the United States Court, it should be possible to maintain the Section 304 orders in the United States in the event winding up orders are made here.

Subject to the outcome of the above discussions and investigations, it is, then, possible that it may be in the interests of the creditors of one or more of the HIH PL Companies for the companies to be placed into liquidation in Australia in the near future, and for the companies later to enter into a scheme or schemes of arrangement which involve treating creditors in foreign jurisdictions equally (or in some other way acceptable to relevant creditors) in order to obtain access to assets located in foreign jurisdictions. The Provisional Liquidators presently consider that it is highly likely that a scheme or schemes of arrangement would offer an efficient way of resolving the issues thrown up by the particular provisions applying to insurance insolvency (especially s116 of the *Insurance Act* 1973), given the complex inter-company relationships within the HIH Group, the across-group reinsurance arrangements applying to the HIH group, and the significant assets located in foreign jurisdictions. However, whether and how such a scheme or schemes may be formulated is something which the Provisional Liquidators need much more time and information to consider.

The Provisional Liquidators expect, following the discussions referred to above and a further hearing in the United States Bankruptcy Court on 21 June 2001, that they will be able to provide more information to the Court at the hearings on 2 July 2001 concerning the matters raised above, and in particular as to whether and when they expect to be in a position to make a recommendation concerning a winding up of the HIH PL Companies.

Tony McGrath
Provisional Liquidator