

26 July 2024

[REDACTED]

[REDACTED]

Dear [REDACTED]

Investigation into trading of shares in [REDACTED]

Formal public warning under section 9 of the Financial Markets Authority Act 2011.

1. The Financial Markets Authority (**FMA**) has concluded its investigation, into alleged market manipulation by you in relation to your trading in November 2021 of shares in [REDACTED].
2. The FMA has reached the view that you have likely breached the market manipulation prohibitions contained in section 256 of the Financial Markets Conduct Act 2013 (**FMC Act**).
3. Specifically, we consider that you engaged in trading which was likely to have the effect of creating a false or misleading appearance with respect to the price for trading in [REDACTED] shares and you knew, or ought reasonably to have known, that the trading would have that effect.

Trading Conduct

4. Between 15 November 2021 and 29 November 2021 you placed eight orders to sell [REDACTED] shares from the Sharesies account of your partner [REDACTED] (together referred to as the “**Key Sell Orders**”).
5. Between 16 November 2021 and 29 November 2021 you placed 11 orders to purchase [REDACTED] shares, from your own account with Sharesies, and four orders to purchase [REDACTED] shares from the Sharesies account of [REDACTED] (together referred to as the “**Key Buy Orders**”).
6. The Key Sell Orders and the Key Buy Orders are listed in the **attached** table.

7. The Key Buy Orders frequently had volumes slightly higher than the prevailing best ask volume, and their price limits were frequently higher than the prevailing spread. These order terms allowed the key buy orders to clear the volume at the prevailing best ask price, then trade into the volume at the next higher price step. As a result, market spread and/or the last trade prices for [REDACTED] shares were moved higher on 10 occasions. The order terms of the Key Buy Orders had the effect of creating a false or misleading appearance with respect to the price for trading in [REDACTED] shares.

Your explanation

8. We refer to your interviews with the FMA on 6 September 2022 and 11 October 2023. In those interviews we sought an explanation from you as to the reasons and purpose for your trading in [REDACTED] in November 2021 as the trading did not appear logical, nor did it appear to align with the usual pattern of trading on your or [REDACTED] Sharesies accounts. In particular:
 - 8.1. [REDACTED] shares were not sold using [REDACTED]'s Sharesies account or your own Sharesies account from the date those accounts were opened until 21 October 2021.
 - 8.2. From 21 October 2021 sell orders were placed from [REDACTED]'s account at relatively large volumes compared to the buy orders for [REDACTED] shares previously placed from that account.
 - 8.3. No [REDACTED] shares were purchased from your Sharesies account during the period April 2021 to 9 November 2021. From 10 November 2021 you resumed actively buying [REDACTED] shares.
 - 8.4. There were outstanding Key Sell Orders with price limits at or above the prevailing best offer price while the Key Buy Orders were placed.
 - 8.5. A number of the Key Buy Orders were made the same day as some of the Key Sell Orders.
 - 8.6. A number of the Key Buy Orders made from your account and [REDACTED]'s account were significantly larger than buys orders previously made from those accounts.
9. You gave the following explanations for this trading during your first interview:
 - 9.1. You placed sell orders to fund kitchen renovations.
 - 9.2. You placed further buy orders because that was what you normally did (namely, buy small and regularly).
 - 9.3. You could not remember why you placed buy orders for larger amounts than your usual \$10 - \$25.
10. You gave the following explanations for the trading during your second interview:

- 10.1. You placed the sell orders from [REDACTED]'s account to fund kitchen costs.
- 10.2. You were "gutted" to have to sell [REDACTED] shares because you and [REDACTED] had been slowly building up your holding. You subsequently bought shares on your account to feel positive about something and to feel that you were heading in the right direction to build them back up.
- 10.3. You placed buy orders in larger amounts than usual because you were "gutted" about having to sell large amounts from [REDACTED]'s portfolio.
- 10.4. After selling, you were annoyed at having to sell, you decided you would find another way to fund part of the kitchen costs and bought some shares back.
- 10.5. You placed sell orders on 29 November 2021 to pay the builder but you learned the same day that you did not need to pay the builder until closer to Christmas. You placed buy orders, that same day, to purchase back \$3,000 [REDACTED] shares. You then realised that you still needed to pay the painter and so you sold another \$2,000 shares, again on the same day.

