

1 August 2019

[personal information]

By email: [personal information]

Dear [personal information]

### Official Information Act Request: Identity Verification Code of Practice

We refer to your Official Information Act 1982 (OIA) request received by the Financial Markets Authority on 4 July 2019 (**your OIA Request**) for:

1. *A copy of the public consultation that was conducted before the Identity Verification Code of Practice 2013 was updated - amended with the Explanatory Note you have mentioned in your monitoring report.*
2. *A copy of FMA's Minister's response to FMA's proposal to update the Identity Verification Code of Practice 2013.*
3. *A copy of FMA's rationale for recommending to its Minister that the Minister should approve a Code Or Practice that;*
  - o *requires reporting entities to only accept a document that includes a person's photograph and/or other biometric information when section 15 and 13 of the AML/CFT Act clearly do not require a reporting entity to verify a person's appearance or biometric information or rely on documents that include a person's photograph to verify their full name and date of birth*
  - o *prohibits reporting entities from accepting identity documents sent to them electronically when there are no such limitation under the AML/CFT Act and other New Zealand Laws permit electronically transmitted documents to be accepted in contracts*
  - o *significantly increases compliance costs to reporting entities and raises barriers to the public from easily purchasing financial services from financial service providers.*
4. *A copy of FMA's rationale for recommending to its Minister to approve in the Code of Practice, the practice of bio-metric verification of a customer's full name and date of birth when the AML/CFT Act does not impose such obligations on reporting entities.*
5. *A copy of the cost benefit analysis that FMA may have conducted when making recommendation to the Minister to approve a code of practice that requires reporting entities to adopt compliance practices that are well over and above the requirements of the AML/CFT Act for verifying an individual's full name and date of birth.*

More generally we also note you also seek our comment clarifying:

*It will also be helpful if you could clarify what FMA means by electronically identifying clients. To my understanding of the AML/CFT Act there appear to be no requirements under AML/CFT Act for reporting entities to identify their clients electronically or by other means. The AML/CFT act requires reporting entities to obtain and verify the full name, date of birth, address amongst other things of its clients.*

To respond to your OIA Request, copies of the information you requested do not exist. We are therefore refusing your request under section 18(e) of the Official Information Act. We have however provided you below information about the background to the Identification Verification Code of Practice (**Code**), and the

Identity Verification Code of Practice – Explanatory Note (**Explanatory Note**). As well as giving you further information about the Code and the Explanatory Note, this explains why these documents do not exist.

You have the right to seek an investigation and review by the Ombudsman about the decision and response on your OIA Request. Information about how to make a complaint is available at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz); or freephone 0800 802 602.

If you wish to discuss any aspect of your OIA Request with us, please contact [personal information]

### **Identity Verification Code of Practice**

The Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (**AML-CFT Act**) requires reporting entities to verify the identities of customers in order to deter money laundering and terrorism financing. However, when the AML-CFT Act passed, there was no industry standard on how to conduct identity verification.

The Code sets out an acceptable method for complying with the *minimum requirements* of the relevant standard identity verification obligations under the AML-CFT Act. The Code was a multi-sector project led by the Department of Internal Affairs. It was published in 2011. It was amended in 2013, but not in relation to the issues you have raised questions about.

### **Identity Verification Code of Practice – Explanatory Note**

The [Identity Verification Code of Practice - Explanatory Note](#) (Explanatory Note) (updated by the three sector Supervisors in December 2017) does not amend or form part of the Code. Rather, it provides clarification to reporting entities that seek to comply with Part 3 of the Code by using electronic identity verification.

For more information about the requirements when using electronic identity verification you can read:

- Part 3 of the Code which explains what is expected of reporting entities when using electronic identity verification methods; and
- the Explanatory Note.

The [AML/CFT Monitoring Report](#) (the Report) provides further commentary on the use of biometric information to verify an individual's identity. The Report also provides examples of deficiencies that we noted during monitoring activities where reporting entities did not follow the Code and the Explanatory Note when using electronic identity verification methods to verify the identities of customers.

If you have questions about AML-CFT Act compliance requirements, you can contact us, at [questions@FMA.govt.nz](mailto:questions@FMA.govt.nz).

Yours sincerely

[personal information]

Manager, Policy and Governance