

23 August 2018

**[personal information]**

**YOUR REQUEST FOR INFORMATION UNDER THE OFFICIAL INFORMATION ACT 1982 (OIA)**

**Your request**

1. We refer to your request made on 27 July 2018 to the Financial Markets Authority (**FMA**) under the Official Information Act 1982 (**OIA**) as follows (**your request**):

*May I please also have any reporting entity correspondence in which they set out their opt-out request, reasoning, or submissions (or a summary of that information) so that I can understand the types of opt-out notifications or requests to discuss those requests?*

2. As per your request we have provided a summary of correspondence we have with entities, including the reasons and submissions they put forward, when they contact the FMA about opting-out of the Identity Verification Code of Practice (**the Code**).
3. We also note section 16(1)(e) of the OIA provides that where the information requested under the OIA is comprised in a document, that information may be made available by giving a summary of the contents.

**Correspondence with entities about opting-out of the Code**

4. Reporting entities considering opting-out of the Code will generally correspond with the FMA over a period of several months to determine whether their proposed plans would comply with their verification of identity obligations through equally effective means (as per section 67 of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (the **AML/CFT Act**)). Discussions take place via email, over the phone and, on occasion, in meetings.
5. As part of these discussions with the reporting entity, we would ask the reasons they are considering opting-out of the Code; what product or circumstances the opt-out relates to; the “equally effective means” they intend to carry out to fulfil the obligation; and why the reporting entity thinks that this will satisfy the requirements under the AML/CFT Act.
6. The overall process can take several months while the reporting entity undertakes its own in-house analysis of whether or not its proposal will meet the necessary standard of complying with the obligation by “equally effective means”. The reporting entity will notify the FMA of their proposed process once finalised.

**Reasons and submissions provided by reporting entities**

7. As noted above, as part of discussions with reporting entities we will ask the entity the reasons they are considering opting-out of the Code. A number of different reasons have been provided by reporting entities as to why they are considering opting-out of the code and fulfilling the obligation through other equally effective means. Reasons and submissions provided by reporting entities to date include:
  - The reporting entity follows other robust verification procedures, and requiring certification would have an adverse impact on the entity’s business and unnecessarily delay services.
  - The reporting entity is using the reliance provisions in the AML/CFT Act and can request the documentation at any time.

- The opt-out relates to limited circumstances which are low risk – such as a particular product or circumstances.
  - Certified identity documents will be provided at a later stage and before any funds are withdrawn by the client.
8. Please note that this is a summary of the reasons provided by reporting entities and should not be considered as proof of compliance with the AML/CFT Act verification of identity requirements. Whether the obligation is fulfilled through equally effect means is determined on a case-by-case basis.
  9. If you have further questions about the general process we are happy to discuss this further. If you have further questions on the process, please contact **[personal information]**.
  10. We note that you have a right by way of complaint under section 28(3) of the OIA to the Ombudsman, to seek an investigation and review of the FMA's decision to refuse to provide the information requested.

Yours sincerely

**[personal information]**