

**ENFORCEABLE UNDERTAKING GIVEN TO THE AUSTRALIAN COMMUNICATIONS AND
MEDIA AUTHORITY BY FOREX EA PTY LTD (ACN 642805150) UNDER SECTION
572B OF THE TELECOMMUNICATIONS ACT 1997**

1 Definitions

1.1. In this Undertaking:

1.1.1. **ACMA** means the Australian Communications and Media Authority.

1.1.2. **Christmas/holiday period** means the period from 22 December 2021 to 10 January 2022.

1.1.3. **Commencement date** has the meaning given to it in clause 2.1.

1.1.4. **Do Not Call Register Act** means the *Do Not Call Register Act 2006*.

1.1.5. **independent consultant** means a qualified and independent consultant with expertise in audits relating to risk and compliance, processes, procedures, systems, governance and controls.

1.1.6. **My Alfred** means Forex EA Pty Ltd, ACN 642805150.

1.1.7. **report** means the report produced by the independent consultant referred to in clause 5.1.

1.1.8. **Telecommunications Act** means the *Telecommunications Act 1997*.

1.1.9. **telemarketing** has the same meaning as in the *Do Not Call Register Act 2006*.

1.1.10. **telemarketing complaint** means a complaint to My Alfred that relates to a telemarketing call made, or alleged to have been made, by My Alfred and includes complaints notified to My Alfred by the ACMA.

1.1.11. **Telemarketing Industry Standard** means the *Telecommunications (Telemarketing and Research Calls) Industry Standard 2017*.

2 Term of the undertakings

2.1. This Undertaking commences when:

2.1.1. it has been executed by My Alfred

2.1.2. so executed, it has been accepted by the ACMA and written notification of that acceptance has been provided to My Alfred (**Commencement date**).

2.2. This Undertaking continues for a period of 24 months from the Commencement date or until it is withdrawn by My Alfred, with the approval of the ACMA, pursuant to section 572B of the Telecommunications Act, whichever is earlier.

2.3. This Undertaking may be varied by My Alfred, with the consent of the ACMA, pursuant to section 572B of the Telecommunications Act.

3 Background

3.1. On 12 October 2021 the ACMA notified My Alfred that it has reasonable grounds to believe that, from 11 February and 18 August 2021 (inclusive), My Alfred made

telemarketing calls to Australian numbers on the Do Not Call Register without the consent of the relevant account holder, in contravention of section 11(1) of the Do Not Call Register Act.

- 3.2. My Alfred acknowledges the ACMA's finding and, in response to the ACMA's concerns regarding My Alfred's compliance with the Do Not Call Register Act, My Alfred offers this Undertaking to the ACMA.

4 Undertaking

- 4.1. My Alfred undertakes to take the following specified actions to ensure the company complies with the Do Not Call Register Act and the Telemarketing Industry Standard and does not contravene this legislation in future.

5 Independent Consultant

- 5.1. My Alfred undertakes to appoint an independent consultant to:

5.1.1. Review My Alfred's current procedures, policies, training and systems relating to its compliance with the Do Not Call Register Act and the Telemarketing Industry Standard to identify any deficiencies and/or improvements to ensure that:

- a. My Alfred does not make, or cause calls to be made, to numbers on the Do Not call Register unless this is done in compliance with the Do Not Call Register Act
- b. My Alfred has robust procedures and systems for checking numbers to be called against the Do Not Call Register (if applicable)
- c. My Alfred has robust procedures and systems for ensuring that any of its outsourced call centre/s check numbers to be called against the Do Not Call Register
- d. My Alfred has appropriate internal auditing procedures in place for outbound calls, and
- e. My Alfred classifies and analyses its records of telemarketing complaints to identify systemic and recurring problems and trends (**systemic problems**).

5.1.2. Produce a report (**the report**) making recommendations as to:

- a. improvements to policies, procedures and systems to ensure compliance with the Do Not Call Register Act and the Telemarketing Industry Standard, including but not limited to:
 - i. quality assurance procedures for ensuring the ongoing integrity and functionality of relevant systems
 - ii. quality assurance process for ensuring any of its outsourced call centres comply with the Do Not Call Register Act and the Telemarketing Industry Standard
 - iii. procedures for ensuring My Alfred personnel, including from outsourced call centres, comply with compliance policies and procedures, and
 - iv. procedures for ensuring continued compliance when process or system changes are implemented,

