

6 May 2021

Helen Hardly

Email: fyi-request-15068-209129c7@requests.fyi.org.nz

Dear Helen

Thank you for your request of 4 April 2021 to the Financial Markets Authority under the Official Information Act 1982 (OIA), which was transferred to the Reserve Bank on 7 April 2021. You requested the following:

- (a) *“all the documents you have received from Bank of China related to their obligations under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009...Their written risk assessment, compliance program etc.*
- (b) *I understand you may request the Bank to provide audit report[s], may I ask if you have asked the Bank of China to provide any report under the Act? Also has the Bank of China been issued any warnings or directions with regards to their responsibilities under the Act?*
- (c) *Who is the Bank of China’s compliance officer under the Act and can you share his/her contact details publicly?”*

Response

We have prepared itemised responses to your questions below.

- 1. *All the documents you have received from Bank of China related to their obligations under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009...Their written risk assessment, compliance program etc.***

The Reserve Bank is the supervisor of New Zealand registered banks, non-bank deposit takers and life insurers under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (AML/CFT Act). The Reserve Bank supervises these entities to ensure they meet obligations designed to help deter and detect money laundering and terrorist financing. Our supervised entities include the two Bank of China entities: Bank of China (New Zealand) Limited and the Bank of China Limited (Auckland branch).

The AML/CFT Act imposes a number of obligations upon reporting entities. You can find details on those obligations here: <https://www.rbnz.govt.nz/regulation-and-supervision/anti-money-laundering/requirements-on-reporting-entities>. Relevant to your request, a reporting entity is required to submit an annual report on its risk assessment and AML/CFT programme to its AML/CFT supervisor, under section 60 of the AML/CFT Act. These reports (and associated documentation) include sensitive commercial information.

We are withholding the compliance documents you have requested, under section 9(ba)(i) of the OIA. Section 9(ba)(i) protects documents which persons may be compelled to provide

under authority of an enactment, where the making available of that information would be likely to prejudice the supply of similar information (or information from the same source), and it is in the public interest that such information should continue to be supplied.

The Bank of China entities are required to provide us the compliance documents under section 60 of the AML/CFT Act. Release of these documents, which contain sensitive commercial information, is likely to have a chilling effect on the amount of detail that our supervised entities include in their annual reports, or affect the level of openness in our conversations with these entities. It is in the public interest that our supervised entities continue to provide an appropriate level of information, in order to enable the Reserve Bank to effectively carry out its role as AML/CFT supervisor.

2. I understand you may request the Bank to provide audit report[s], may I ask if you have asked the Bank of China to provide any report under the Act? Also has the Bank of China been issued any warnings or directions with regards to their responsibilities under the Act?

In response to the first part of this question, all reporting entities supervised by the Reserve Bank are required to complete an audit of their AML/CFT Programme and Risk Assessment every two years or at any other time specified by the Reserve Bank. This is required under section 59 of the AML/CFT Act. As AML/CFT supervisor, the Reserve Bank requests those audit reports prior conducting an onsite inspection to ensure relevant reporting entity fulfilling their responsibilities under the AML/CFT Act.

In response to the second part of this question, the Reserve Bank has the power to issue formal warnings or accept enforceable undertakings under Part 3 of the AML/CFT Act. The AML/CFT Act does not provide statutory authority for AML/CFT supervisors to issue directions to their supervised entities. We confirm that we have not issued any formal warnings to, or obtained any enforceable undertakings from, the Bank of China entities. The Reserve Bank publishes all formal warnings and enforceable undertakings on our website (<https://www.rbnz.govt.nz/regulation-and-supervision/industry-notices>).

3. Who is the Bank of China's compliance officer under the Act and can you share his/her contact details publicly?

Section 56 of the AML/CFT Act requires that a reporting entity "establish, implement, and maintain" a compliance programme (an AML/CFT programme) and designate an AML/CFT compliance officer to administer and maintain its AML/CFT programme.

The AML/CFT compliance officer for the Bank of China entities is Roger Clarke. Roger may be contacted at roger.clarke@bankofchina.com.

The Reserve Bank has a statutory duty to make official information available unless there is good reason for withholding it. The overriding public interest in this case is that the Reserve Bank be able to carry out its functions as AML/CFT supervisor in an efficient manner. This requires that regulated entities be confident that the Reserve Bank will not release information where that information was provided under confidence, as this would be likely to cause those entities to be reticent about disclosing such information in future, thereby impeding the Reserve Bank's ability to effectively act as supervisor.

We do not consider the additional public interest in releasing the withheld information outweighs the reasons in favour of withholding.

The Official Information Act allows charges to be imposed for the preparation of information in response to requests. The Reserve Bank is resourced to meet disclosure obligations for a reasonable level of requests and the cost of providing free responses to Official Information requests is generally borne by taxpayers. However, the Reserve Bank believes that requesters should bear some of the costs, where allowable under the OIA, when requests are made for large amounts of information, where a response is particularly complex, or where individuals or organisations make frequent requests. In this instance, no charge is allowable under the OIA as no information is being released.

This response required approximately 5 hours to prepare.

Please note that we intend to publish a copy of this response on the Reserve Bank's website www.rbnz.govt.nz/research-and-publications/official-information-requests. Responses to requests are published in order to improve public transparency and provide an additional resource for anyone seeking information.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'A Wood', with a horizontal line underneath.

Andy Wood
Head of Supervision
Reserve Bank of New Zealand | Te Pūtea Matua

