

6 March 2024

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By email: ██████████

Dear ██████████

### Official Information Act 1982 Request (OIA) – AML Enforcement Stockbroking Sector

I refer to your letter dated 9 February 2024 where you made an OIA request for information about the FMA's AML enforcement approach under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (the Act) as it is specifically relevant to the stockbroking sector.

#### OIA response

We have considered your request under the Official Information Act 1982. We respond to your request respectively according to the paragraphs in your letter dated 9 February.

*1 - For the period 1 January 2021 to 1 January 2024, in respect of transaction monitoring (TM) obligations and how these obligations are met by entities in the client money or property services (brokers and custodians) sector, please advise:*

- a) all information, guidance and training the FMA has released to the sector in respect of TM expectations; including but not limited to any conference presentations or sector/industry workshops (with dates).*

#### Published guidance available on the FMA's website

Please see below a list of published guidance publicly available on the FMA's website. The training below set out general overview of TM obligations and AML/ CFT supervisor's expectations relating to TM in general.

Name of guidance material	Release date	Link to the document
AML/CFT - Sector Risk Assessment 2021	07 December 2021	<a href="https://www.fma.govt.nz/assets/Reports/AML-Sector-Risk-Assessment-2021.pdf">https://www.fma.govt.nz/assets/Reports/AML-Sector-Risk-Assessment-2021.pdf</a>
AML/CFT Programme Guideline	12 October 2022 (updated)	<a href="https://www.fma.govt.nz/assets/Guidance/aml-cft-programme-guideline.pdf">https://www.fma.govt.nz/assets/Guidance/aml-cft-programme-guideline.pdf</a>
AML/CFT monitoring insights report	30 September 2021	<a href="https://www.fma.govt.nz/assets/Reports/AMLCFT-monitoring-report-2021.pdf">https://www.fma.govt.nz/assets/Reports/AMLCFT-monitoring-report-2021.pdf</a>

Impact of Russia Sanctions on AML/CFT reporting entities	18 March 2022	<a href="https://www.fma.govt.nz/assets/Guidance/Russia-Sanctions-Act-AMLCFT-Supervisors-18-March-2022.pdf">https://www.fma.govt.nz/assets/Guidance/Russia-Sanctions-Act-AMLCFT-Supervisors-18-March-2022.pdf</a>
AML/CFT enhanced customer due diligence guideline	25 Oct 2022 (updated)	<a href="https://www.fma.govt.nz/assets/Guidance/AMLCFT-enhanced-customer-due-diligence-guideline-Oct2022.pdf">https://www.fma.govt.nz/assets/Guidance/AMLCFT-enhanced-customer-due-diligence-guideline-Oct2022.pdf</a>
Outsourcing CDD to a third-party provider	10 December 2021	<a href="https://www.fma.govt.nz/assets/Information-sheets/Outsourcing-CDD-to-a-third-party-provider-Reminder-to-FMA-and-DIA-reporting-entities_.pdf">https://www.fma.govt.nz/assets/Information-sheets/Outsourcing-CDD-to-a-third-party-provider-Reminder-to-FMA-and-DIA-reporting-entities_.pdf</a>

### FMA Training

Below is a list of the AML/CFT training undertaken and presentations at conferences / sector/industry workshop by FMA during the period 1 January 2021 to 1 January 2024 which include information relating to transaction monitoring.

Conferences / Training	Date(s)
AML Summit 2021	13 May 2021
Institute of Directors	1 April 2022
AML Summit 2022	12 May 2022
Strategi – FMA AML/CFT update for FAPs	15 August 2022
FMA AML/CFT Regional Training	August – September 2022. FMA visited several cities around the country. Attached is a table outlining the dates and locations visited.
ACAMS/FIU Supervisor Workshops 2022	7 November 2022
ACAMS/FIU AML/CFT Conference 2022 – FMA Update	9 November 2022
AML Summit 2023	11 May 2023
Jade 3rdEye User Group Meeting	14 September 2023
ACAMS/FIU Supervisor Workshops 2022	6 November 2023

**Attached** are copies of presentations.

b) *the names of all TM systems the FMA has reviewed as part of its supervisory activities;*

The TM systems used by the stockbroking sector reviewed by FMA during the relevant period were developed in-house by reporting entities. As a result, the FMA does not have the names of TM systems (as there might be no names of the specific systems). We refuse this request pursuant to section 18(e) of the OIA as the document alleged to contain the information requested does not exist.

In any event, we are aware of two reporting entities that previously used the Nasdaq Market Surveillance (SMARTS) solution as part of their TM systems. Please note that we have not reviewed this system.

- c) *the TM systems the FMA has identified as adequate to meet the legislative obligations of reporting entities as set out in section 31 of the legislation (including any advice of the same to reporting entities);*

During monitoring activities undertaken by the FMA with reporting entities in the stockbroking sector we noted that the majority of reporting entities used in-house TM solutions with customised system parameters appropriate for their businesses. The FMA reviews the TM system specific to each reporting entity and we have not identified a specific system that we consider adequate as the systems are reviewed on a case-by-case basis. .

- d) *the TM that the FMA has determined (whether or not externally published) that reporting entities should be undertaking, including but not limited to:*
- (i) any rule parameters; and*
  - (ii) any threshold triggers.*

As TM is unique to each reporting entity the FMA does not prescribe what TM should be undertaken by reporting entities or determine any rule parameters or threshold triggers for reporting entities.