The FMA's view

11. We have considered your correspondence to the FMA since issuing the Notice of Intention to warn dated 22 March 2024, and in particular, your emails dated 20 May 2024 and 24 June 2024.
12. You say that you have never intentionally tried to manipulate any share prices and that as far as you are aware, your trading in [REDACTED] shares did not affect the share price at any time.
13. We do not accept that your trading did not affect the share price for trading in [REDACTED] shares. As noted in the **attached** table, the order terms of the Key Buy Orders had the effect of moving the last traded price for [REDACTED] shares higher on at least eight occasions and of moving the market spread higher on at least 10 occasions.
14. You also stated that if you were trying to manipulate the share price, and the share price did not rise or fall, you would have stopped buying after three or four attempts. As noted above, the last traded price did in fact rise as a result of your trading on at least eight occasions.
15. You stated that if you were attempting manipulative trading, there would be reference to it or discussion about it with others in emails or texts. We do not accept that a person engaging in unlawful conduct would necessarily discuss that information with third parties. It is at least equally as likely that they would keep that information to themselves.
16. We do not accept that the explanations you gave for your actions in placing the Key Buy Orders are plausible and we have concluded that you knew or ought to have known that your trading was likely to have the effect of creating a false appearance with respect to the price of [REDACTED] shares.

17. We consider that your trading conduct likely resulted in market manipulation by giving a false or misleading appearance to the market of the price for trading in [REDACTED] shares between 16 November 2021 and 29 November 2021 and you knew, or ought reasonably to have known, that your trading would have that effect, in breach of section 265 of the FMC Act.
18. In coming to this conclusion we have carefully considered the following, in addition to your responses at interview and in correspondence:
 - 18.1. The trading data relating to your trading activities in [REDACTED] shares and other securities
 - 18.2. Your trading history
 - 18.3. Your knowledge and experience as a retail trader
 - 18.4. Your knowledge and use of the Market Depth function on the Sharesies platform
 - 18.5. The context of your trading in November 2021
 - 18.6. Your messages to Sharesies on yours and [REDACTED]'s accounts including those in which you complained that buy orders at the lowest offer price were being held back and that this was "suppressing the price" of [REDACTED] shares.
 - 18.7. Sharesies explanations to you that it is required to follow best practice as an NZX participant in order to maintain an orderly market.
19. Having reached the view that you have likely contravened section 265 of the FMC Act, the FMA is able to take enforcement action which can include issuing court proceedings. The FMA may take action where we consider the conduct in question impacts on the integrity of New Zealand's capital markets.
20. The object of the market manipulation provisions in the FMC Act is to protect and preserve the integrity of the share market against activities which will result in manipulation. The provisions seek to ensure that the market reflects the forces of genuine supply and demand. Your trading conduct was illustrative of the type of conduct which is likely to have an impact on the fairness and transparency of financial markets.
21. When deciding what action we should take, the FMA considers an appropriate and proportionate response in the circumstances of any case.
22. In determining what action the FMA ought to take in this case, we have also considered the following factors:
 - 22.1. The seriousness of the conduct and the extent of harm caused

22.2. That your misconduct involved trading over a relatively isolated period

22.3. Your personal circumstances and history of trading

22.4. The public interest in issuing proceedings including, amongst other things, the size and impact of your trading.

Warning

23. Having considered all the factors in this case, we are now warning you as follows:

23.1. You have likely breached the market manipulation prohibitions contained in section 265 of the FMC Act by engaging in trading which was likely to have the effect of creating a false or misleading appearance with respect to the price for trading in [REDACTED] shares.

23.2. Section 265 of the FMC Act is a civil contravention and had the FMA decided to issue proceedings against you, a Court may have made a contravention order against you and may have imposed a pecuniary penalty on you in respect of such a contravention.

24. An anonymised version of this warning will be published on the FMA's website together with the attached media statement on 30 July 2024.

