

30 September 2022

To: InvestNow Saving and Investment Service Limited (FSP534448, 'InvestNow'), Level 2, 1 Woodward Street, Wellington 6011

**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:**

<p>Failure to comply with sections 16(1)(a) and (b) of the Act</p>	<p>In the course of our monitoring review in November 2021 and June 2022 of InvestNow (the <b>Reviews</b>),<sup>1</sup> we identified that InvestNow failed to complete identity verification of customers and beneficial owners, in accordance with the Amended Identity Verification Code of Practice (<b>AIVCOP</b>) because InvestNow did not match the claimed identity to the presenter of the identity. InvestNow has not opted out of the AIVCOP in respect of the verification of customers and beneficial owners.</p>
<p>Failure to comply with section 17(a) of the Act</p>	<p>The Reviews identified that between January 2017 to September 2021, InvestNow failed to obtain any information on the nature and purpose of the proposed business relationship between new customers and itself, and assumed the nature and purpose of the business relationship.</p>
<p>Failure to comply with sections 23(1)(a) and 24(1)(b) of the Act</p>	<p>The Reviews identified that InvestNow failed to conduct enhanced customer due diligence (<b>enhanced CDD</b>) by not obtaining and taking reasonable steps to verify source of wealth or fund (<b>SoW/F</b>) information, in response to 44 of 59 customers' (sampled from the period 1 September 2020 to 30 September 2021) complex and/or unusually large transactions.</p>
<p>Failure to comply with section 31(2) of the Act</p>	<p>The Reviews identified that InvestNow failed to conduct ongoing customer due diligence (<b>ongoing CDD</b>) with 28 of 59 customers (sampled from the period 1 September 2020 to 30 September 2021) reviewed, to ensure the business relationship and the</p>

<sup>1</sup> The scope of the Reviews does not include sample information on KiwiSaver scheme related AML/CFT compliance.

	<p>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, and to identify grounds for reporting any suspicious activity.</p>
<p>Failure to comply with sections 56(1), and 57(1)(c) and (g) of the Act</p>	<p>The Reviews identified that InvestNow failed to establish, implement, and maintain, an AML/CFT programme that includes adequate and effective procedures, policies, and controls for:</p> <ul style="list-style-type: none"> <li>a. complying with customer due diligence requirements (including ongoing customer due diligence); and</li> <li>b. identifying, examining, and keeping written findings, relating to complex, unusually large transactions, unusual patterns of transactions that have no apparent economic or visible lawful purpose, and any other activity that the reporting entity regards as being particularly likely by its nature to be related to money laundering or the financing of terrorism.</li> </ul>

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

<p>Sections 16(1)(a) and (b) of the Act</p>	<p>(1) Develop and implement an effective process to complete identity verification in accordance with the AIVCOP at the time of onboarding and provide training to employees on the process;<sup>2</sup></p> <p>(2) Complete adequate customer identity verification on all existing customers and beneficial owners, or comply with the requirements of section 37 of the Act;</p>
<p>Section 17(a) of the Act</p>	<p>(3) Obtain and review information on the nature and purpose of the business relationship from all existing customers, or comply with the requirements of section 37 of the Act;</p>
<p>Sections 23(1)(a) and 24(1)(b) of the Act</p>	<p>(4) Develop and implement an effective process and methodology to identify customers that meet the definition under section 22(1)(c) of the Act that must undergo enhanced CDD in accordance with sections 23 and 24, and provide training to employees on the process;<sup>3</sup></p> <p>(5) Complete enhanced CDD on all existing customers, that meet the definition under section 22(1)(c) of the Act by obtaining their SoW/F and taking reasonable steps to verify the SoW/F information,</p>

<sup>2</sup> Including employees outlined in s 57(1)(b) of the Act.

<sup>3</sup> See footnote 2.

	or comply with the requirements of section 37 of the Act;
Section 31(2) of the Act	<p>(6) Develop and implement an effective process and methodology to identify InvestNow customers that must undergo ongoing CDD in accordance with section 31(2) and provide training to employees on the process;<sup>4</sup></p> <p>(7) Complete ongoing CDD on all existing customers, where there has been a material change in the business relationship<sup>5</sup>, or comply with the requirements of section 37 of the Act;</p>
Sections 56(1), 57(1)(c) and 57(1)(g) of the Act	<p>(8) Review and revise InvestNow's AML/CFT programme to ensure that adequate and effective procedures, policies, and controls are established for:</p> <ul style="list-style-type: none"> <li>(a) complying with all CDD requirements (including standard CDD, enhanced CDD and ongoing CDD); and</li> <li>(b) identifying, examining, and keeping written findings relating to the transactions and activities identified in section 57(1)(g) (including identifying and examining these transactions and activities, by having regard to information on a customer's nature and purpose of the business relationship);</li> </ul> <p>(9) Ensure that the above AML/CFT programme is based on a revised risk assessment undertaken in accordance with section 58, for example, taking into account the following:</p> <ul style="list-style-type: none"> <li>(a) the nature, size, and complexity of the business</li> <li>(b) the products and services the business offers; and</li> <li>(c) the methods by which it delivers products and services to its customers; and</li> </ul> <p>(10) Ensure that the above AML/CFT programme is implemented and maintained in accordance with sections 56 and 57.</p> <p>(together, the <b>Required Actions</b>)</p>

<sup>4</sup> See footnote 2.

<sup>5</sup> The FMA expects InvestNow to conduct ongoing CDD in order to (amongst other things) ensure that the business relationship and the transactions relating to that business relationship are consistent with InvestNow's knowledge about the customer and the customer's business and risk profile (including regularly reviewing any customer information obtained under sections 15, 17, 19, 21, 23, 25, 26, 27, 29 and 30) (see sections 31(2) and (4)(b) of the Act).

In relation to the Required Actions,<sup>6</sup> InvestNow must:

- prepare a plan describing how and when it will complete the Required Actions, and submit this plan to the FMA, by 31 October 2022; and
- complete the Required Actions, by 30 March 2023 (to the extent it has not already done so) or such other date as agreed to in writing with the FMA (the **Remediation Due Date**); and
- provide to the FMA, by the Remediation Due Date, relevant documents and records to demonstrate that InvestNow has completed the Required Actions.

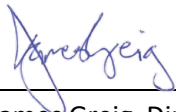
Additionally, until InvestNow completes the Required Actions in (2), (3), (5), and (7), InvestNow must restrict withdrawals and transfers of financial products from those customer accounts.

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 FMA'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 7 October 2022.



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James Greig, Director of Supervision  
Financial Markets Authority

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<sup>6</sup> The scope of the Required Actions in (2), (3), (5), and (7) excludes KiwiSaver scheme related AML/CFT compliance. The FMA expects InvestNow to continue complying with existing AML/CFT requirements relevant to KiwiSaver schemes.