

31 July 2013

Kirsty Campbell
Manager Commercial Supervision
Financial Markets Authority
P. O. Box 106-672
AUCKLAND 1143

Dear Kirsty,

Practical implications of Factsheet on Managing Intermediaries feedback

The Financial Markets Authority has issued a consultation paper to consider the practical implications of reporting entities transacting with other reporting entities and the factsheet on managing intermediaries.

We comment as follows:-

“Are underlying clients beneficial owners?”

In this section of the consultation paper we consider brokers would not be customers nor would they be able to look through our structure to the underlying client. It is unworkable as the investment is made in the name of the registered unit trust and the broker does not have a close connection to the underlying client who holds units in the unit trust.

“Timing of the CDD obligations”

We agree that the CDD information obtained needs to be up to date but point out that the AML/CFT Identity verification code of practice 2011 listing the acceptable identity types has only one type which needs to be current – a valid and current international driving permit.

It would be helpful to have the rest of the identity documents also listed as current in the requirements to support requests to replace expired identity documentation when completing ongoing customer due diligence. Otherwise we will be requesting updates which the legislation does not require.

“Having a CDD obligation and conducting CDD”

This section is confusing and will not work practically.

Section 34 of the consultation paper states;

“Sections 33 and 34 of the AML/CFT Act allow CDD to be performed on the underlying client by just one person in a chain of reporting entities/managing intermediaries. *Subject to the terms of the AML/CFT Act, other reporting entities may rely on that third party to discharge their CDD obligations.*”

Then section 39 states;

“Where a reporting entity uses a third party (under either section 33 or 34) to conduct CDD, *the reporting entity will always be responsible for ensuring that the CDD is carried out in accordance with the AML/CFT Act.*”

On one hand we can appoint an agent to act on our behalf but on the other hand we are always responsible for the action.

Also having all the entities in the investment chain responsible to complete CDD adds a level of compliance administration with no benefit.

The guidelines should be clear that a fund manager is responsible to see that the CDD is completed satisfactorily and can delegate the function to an agent. Also the intermediaries in the investment chain can rely on the agent completing that CDD. I.e. we can make the Wrap Platform and the financial adviser agents to perform the face to face CDD (adviser) and the wrap platform provider complete the balance of the AML/CFT as the underlying client has an account with them.

The wrap platform has the one to many relationships and also has the accounts set up in the investors' names. We have the one-to-one relationship with the wrap platform and hold one account in the wrap platform entity's name.

Appendix 2

This diagram is not correct for our business.

The fund flow is from the underlying client to the financial adviser to the Wrap platform/wrap trustee/custodian and then to the Fund Manager and then the Fund Manager's Trustee/Custodian's bank account. Alternatively it can come to the Fund Manager but in our case it is via a Registry Provider.

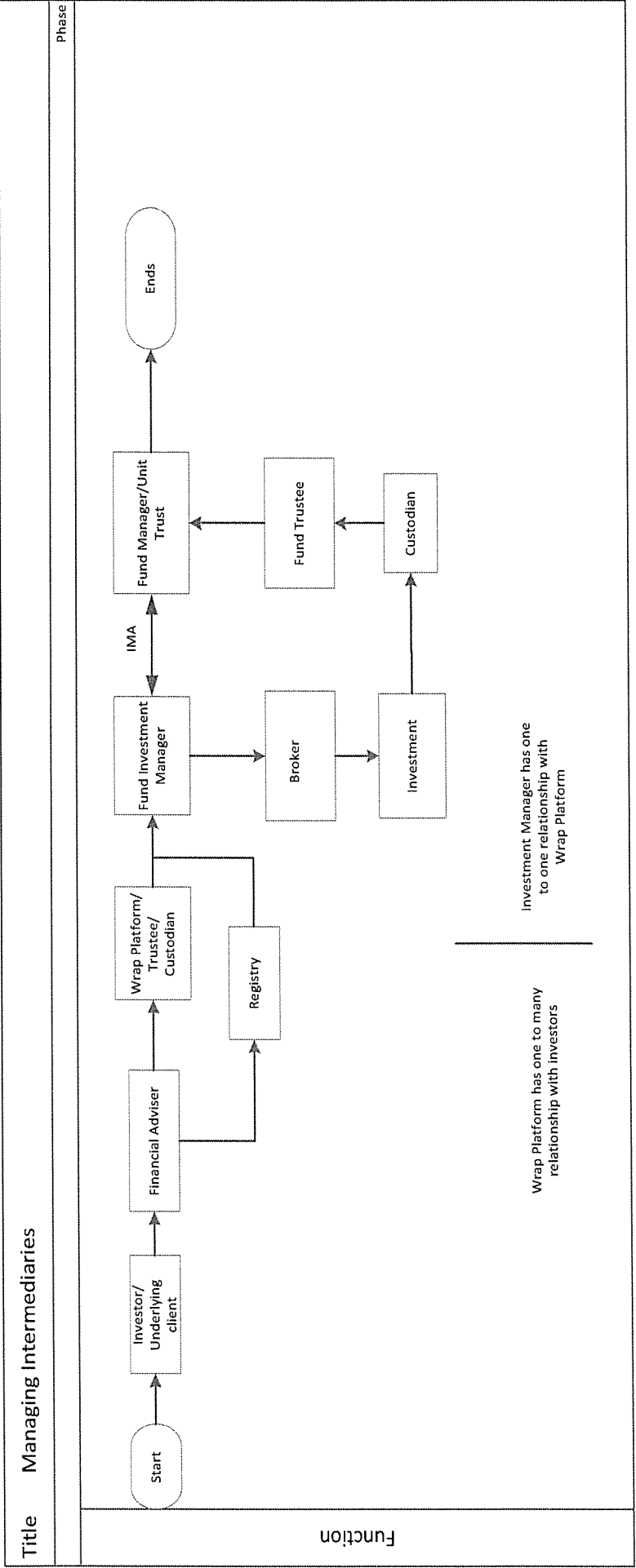
There is a diagram below which represents our business flow.

I am happy to discuss this submission if clarification is required.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Alistair Hill', is written over a horizontal line.

Alistair Hill
Risk Manager
T 04-494-2180
M 027-4508-606
E alistair.hill@ampcapital.co.nz



- Fund Manager has delegated to Fund Investment Manager management of the fund by an Investment Management Agreement (IMA)
- The Fund Manager has a participation agreement with the Wrap Platform as to provide Registry, Custody and will appoint them as agent to perform AML/CFT Reporting services including suspicious transaction reporting responsibilities. They are Reporting entities.
- The Fund Manager also has Retail intermediary agreements with the Financial advisers authorising them to distribute a limited set of our products and will appoint them as agents to complete AML/CFT customer due diligence, suspicious transaction reporting, and will indicate to the Wrap platform/Registry that they have completed AML/CFT CDD.
- Where an adviser is authorised to apply for investments via a Registry Service their responsibilities are the same, the Registry provider will ensure the CDD is complete and the Fund Investment Manager will complete Suspicious Transaction monitoring.
- The broker acts as an intermediary by completing the Investment Manager's instructions re an investment and should not need to look through to the underlying client. That is not workable.
- Also all entities being responsible for CDD will not work in practice due to uncertainty. The Fund Manager should be ultimately responsible but able to delegate that responsibility to an agent and that should be able to be relied upon. This would be similar to the Financial Transaction Reporting legislation which was clear and you were able to rely on another entity that is acting as an agent.

