



IMMIGRATION NEW ZEALAND  
INTERNAL ADMINISTRATION CIRCULAR NO: 16/01

To:	All Immigration New Zealand Managers	Date: 27/05/2016
	All Immigration New Zealand Staff	

**GUIDELINES ON AMS ALERTS AND WARNINGS**

Please read this information and ensure all staff members who may be affected are aware of what is required of them.

*Please note this IAC replaces:*

- *IAC 14/02 Guidelines on Alerts and Warnings*

**Issue**

1. INZ has undertaken a review of previous advice provided to INZ staff in regard to deleted AMS alerts and warnings in visa application assessments. The review has concluded that the trigger for staff to manually delete an AMS alert or warning is generally when information within the alert or warning has been proven to be irrelevant, out of date or inaccurate, and resulting action is no longer required.
2. The review concluded that **deleted** AMS alerts and warnings may usually be disregarded and not form part of a visa application assessment. The review reiterates the importance for staff to include rationale in AMS when deleting AMS alerts and warnings, which will provide confidence that due diligence has been taken to prove or disprove the alert information.
3. The review also concluded that **expired** alerts and warnings should be assessed for relevance before making a decision on whether or not to consider the information as part of the assessment.

**Purpose**

4. This IAC advises staff members what to consider before:
  - a) *adding* a border alert, travel document alert or branch warning in the Application Management System (AMS),
  - b) *managing* those alerts and warnings.
5. This advice will assist in identifying and appropriately managing risk.
6. This IAC does not provide technical information on how to add, suspend, or delete an alert or warning in AMS. This information is available in the AMS Manual.

## Background

7. The overarching principle of this IAC is that careful consideration must be given and due process followed before adding a border alert, travel document alert or branch warning to a client record in AMS. Careful consideration is required before adding any new alert or warning, and any application with an active alert or warning requires close scrutiny. Any alert or warning (and any action taken as a result) must be consistent with the principles of fairness and natural justice, and be able to withstand scrutiny as to why it was added.

8. The IAC also takes into consideration concerns raised by licensed immigration advisers and lawyers, in particular regarding branch warnings added for immigration advisers. The IAC gives guidance that must be followed when considering adding branch warnings for licensed immigration advisers (LIAs) and lawyers, and releasing the contents of those alerts and warnings to individual clients in response to a Privacy Act or OIA request

## What are border alerts, travel document alerts and branch warnings for?

9. Border alerts, travel document alerts and branch warnings are used when important information related to an individual or any associated clients (including their immigration adviser, education provider, employer, supporting partner, sponsor or other contact) needs to be communicated, often with resulting action to be taken as appropriate.

- a) *Border alerts* are communicated to AMS users and to Onshore Border Operations (OBO) staff via Advance Passenger Processing (APP) and the Customs system CUSMOD. This type of alert ensures that OBO staff can intervene in a person's travel where appropriate (e.g. to determine whether a person should be granted a visa to enter New Zealand, or be permitted to board an aeroplane in the case of APP border alerts).
- b) *Travel document alerts* are communicated to AMS users, and to OBO staff via APP and CUSMOD. This type of alert is used when concerns have been raised about a travel document e.g. lost/stolen, non-valid – altered, misused or fraudulent travel document.
- c) *Branch warnings* are communicated to AMS users only. This type of warning becomes visible only when a client's record or application is accessed. It is used to communicate information which other parts of INZ should be aware of when dealing with the client.

## Information to consider when determining whether to add a border alert, travel document alert or branch warning

10. Staff should ask the following questions when first considering whether to add any type of alert or warning:

**Type of alert (note additions to IAC)**

	Consider adding a border alert	Consider adding a branch warning	Consider adding a travel document alert
Should the person be stopped at the border?	Yes	No	No
Is the information of a serious nature that falls under section 15 or 16 of the Immigration Act?	Yes	No	No
Is it important that INZ knows when a client departs or enters the country?	Yes	No	No
Is the person from a <b>visa waiver</b> country <b>and</b> is the information of a nature that requires consideration (but does not fall under section 15 or 16)?	Yes	No	No
Is the person from a <b>visa required</b> country <b>and</b> is the information of a nature that requires consideration (but does not fall under section 15 or 16)?	No	Yes	No
Are there concerns about a travel document (lost, stolen, misused, altered, fraudulent)	No	No	Yes
In cases where you receive confirmed information about a travel document but do not have enough information to set up a client record in AMS you should create a travel document alert for that document. Refer to your Risk Manager or Risk Lead for more information on this process.			

11. Before adding any alert or warning, a staff member must always consider whether it will stand up to scrutiny (e.g. against legal and policy provisions) as to why it was added.

**Before adding a branch warning on a licensed immigration adviser or lawyer**

12. Before adding a branch warning on an individual LIA or lawyer, a staff member should consider whether the LIA or lawyer or the applicant is the most appropriate subject. For example, if an applicant provides a false document or false and misleading information through their LIA, then the branch warning should be added on the applicant's record unless there is evidence that the LIA submitted these, *knowing* them to be false.

