

Notification of a formal warning

20 March 2020

To: Tiger Brokers (NZ) Limited (FSP473106), Level 16, 191 Queen Street, Auckland Central, Auckland, 1010

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:

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| <p>Failure to comply with section 22(1):</p> | <p>Reporting entities are required under section 22 of the Act to conduct enhanced customer due diligence (ECDD) when a reporting entity considers that the level of risk involved is such that ECDD should apply in the particular situation.</p> <p>The FMA onsite monitoring review on 9 April 2019 (FMA April onsite) identified instances where TBNZ failed to conduct ECDD where it was required.</p> |
| <p>Failure to comply with section 31:</p> | <p>Reporting entities are required under section 31 of the Act to conduct ongoing customer due diligence (CDD) and account monitoring in order to;</p> <ol style="list-style-type: none"> 1) ensure that the business relationship and transactions relating to that business relationship is consistent with the reporting entity's knowledge about the customer and their risk profile; and 2) identify any grounds for reporting a suspicious activity. <p>The FMA April onsite identified that no ongoing CDD or account monitoring was conducted by TBNZ.</p> <p>The FMA onsite monitoring review on 4 October 2019 (FMA October onsite) identified that TBNZ did not have adequate ongoing CDD or account monitoring to enable it to identify grounds for reporting a suspicious activity.</p> |
| <p>Failure to comply with section 16:</p> | <p>Reporting entities are required under section 16 of the Act to take reasonable steps to verify (as part of standard CDD) the identity and proof of address of a customer.</p> |

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| | <p>The FMA April onsite identified that TBNZ has failed to obtain sufficient evidence to match ID documents for individuals being on boarded. TBNZ has failed to correctly certify and obtain relevant documents as per the Amended Identity Verification Code of Practice 2013 (and nor did it notify equally effective means of compliance).</p> |
| <p>Failure to comply with section 17(b):</p> | <p>Reporting entities are required under section 17(b) of the Act to obtain sufficient information to determine whether a customer should be subject to enhanced customer due diligence (ECDD).</p> <p>The FMA October onsite identified that TBNZ failed to obtain sufficient information at onboarding to establish the level of risk involved in the entities to determine whether they should be subject to ECDD.</p> |
| <p>Failure to comply with section 23(1)(a) and section 24(1):</p> | <p>Reporting entities are required under section 23(1) (a) of the Act to obtain additional information relating to the source of the funds or the wealth (SoF/SoW) of customers subject to ECDD. Section 24(1) requires that reporting entities must take reasonable steps to verify the information obtained under section 23(1) (a).</p> <p>The FMA October onsite identified that TBNZ failed to obtain adequate SoF/SoW information for high risk customers, and also failed to take reasonable steps to verify that information.</p> |
| <p>Failure to comply with section 26:</p> | <p>Reporting entities are required under section 26 of the Act, as soon as practicable after establishing a business relationship, to take reasonable steps to determine whether the customer (or any beneficial owner) is a politically exposed person (PEP).</p> <p>The FMA October onsite identified that TBNZ has failed to adequately conduct PEP checks. In some cases, TBNZ failed to conduct PEP checks as soon as practicable after establishing a business. In one instance, a PEP was identified but there was no record of senior management approval for continuing the business relationship.</p> |
| <p>Failure to comply with section 40:</p> | <p>Reporting entities are required under section 40 of the Act as soon as practicable but no later than 3 working days after forming its suspicion to report the activity, or suspicious activity, to the Commissioner.</p> <p>The FMA onsite monitoring review on 4 October 2019 identified that TBNZ did not have adequate practice to identify suspicious activities and file SAR within 3 working days.</p> |

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

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| Section 22(1): | TBNZ must review its client base risk ratings with adequate methodology to ensure it is fit for purpose to conduct ECDD. |
| Section 31: | TBNZ must review the adequacy of information held on all existing customers and ensure they perform adequate ongoing CDD and account monitoring on all customers. |
| Section 16: | TBNZ must follow the standards set out in the Amended Verification Code of Practice 2013 to ensure CDD verification of identity requirements are met. |
| Section 17(b): | <p>TBNZ must review its risk rating model to ensure it is fit for purpose to determine whether a customer should be subject to ECDD and ongoing due diligence.</p> <p>TBNZ must ensure all staff understand how to use accurate information collected from customers to identify whether ECDD is required.</p> |
| Section 23(1)(a) and Section 24(1): | TBNZ must review all existing customers and identify those customers that should have been subject to ECDD and obtain the relevant additional information for SoF/SoW required (and take reasonable steps to verify such information) to continue its business relationship with those customers. |
| Section 26: | <p>TBNZ must review its PEP check system to ensure accurate PEP check results.</p> <p>TBNZ must also review all existing customers and identify those customers that should have been identified as PEPs (and obtain senior management approval where required).</p> |
| Section 40: | <p>TBNZ must review existing customers to identify any missed SAR(s) that should have been reported.</p> <p>TBNZ must implement adequate process to identify suspicious activities and file SAR accordingly within 3 working days.</p> |

TBNZ must prepare a plan describing how and when it will complete the actions in the above table; TBNZ must submit this plan to the FMA no later than **close of business Friday 3 April 2020**. After the FMA has accepted TBNZ's plan, TBNZ must complete all actions required in the public warning **by 30 September 2020** or such other date as agreed to in writing by 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 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 close of business Friday 27 March 2020.



James Greig, Head of Supervision
Financial Markets Authority