

## Notification of a formal warning

23 November 2017

To Fullerton Markets Limited, FSP477046 ('FML'), Level 3, 88 The Terrace, Wellington.

### Notification of a formal warning for purposes of section 80 of Anti-Money Laundering and Countering Financing of Terrorism Act 2009

We have reasonable grounds to believe that you have engaged in conduct that constitutes a civil liability act under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (the Act). You are required to comply with your obligations under the Act at all times.

Details of the conduct are as follows:

- Breach of section 26:** Requires a reporting entity to as soon as practicable after establishing a business relationship or conducting an occasional transaction, take reasonable steps to determine whether the customer or any beneficial owner is a politically exposed person. FML failed to carry out checks on politically exposed persons and relied on self-declarations by clients which is in breach of section 26 of the Act.
- Breach of section 31(2):** Requires a reporting entity to conduct ongoing customer due diligence and undertake account monitoring to ensure that the business relationship and the transactions relating to that business relationship are consistent with the reporting entity's knowledge about the customer and the customer's business and risk profile. FML confirmed to the FMA that only accounts in excess of US\$100,000 are monitored which does not comply with the requirements of section 31(2).
- Breach of section 56:** Requires a reporting entity to establish a compliance programme based on the risk assessment, including adequate and effective procedures, policies and controls. The compliance programme presented to the FMA in March 2017 and August 2017 was still in draft and did not meet the requirement of section 56 of the Act.
- Breach of section 58:** Requires reporting entities to have an AML/CFT risk assessment. The risk assessment presented to the FMA in March 2017 and August 2017 was in draft form and did not comply with the requirements of section 58 of the Act.
- Breach of section 67(1)(a):** A reporting entity complies with an obligation imposed on it by or under this Act or regulations by complying with those provisions of a code of

practice that state a means of satisfying the obligation. The documentation accepted by FML at client on-boarding does not comply with the Identity Verification Code of Practice (**IVCOP**).

The following action(s) are required to ensure compliance with the Act:

- Section 26: FML must undertake a review of all customers to ascertain if they are politically exposed person. This should be by using an internationally recognized search tool and take appropriate steps where there is a positive match on a client.
- Section 31(2): FML must develop a more appropriate level of transaction monitoring rules and undertake a review of all customer transactions since commencing business in New Zealand. Where a suspicious transaction is identified, a suspicious transaction report must be filed with the Financial Intelligence Unit of the Police.
- Section 56: FML must prepare and implement an AML/CFT compliance programme to the standard required in the Act and in line with the IVCOP by 31 January 2018.
- Section 58: FML must prepare and implement an AML/CFT risk assessment to the standard required in the Act by 31 January 2018.
- Section 67(1)(a): FML must review its customer on boarding process by 31 January 2018 and bring it in line with the Amended Identity Verification Code of Practice (**IVCOP**). A review of all customers on boarded since commencing business in New Zealand must be undertaken to ascertain if any further identity information is required in order to comply with the IVCOP.

FML must confirm the actions set out above have been completed and provide copies of the relevant documentation to the FMA.

If you continue to engage in conduct that constitutes a civil liability act, or you do not take the actions required, civil or criminal enforcement action may be taken under the Act. This may result in (but is not limited to) the imposition of—

- civil penalties of up to \$200,000, in the case of an individual, and \$2 million, in the case of a body corporate; and
- criminal penalties of imprisonment for up to two years or a fine of up to \$300,000, in the case of an individual, and \$5 million, in the case of a body corporate.

Please note that issuing this formal warning to you does not affect the Financial Markets Authority's ability to consider or impose other appropriate sanctions under the Act.

If you believe the facts as stated in this notice are incorrect or incomplete, please contact us by Friday 24 November 2017.

A handwritten signature in black ink, appearing to read 'Liam Mason', with a long horizontal flourish extending to the right.

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Liam Mason

Financial Markets Authority