13. In such instances staff should also consider the advice stated in the *IAC 16/02 Complaints Process to the Immigration Advisers Authority* and *IAC 11/07 Complaints Process to Professional Bodies* about whether a complaint can be initiated.

14. Before adding a branch warning on a client's LIA, lawyer, a staff member must give that LIA or lawyer a reasonable opportunity to comment on the information that will potentially be added as a branch warning (See *Appendix 1* for template letter).

Any response must be carefully considered to assist in determining whether a branch warning on the LIA or lawyer is necessary.

15. The exception to the requirement to seek comment is when the branch warning is a reasonably indisputable statement of fact. For example:

- a) the Immigration Adviser's Authority (IAA) or the New Zealand Law Society has advised it has imposed a sanction on an individual after a quasi-judicial process (the warning merely reflects the outcome of that process), or
- b) An investigation is underway (the warning merely deals with the fact of the investigation, not disputed facts).

16. Note that alerts and warnings created on LIAs, lawyers or their companies should not be released to their clients/employees in response to an individual's Privacy Act request. This is on the basis that the information is about the adviser or lawyer, and it is necessary to with-hold as per s29(1)(a) of the Privacy Act, or s27(1)(b) OIA, or s9(2)(b) OIA for natural persons.

17. Note that consideration must also be given to withholding references to these warning where they are mentioned in assessments of visa applications.

**Information that must be included when adding a border alert, branch warning or travel document alert**

18. If staff determine that a border alert, travel document alert or branch warning is required, then two critical elements must always be included in the notes – the core issue and what you want done with the information.

*What is the crux of the issue?*

19. The circumstances around the border alert, branch warning or travel document alert must be clearly and concisely entered in AMS. The information must be factual and accurate as INZ staff will be acting on this information (and it may be released under the Official Information Act or Privacy Act). In the event you are loading a border alert, you must understand that INZ staff at the border are working to very tight time frames to make their decisions, so clarity of message and purpose are very important.

20. This includes recording whether the information is an allegation or substantiated, who the information is from (whether it is anonymous or from a reliable source), when the information was received.

e.g. This person's Police Certificate confirms they were sentenced to a term of imprisonment of XX years on XX for XX.

*What do you want done with the information?*

21. Be clear about the purpose of the border alert, branch warning or travel document. What is the action you expect from the reader? Are there particular application types that the information is relevant to? Do you expect the person to be interviewed at check in to prevent risk coming onshore, or interviewed at the border as an assessment of risk?

e.g. The person must seek and obtain a special direction. Should the person attempt to travel to New Zealand without a special direction, they must be offloaded and not permitted to travel.

22. A LIA or lawyer must be informed of the content of any branch warning added against them (unless the exception in paragraph 15 applies).

### **Authorising a new border alert, travel document alert or branch warning**

23. In Visa Services, all new border alerts **MUST** be authorised by a Head of Operations (HOO) or a Visa Operations Manager (VOM).

24. All new branch warnings or travel document alerts **MUST** be authorised by a HOO or VOM or Immigration Manager (IM). However an Immigration Officer (IO) may authorise the following branch warnings:

- a) Medical Information Warning; and
- b) MFAT ODA Funded Student; and
- c) Declined application (if there is information that requires additional attention); and
- d) Termination of Student Enrolment. These alerts are placed by Palmerston North Area Office after receiving a termination notice from an education provider.

25. New border alerts, branch warnings or travel document alerts added by OBO staff, Investigations staff and Compliance staff can be authorised by an IO.

26. New branch warnings or alerts may be added by authorised staff of Immigration Resolutions.

### **Process for considering applications with an active, deleted, expired or suspended border alert, branch warning or travel document alert:**

27. When considering an application with a border alert, branch warning or travel document alert for the client (or any associated clients) the following steps must be followed:

- a) The details of the border alert, branch warning or travel document alert must be carefully read and any specific instructions completed. Pay attention to whether the alert is active, deleted, expired or suspended. All active and suspended border alerts, branch warnings and travel documents must be read.
- b) If a border alert, branch warning or travel document alert is unclear or an investigation is ongoing (e.g. with Compliance and Investigations, Immigration Border Operations, or other agency such as NZ Police), the IO should contact the author of

the border alert, branch warning or travel document alert (or the relevant manager if the author is no longer available) to clarify the information and consult if amendments are required. Only members of the Compliance and Investigations, and Immigration Border Operations, teams may update, delete, or suspend alerts relating to an ongoing investigation. IOs must consult with Compliance and Investigations, and/or Immigration Border Operations when considering the information held in one of these alerts or warnings.

- c) If a branch warning or border alert raised by Immigration Resolutions is active, the IO should contact the relevant analyst or TA unless the corresponding note indicates otherwise.
  - d) If a border alert, branch warning or travel document alert is no longer considered valid, a staff member who has been delegated access by their Manager to change alert/warning status, may change the status to 'deleted', 'suspended' or amend the status as appropriate (*unless (27b) applies*). In all cases, detailed notes explaining the reasons for deletion, suspension and/or amendment are required to be added to AMS and to the physical file. This is because deleted alerts will no longer be considered as part of a visa application assessment process.
  - e) If a border alert, branch warning or travel document alert remains active, the IO must proceed with that information in mind, and the relevant process below applies.
28. Staff must always note in AMS whether they have read the details of any border alert, branch warning or travel document alert (active, suspended, or expired) and what information was considered relevant or not relevant to the application being processed. Alerts which have been deleted have already been determined to be irrelevant, and therefore should not be considered or noted in AMS when processing an application. Expired alerts and warnings should be assessed for relevance before making a decision on whether or not consider the information as part of the assessment.