- b. ongoing training for My Alfred personnel on compliance with the Do Not Call Register Act and the Telemarketing Industry Standard
 - c. ongoing monitoring of compliance measures for the Do Not Call Register Act and the Telemarketing Industry Standard, and
 - d. ensuring My Alfred takes reasonable steps to address any identified systemic problems.
- 5.2. My Alfred undertakes to seek written approval from the ACMA for the appointment of the proposed independent consultant within 20 business days after commencement of these undertakings (excluding the Christmas/holiday period), unless an extension is otherwise agreed. If the ACMA does not approve the choice of independent consultant, My Alfred will repeat this process until it has the ACMA's written approval.
- 5.3. My Alfred undertakes to appoint the independent consultant, and to provide written notification of that appointment to the ACMA, within 10 business days after the ACMA has given its written approval (excluding the Christmas/holiday period).
- 5.4. The independent consultant will provide the report to My Alfred, and at the same time to the ACMA, within four months of their appointment.
- 5.5. The independent consultant will again commence a review (**subsequent review**) of My Alfred's procedures, policies, training and systems relating to its Do Not Call Register Act and Telemarketing Industry Standard compliance 18 months after they provide their report to My Alfred and the ACMA in accordance with clause 5.4.
- 5.6. The independent consultant will provide the results of the subsequent review in writing to My Alfred, and the ACMA within 2 months of the commencement of the subsequent review, including a statement about whether they are satisfied that My Alfred procedures, policies, training and systems are effective in ensuring compliance with the Do Not Call Register Act and the Telemarketing Industry Standard.
- 5.7. Subject to the ACMA's written agreement, My Alfred may remove the independent consultant at any time and replace the independent consultant with a new independent consultant approved by ACMA. If the ACMA does not approve the choice of independent consultant, My Alfred will repeat this process until it has the ACMA's approval.

6 Implementation Plan, Audit & Reporting

- 6.1. Within 40 business days of receiving the report My Alfred will:
 - 6.1.1. develop an implementation plan setting out the steps My Alfred has taken, or will take, to implement all recommendations made by the independent consultant in the report, including timeframes (unless the ACMA specifically agrees that any recommendation need not be implemented)
 - 6.1.2. provide a copy of the Director-approved implementation plan to the ACMA.
- 6.2. My Alfred undertakes to comply with the approved implementation plan in accordance with the timeframes specified in the plan.
- 6.3. The implementation plan may be modified at any time subject to the ACMA's written approval.
- 6.4. Every six months from the date the Director approved implementation is provided to the ACMA, My Alfred will provide a compliance report, approved by the Director, to the ACMA that covers the previous 6 months that includes:
 - 6.4.1. the status of actions it will take under the implementation plan
 - 6.4.2. a report of all de-identified consumer complaints made to My Alfred about alleged non-



compliance with the Do Not Call Register Act and the Telemarketing Industry Standard, including the date of the complaint and a unique identifier for each complaint

6.4.3.action My Alfred has taken on all complaints the ACMA has notified My Alfred about or received by My Alfred directly from consumers.

6.5. My Alfred will report to the ACMA all identified instances of non-compliance with the Do Not Call Register Act and the Telemarketing Industry Standard within 10 business days of identifying an instance of non-compliance, including the cause of any identified compliance issues and remediation action taken or proposed to be taken.

7 Training

7.1. Within 30 business days of the commencement date (excluding the Christmas/holiday period), My Alfred undertakes to commence training of all personnel that may be, or are currently responsible for making, or causing the making of, telemarketing calls, and their direct line manager, to ensure compliance with the Do Not Call Register Act and the Telemarketing Industry Standard.

7.2. My Alfred undertakes to repeat the training, described in clause 7.1, every 12 months after My Alfred has undertaken the training referred to in clause 7.1 for the term of this undertaking.

7.3. My Alfred undertakes to provide the ACMA with written notice when it has undertaken training referred to in clauses 7.1 and 7.2.

8 Record-keeping

8.1. My Alfred undertakes to, while this Undertaking is in force, keep accurate records of:

8.1.1. all telemarketing calls made, or caused to be made, by My Alfred, including the time, date and telephone number called

8.1.2. the consent applicable to all telemarketing calls at clause 8.1.1 (above), including the terms and conditions associated with that consent

8.1.3. all telemarketing complaints.

8.2. My Alfred will provide copies of records referred to in this clause 8 to the ACMA upon request by the ACMA.

9 Acknowledgements

9.1. My Alfred acknowledges that:

9.1.1.The ACMA will make this Undertaking publicly available including by publishing it on the ACMA's website.

9.1.2.The ACMA may, from time to time, make public comment about this Undertaking and its terms which includes issuing a media release upon its execution by the ACMA.

9.1.3.The ACMA may, from time to time, publicly report on compliance with this Undertaking.

9.2. My Alfred also acknowledges that:

9.2.1.The ACMA's acceptance of this Undertaking does not affect the ACMA's power to investigate and take compliance and enforcement action arising from conduct that is not the subject of this Undertaking or arising from future conduct.

9.2.2.This Undertaking in no way derogates from the rights and remedies available to any other person or entity arising from the alleged conduct, the subject of this Undertaking.

Signed by **Forex EA Pty Ltd**



Director, My Alfred

6/12/2021

Date of signing

The undertaking offered by **Forex EA Pty Ltd** is accepted by the Australian Communications and Media Authority pursuant to section 572B of the *Telecommunications Act 1997*.

Date accepted by the ACMA: 9 December 2021



Jeremy Fenton

Executive Manager

Consumer, Consent and Numbers Branch

ACMA

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Executive Manager

Consumer, Consent and Numbers Branch

ACMA