

13 December 2021

To: Squirrel P2P Trustee Limited (FSP415167)
Squirrel Group
29 Sale Street
Auckland Central
Auckland 1010

PUBLIC WARNING ISSUED UNDER SECTION 9 OF THE FINANCIAL MARKETS AUTHORITY ACT 2011

1. Squirrel P2P Trustee Limited (**Squirrel**) provides a custodial service for Squirrel Money Limited's peer-to-peer lending service which has (as at 31 March 2021) 1,416 clients and \$35.5m of investor funds¹.
2. As a custodian, Squirrel was required to comply with the custodial services obligations under the Financial Advisers (Custodians of FMCA Financial Products) Regulations 2014 (**FA Regulations**), including regulation 9. Regulation 9(1) of the FA Regulations provided that a custodian must obtain, within 4 months after the relevant date², an assurance engagement with a qualified auditor done in accordance with applicable auditing and assurance standards. Since 15 March 2021 (following the repeal of the Financial Advisers Act 2008 and the revocation of the FA Regulations), Squirrel has continued to act as a custodian and must now comply (among other things) with regulation 229U(2) of the Financial Markets Conduct Regulations 2014 which is equivalent to regulation 9(1) of the FA Regulations.
3. Following an enquiry, the Financial Markets Authority (**FMA**) is satisfied that Squirrel failed to comply with regulation 9(1) of the FA Regulations on five occasions by failing to obtain an assurance engagement in each year from 2016 to 2020 (inclusive). Squirrel has acknowledged that the reason for the failures was an oversight on its part and that it was unaware of this obligation. Squirrel complied with regulation 229U(2) of the Financial Markets Conduct Regulations 2014 in 2021, obtaining an assurance engagement within 4 months after the relevant date of 31 March 2021.
4. The FMA considers compliance with regulation 9(1) of the FA Regulations was important because an assurance engagement is an independent review to assess whether a custodian's processes, procedures, and controls: (i) were suitably designed to meet the control objectives in regulation 10(2) of the FA Regulations throughout the most recently completed relevant period; and (ii) operated effectively throughout that relevant period. The FMA considers failure to obtain an assurance

¹ As at 31 March 2020, the last balance date of non-compliance, Squirrel Money Limited's peer-to-peer lending service had 956 investors with \$16.7 million of funds under management.

² Regulation 9(3) of the FA Regulations defines 'relevant date', in relation to a custodian, [to mean]— (a) the custodian's balance date; or (b) a date in each calendar year that is— (i) determined by the custodian; and (ii) notified to the FMA in writing within 10 working days after the determination is made.

engagement can result in significant client harm because the custodian may not identify and address any deficiencies in the design or effectiveness of its processes, procedures, and controls.

5. In light of Squirrel's failures to comply with regulation 9(1) of the FA Regulations, the FMA has decided to issue Squirrel with a warning under section 9 of the Financial Markets Authority Act 2011 and to publish that warning. This notice constitutes that warning.
6. The FMA's decision to issue and publish this warning recognises that Squirrel failed to comply with regulation 9(1) of the FA Regulations over a period of five years while providing a custodial service during that period and Squirrel should have been aware of its regulatory obligations.
7. The FMA expects all custodians to comply with their regulatory obligations.



James Greig
Director of Supervision
Financial Markets Authority