

17 December 2012

Open Letter to managers of collective investment schemes (CIS)

Dear Manager

The Anti-Money Laundering and Countering Financing Terrorism Act 2009 (AML/CFT Act) takes effect on 30 June 2013. Under the Act, FMA has responsibility for supervising a number of reporting entities¹, including collective investment schemes, "CIS".

Characteristics of CIS may make them more vulnerable to the laundering of proceeds of crime, for example, there may be:

- considerable amounts of funds under management;
- high net worth investors;
- the ability to enter into an investment by online or postal applications; or
- complexity and a lack of transparency in the manner that funds flow between parties involved in a CIS.

This vulnerability is compounded by fund administration (including registry services) often being outsourced. As a result, investors may have no face to face contact with the fund manager or an intermediary such as a financial adviser.

FMA has recently visited a number of reporting entities across the investment sector. The object of the visit programme was to see how reporting entities are preparing for the new Act. These visits showed both a willingness to meet AML/CFT obligations and progress towards becoming compliant, which is encouraging. However, we have noted that when administration has been outsourced, there is an expectation by the fund manager that the administration 'agent' will be responsible to varying degrees for the implementation of obligations under the Act.

Outsourcing of administration duties does not absolve the manager of a CIS from its obligations as a reporting entity under the Act. It is sensible to consider the 'agent' who is contracted to undertake administration as an extension of the reporting entity. Irrespective of whether an 'agent' is carrying out any functions on its behalf, the reporting entity must still complete a risk assessment and AML/CFT programme under the Act. The risk assessment should take into consideration any risks that are posed by the outsourcing of administration functions. The AML/CFT Programme must consider policies and procedures to manage any identified risks that outsourcing may present.

¹ Financial advisers, issuers of securities, collective investment schemes, trustee companies, futures dealers and brokers.



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Ultimately, the fund manager, as a reporting entity, will be responsible for any breaches of the Act that may occur through the outsourcing process.

We recommend that fund managers who are reporting entities review how outsourcing will affect all aspects of their AML /CFT compliance. Particular consideration should be given to documenting processes and transaction monitoring. It may also be necessary to review existing application forms to ensure that enough information about the client is being collected to undertake a risk assessment and form a base-line for transaction monitoring. For example, the information collected should be sufficient to enable you to establish the client's wealth or support any assumptions such as whether your client's income supports his or her investment profile.

We may prioritise monitoring for those whose progress has given cause for concern.

If you have any questions please do not hesitate to contact FMA's AML/CFT team at aml@fma.govt.nz.

Elaine Campbell
Head of Compliance Monitoring