Reporting entities must take a risk-based approach in meeting their obligations under s31 of the Act. In particular, reporting entities must have regard to—

- a. the type of customer due diligence conducted when the business relationship with the customer was established; and
- b. the level of risk involved.

Therefore, it is a business decision as to what rule parameters and threshold triggers the reporting entity wish to adopt to manage their ML/TF risks.

**2 - For the period 1 January 2018 to 1 January 2024, the TM systems that the FMA is aware that reporting entities in this sector have implemented, including:**

- (a) names of specific systems;*

Please refer to our above response at 1(b). As noted above, our monitoring activities identified two instances where the Nasdaq Market Surveillance (SMARTS) solution was relied on for trade surveillance and included in TM processes.

- (b) the number of entities using each system;*

Refer to our response to above response at 2(a).

- (c) the number of entities employing multiple systems and all relevant details.*

The FMA does not keep records of TM systems used by our supervised population. Accordingly, we refuse this request pursuant to section 18(e) of the OIA as the document alleged to contain the information requested does not exist.

Our monitoring activities identified that TM systems used by reporting entities were dependant on the size and complexity of the business and the specific ML/TF risks faced by the reporting entity which includes the types of customers they deal with, products and services they offer, types of transactions they undertake, jurisdictions they deal with, etc. Depending on the level of risk involved,

reporting entities may choose to rely on a single TM system or multiple systems to meet their TM obligations.

**3** - *For the period 1 January 2021 to 1 January 2024 the number of reporting entities in the sector who implemented: (a) daily TM; (b) intelligence based TM based on the identification of multiple risk factors; (c) trade surveillance based monitoring; and (d) the number of reporting entities implementing all three types of TM.*

FMA does not keep records / statistics of how many reporting entities in this sector implemented daily TM, intelligence-based TM, trade surveillance-based monitoring or a combination of all three types of TM mentioned. The type of TM undertaken by individual reporting entities is unique to each reporting entity and therefore customised accordingly. Accordingly, we refuse this request pursuant to section 18(e) of the OIA as the document alleged to contain the information requested does not exist.

**4** - *For the period 1 January 2021 to 1 January 2024, the average number of alerts generated by systems employed in sector, including but not limited to alerts generated for: (a) deposit value (please provide details of any thresholds in the response); (b) withdrawal value (please provide details of any thresholds in the response); (c) behavioural alerts (including automated system pattern alerts and manually raised alerts); (d) insider trading or market manipulation; and (e) combination higher risk factors (including any relevant rules e.g. alert only triggered if threshold number of factors present).*

FMA does not keep statistics on the average number of alerts generated by TM systems employed in the sector or details relating to thresholds set by reporting entities, behavioural alerts, etc. as these are unique to each reporting entity and therefore customised accordingly. Accordingly, we refuse this request pursuant to section 18(e) of the OIA as the document alleged to contain the information requested does not exist.

**5** - *For the period 1 January 2021 to 1 January 2024 please advise the databases that the FMA is aware of which are relied upon by reporting entities it monitors (not limited to providers of client money or property services (brokers and custodians) to meet the requirements of reliable and independent for the purposes of the Identity Verification Code of Practice in respect of Chinese or China based customers where ID is verified electronically.*

We do not keep records of electronic sources relied upon by our supervised population for electronic identity verification purposes. [Explanatory Note: Electronic Identity Verification Guideline](#) includes additional content identifying commonly used in electronic sources in New Zealand. Accordingly, we refuse this request pursuant to section 18(e) of the OIA as the document alleged to contain the information requested does not exist. However, from our monitoring activities, we are aware of two reporting entities where their service provider/s is/are using the Ministry of Public Security of the People's Republic of China's (MPS) database to verify customer identities electronically.

**6** - *For the period 1 January 2018 to 1 January 2024, any determinations by the FMA whether or not publicly released, that establish the FMA's approach to assessing databases as independent and/or reliable in respect of Chinese citizens.*

The FMA has not made any such determinations and as a result we refuse this request pursuant to section 18(e) of the OIA as the document alleged to contain the information requested does not exist.

*7 - For the period 1 January 2021 to 1 January 2024, the average clearance period for alerts raised by a reporting entity in the stockbroking sector, in respect of: (a) deposit values (in each instance please clarify whether the monitoring system was a daily, weekly, monthly or other system); (b) withdrawal values (in each instance please clarify whether the monitoring system was a daily, weekly, monthly or other system); and (c) multiplicity of higher risk factors and/or behavioural triggers.*

The FMA does not keep record or statistical information relating to the average clearance periods for alerts generated by TM systems used by the FMA 's supervised population. Accordingly, we refuse this request pursuant to section 18(e) of the OIA as the document alleged to contain the information requested does not exist.

*8 - Finally, please advise what monitoring system the FMA currently uses to conduct TM.*

The FMA does not conduct TM and therefore use no monitoring systems.

#### **Conclusion**

You have the right to complain to the Ombudsman regarding our assessment of your OIA request, in accordance with section 28 of the Official Information Act. Information about how to make a complaint is available at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz) or phone 0800 802 602.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Nath', with a long horizontal stroke extending to the right.

Nath Lostitmonton  
**Senior Legal Counsel**

Enc: Training Presentations