

Public Statement

Brooks Macdonald Asset Management (International) Limited, Jersey Branch (BMI)

Issued: 23 October 2020

Financial Services (Jersey) Law 1998, as amended (**FS(J)L**)

Code of Practice for Investment Business (**IB Code**)

1 Action

- 1.1 The Jersey Financial Services Commission (**JFSC**) issues this public statement pursuant to Article 25(d) of the FS(J)L.
- 1.2 The JFSC's actions support its objective of protecting and enhancing the reputation and integrity of Jersey in commercial and financial matters.

2 Background

- 2.1 Since November 2012, BMI has operated within Jersey as a branch of a Guernsey licenced company. BMI is registered by the JFSC to provide investment business under the FS(J)L for classes A, B and C (dealing in investments, discretionary investment management and providing investment advice).
- 2.2 In July 2018, following the receipt of information that gave rise to concerns regarding the conduct of BMI, the JFSC initiated an investigation (the **Investigation**).
- 2.3 The Investigation focussed on BMI's compliance with the IB Code¹ for the period 1 January 2014 to 24 July 2018 (the **period under review**) in relation to certain investments into alternative asset classes.

3 Findings of the Investigation

3.1 Record Keeping

- 3.1.1 BMI failed to demonstrate that in all cases it had appropriate record keeping arrangements in place for the period under review. The failure to maintain adequate records is a major contributory factor to the further findings outlined below.

3.2 Knowledge of Client

- 3.2.1 Information obtained and maintained by BMI pertaining to the financial and personal circumstances of certain clients lacked adequate relevant detail and was, therefore, insufficient to meet the IB Code requirements.

¹ During the period under review there were a number of updates to the IB Code. Where observations are made, it is with reference to the particular IB Code in place at the time the matter of the observation occurred.

3.3 Suitability

- 3.3.1 There was a lack of records held by BMI to demonstrate that, in respect of certain clients:
 - 3.3.1.1 Its giving of advice or exercise of discretion was suitable;
 - 3.3.1.2 It provided timely updates on material facts of which BMI were aware; and
 - 3.3.1.3 Information regarding fees, charges and commissions (where permissible) was provided prior to them transacting.
- 3.3.2 Consequently, it is concluded that BMI was unable to demonstrate that in all cases clients were provided with sufficient or sufficiently accurate information and (where relevant) commentary to make fully informed investment decisions or to understand the market position of their investments.
- 3.3.3 Furthermore, BMI was unable to demonstrate that in all cases it had conducted due diligence for all of the products, for which it was providing advice or exercising discretion.

3.4 Conflicts of Interest

- 3.4.1 A lack of records resulted in BMI being unable to demonstrate its conflicts of interest procedure was fully effective and/or fully adhered to. In some instances, BMI placed reliance on the party with whom the conflict had arisen to manage the conflict.

3.5 Complaint handling

- 3.5.1 In the absence of adequate records BMI failed to demonstrate that for certain clients it upheld its internal Complaint Handling Policy. Of the documentation available, the Investigation concluded that complaints were not handled transparently, fairly and independently.

3.6 Client Classification

- 3.6.1 BMI could not demonstrate that it had assessed certain clients as Retail or Professional Clients as required by the IB Code.

4 Breaches of the IB Code

- 4.1 With regard to the findings arising from the Investigation, as detailed at section 3 above, it is considered that, during the period under review, BMI failed in certain instances to comply with the following principles of the IB Code;
 - 4.1.1 Principle 2: A registered person must have the highest regard for the interests of its clients;
 - 4.1.2 Principle 3: A registered person must organise and control its affairs effectively for the proper performance of its business activities, and be able to demonstrate the existence of adequate risk management systems; and
 - 4.1.3 Principle 4: A registered person must be transparent in its business arrangements.
- 4.2 The Investigation did not consider BMI's compliance with the IB Code outside of the period under review.
- 4.3 The JFSC has taken into account that, since the period under review:

- 4.3.1 the composition of the Board of BMI has largely changed and, with regards to the Investigation, the Board of BMI with support of the Group Board has been fully open and co-operative with the JFSC.
- 4.3.2 BMI instigated a review of its business operations by an independent consulting firm for the purpose of assessing if it was meeting the required industry standard, which resulted in the implementation of a new Risk Management Framework; and
- 4.3.3 BMI has made significant investment in and improvements to the operation of its business, including increased focus on governance, compliance and risk resources, policies and procedures and staff training.

For further enquiries, please contact Acting Director of Enforcement, Kerry Petulla