25. In addition, we intend advising NZ RegCo on a confidential basis of our findings in relation to your trading. This notification to NZ RegCo will name you.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Liam Mason', with a long horizontal stroke extending to the right.

Liam Mason

Executive Director – Evaluation & Oversight and General Counsel

For the period: 15 - 29 Nov 2021 (11 trading days)

Sell Orders												Buy orders that had market impact												Market impact							
Time range	No.	Date	Time	Order placer	Status	Requested amount	Shares	Price limit	Traded price	Prevailing market spread	Pre-order best volume	Post-order best volume	No.	Date	Time	Order placer	Status	Requested amount	Shares	Price limit	Traded price	Pre-trade spread	Pre-trade best volume	Post-trade spread	Post-trade best volume	Last traded price before the trade	Last traded price after the trade	Moved the spread	Moved the last traded price		
15 Nov 2021 - 23 Nov 2021	1	15/11/2021	11:52 AM	██████████	Fulfilled on 16/11/2021 on market open	\$5,576.00	66,381.27	\$0.084	\$0.084	\$0.083 - \$0.084	244,019 x 80,017	244,019 x 146,399 (2nd order on prevailing best ask)																			
	2	15/11/2021	11:55 AM	██████████	Resting order until deleted on 23/11/2021	\$4,250.00	50,000.00	\$0.085	N/A	\$0.083 - \$0.084	244,019 x 146399	244,019 x 146,399 (3rd order on \$0.085)																			
	3	16/11/2021	10:46 AM	██████████	Resting order until deleted on 23/11/2021	\$4,200.00	50,000.00	\$0.084	N/A	\$0.083 - \$0.084	54,933 x 239,441	54,933 x 289,441 (5th order on prevailing best ask)																			
														1	16/11/2021	3:51 PM	██████████	Filled	\$15.00	180.00	\$0.083	\$0.083	\$0.082 - \$0.084	2,000 x 332,194	\$0.082 - \$0.083	2,000 x 7,031	\$0.083	\$0.083	[Down]	No	
														2	16/11/2021	3:58 PM	██████████	Filled	\$600.00	7,193.00	\$0.083	\$0.083	\$0.082 - \$0.083	2,000 x 7,031	\$0.083 - \$0.084	162 x 332,194	\$0.083	\$0.083	↑	No	
														3	17/11/2021	10:15 AM	██████████	Filled	\$295.00	3,533.00	\$0.084	\$0.083/\$0.084	\$0.082 - \$0.083	2,000 x 3,169	\$0.083 - \$0.084	180 x 316,583	\$0.083	\$0.084	↑	↑	
														4	17/11/2021	12:58 PM	██████████	Filled	\$250.00	3,030.00	\$0.083	\$0.082/\$0.083	\$0.081 - \$0.082	60,000 x 2,725	\$0.081 - \$0.083	60,000 x 97,818	\$0.082	\$0.083	↑	↑	
													5	17/11/2021	1:14 PM	██████████	Partial	\$20.00	243.00	\$0.082	\$0.082	\$0.081 - \$0.082	60,000 x 89	\$0.082 - \$0.083	154 x 77,191	\$0.082	\$0.082	↑	No		
													6	17/11/2021	2:40 PM	██████████	Filled	\$55.00	665.00	\$0.083	\$0.082/\$0.083	\$0.081 - \$0.082	310,000 x 460	\$0.081 - \$0.083	310,000 x 29,680	\$0.082	\$0.083	↑	↑		
													7	22/11/2021	11:21 AM	██████████	Filled	\$450.00	5,393.00	\$0.084	\$0.083/\$0.084	\$0.081 - \$0.083	234,381 x 5,243	\$0.081 - \$0.084	234,381 x 253,132	\$0.083	\$0.084	↑	↑		
25/11/2021	4	25/11/2021	10:06 AM	██████████	Cancelled at 11:32 am	\$664.00	8,000.00	\$0.083	N/A	\$0.081 - \$0.082	1,630 x 1,132	1,630 x 1,132 (3rd order on \$0.083)	After the No.4 sell order was cancelled at 11:32 am ██████████ started placing buy orders (3 mins after cancellation). 8 buy orders in total, 7/8 carried a price limit of \$0.084.																		
													8	25/11/2021	11:35 AM	██████████	Filled	\$115.00	1,393.00	\$0.084	\$0.082/\$0.083	\$0.081 - \$0.082	1,630 x 1,132	\$0.082 - \$0.083	183 x 1,339	\$0.082	\$0.083	↑	↑		
													9	25/11/2021	11:46 AM	██████████	Filled	\$20.00	243.00	\$0.082	\$0.082	\$0.081 - \$0.083	1,630 x 1,159	\$0.081 - \$0.082*	N/A	\$0.083	\$0.081	N/A			
													10	25/11/2021	11:56 AM	██████████	Filled	\$120.00	1,436	\$0.084	\$0.083/\$0.084	\$0.082 - \$0.083	243 x 1,159	\$0.082 - \$0.084	243 x 271,366	\$0.083	\$0.084	↑	↑		
													██████████ bought 3,391 shares in total via 8 buy orders at a weighted average price of \$0.083 before the No.5 sell order. Buy order limits ranged from \$0.082 - \$0.084. Market spread moved down to \$0.081 - \$0.082 by a SHAW seller at 2:57 pm.																		
	5	25/11/2021	15:37 pm	██████████	Cancelled on 26/11/2021 at 10:46 am	\$2,075.00	25,000.00	\$0.083	N/A	\$0.081 - \$0.082	1,630 x 111,937	1,630 x 111,937 (1st order on \$0.083)																			
29/11/2021													11	29/11/2021	12:37 PM	██████████	Filled	\$12.00	144	\$0.083	\$0.083	\$0.082-\$0.083	100,000x7,745	\$0.081-\$0.083	26,100x17,055			N/A			
													12	29/11/2021	12:30 PM	██████████	Filled	\$1,500.00	17,552.00	\$0.086	\$0.085/\$0.086	\$0.083 - \$0.085	144 x 16,931	\$0.083 - \$0.086	144 x 134,379	\$0.085	\$0.086	↑	↑		
	6	29/11/2021	1:02 PM	██████████	Deleted on 30/11/2021 at 11:30 am (account frozen at 10:49 am)	\$4,300.00	50,000.00	\$0.086	N/A	\$0.083 - \$0.086	144 x 134,240	17,552																			
	7	29/11/2021	1:15 PM	██████████	fulfilled	\$2,125.00	25,000.00	\$0.085	\$0.085	\$0.085 - \$0.086	5,706 x 160,706	5,706 x 160,706 (hit the best bid)																			
														13	29/11/2021	2:44 PM	██████████	Filled	\$126.00	1,492.00	\$0.085	\$0.084/\$0.085	\$0.083 - \$0.084	144 x 1,410	\$0.083 - \$0.085	144 x 17,292	\$0.084	\$0.085	↑	↑	
													14	29/11/2021	3:14 PM	██████████	Filled	\$64.00	757.00	\$0.086	\$0.084/\$0.085	\$0.083 - \$0.084	144 x 595	\$0.083 - \$0.085	144 x 86,848	\$0.085	\$0.085	↑	No		
	8	29/11/2021	3:34 PM	██████████	Deleted on 30/11/2021 at 11:30 am (account frozen at 10:49 am)	\$2,125.00	25,000.00	\$0.085	N/A	\$0.083 - \$0.085	144 x 76,448	144 x 101,448 (3rd order on prevailing best ask)																			
													15	29/11/2021	4:35 PM	██████████	Filled	\$96.00	1,136.00	\$0.085	\$0.084/\$0.085	\$0.083 - \$0.084	144 x 1,000	\$0.083 - \$0.085	144 x 108,191	\$0.085	\$0.085	↑	No		

Total number of market influential trades: 14	
Total amount of sell orders (executed + cancelled) - intended	\$25,315.00
Total amount of sell orders (executed only)	\$7,701.00
Total amount of buy orders that had market impact	\$3,738.00

End