**Process for deciding applications with an active border alert, travel document alert or branch warning:**

29. The following table identifies the person responsible for deciding the application according to the type of alert or warning in effect, and directs staff to the relevant process below. Note: The type of alert or warning may apply to the client (or any associated clients).

Type of alert/warning	Person responsible for final <u>approve</u> decision	Person responsible for final <u>decline</u> decision
<b>Active border alert</b>	HOO or VOM (See paragraph 30)	IO (see paragraph 31)
<b>Active branch warning</b>	IO (see paragraph 32)	IO (see paragraph 31)
<b>Active travel document alert</b>	IO (see paragraph 32)	IO (see paragraph 31)

30. When approving an application with an active border alert for the client (or any associated clients) the following steps must be followed:

- a) Detailed notes must be made in AMS and on the physical file noting how the information in the border alert has been considered.
- b) Reasons for the decision on whether the border alert should be suspended, amended or extended must be noted on AMS and on the physical file.
- c) AMS notes must include any consultation undertaken with the author of the alert.
- d) The written recommendation must be provided to the HOO or VOM for their final decision. A template is provided at *Appendix 2*.
- e) Once due process has been followed, the HOO or VOM decision can then be finalised by the IO.

Note: Where a HOO or VOM is not physically located at the INZ office they are responsible for, an approval decision for a client with an active client alert may be escalated to another officer appropriately delegated by the HOO or VOM.

In the case of OBO staff, Fraud staff and Compliance staff the decision is only required to be peer reviewed.

31. When declining an application with an active border alert for the client (or any associated clients) the following steps must be followed:

- a) Detailed notes must be made in AMS and on the physical file noting how the information in the border alert has been considered.
- b) Reasons for the decision on whether the alert should be suspended, amended or extended must be noted on AMS and on the physical file.
- c) AMS notes must include any consultation undertaken with the author of the alert.
- d) Once due process has been followed, the decision can be finalised by the IO.

Note: An IO may escalate such an application to their Manager if they have reason to be concerned, and in the case of OBO, Investigations and Compliance, the decision may be peer reviewed.

Note: Alerts which have been deleted have already been determined to be irrelevant, and therefore should not be considered or noted in AMS when processing an application. However, an IO may escalate an application to their Manager if the reasons for the deletion of the Alert are not clear.

32. The following steps must be followed when declining or approving an application with an active branch warning or travel document alert for the client (or any associated clients):

- a) Detailed notes must be made in AMS and on the physical file noting how the information in the branch warning or travel document has been considered, including but not limited to:
  - i) the seriousness, relevance, and age of the warning/alert; and
  - ii) any further information (including any potentially prejudicial information letter response) provided by the applicant.

- b) Clear notes in AMS and on the physical file detailing the reasons for the decision must be made.
- c) Reasons for the decision on whether the warning or alert should be suspended, amended or remain active must also be noted on AMS and on the physical file.
- d) AMS notes must include any consultation undertaken with the author of the warning or alert.
- e) Once due process has been followed, the decision can be finalised by the IO.

Note: An IO may escalate such an application to their Manager if they have reason to be concerned, and in the case of OBO, Investigations and Compliance, the decision may be peer reviewed.

Note: Alerts which have been deleted have already been determined to be irrelevant, and therefore should not be considered or noted in AMS when processing an application. However, an IO may escalate an application to their Manager if the reasons for the deletion of the Alert are not clear.

33. For the avoidance of doubt, this section describes the warning/alert processes when considering **applications**. This section does not apply to requests under section 61 of the Act or for ministerial intervention.

#### **Compliance and Consequences**

34. Where applications are approved without following the instructions outlined above, the circumstances of approval must be investigated and further action considered. This could include disciplinary action.

35. If this IAC is inconsistent with any previous IAC, the advice contained here prevails.

Michael Carley  
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#### **Disclaimer**

Every care has been taken to ensure the information in this circular is accurate and current as at the date of this circular. The information on this circular is to assist you; however applications will be assessed by Immigration New Zealand according to the published Government immigration and Government residence instructions as set out in the Operational Manual. This circular is not a substitute for that policy

## APPENDIX 1 – V410 TEMPLATE LETTER TO IMMIGRATION ADVISER RE BRANCH WARNING

**Application number:**

**Client number:**

Dear

**Application for a** [enter visa type] **for:**

**Applicant:**

**Date of birth:**

**Information warning - immigration adviser, [enter adviser name]**

Immigration New Zealand is considering adding an information warning on your client record in our Application Management System (AMS).

The following information has come to our attention:

[detail the relevant information]

Immigration New Zealand considers that it may be necessary to add an information warning to bring this information to the attention of staff assessing any further applications where you are the adviser, acting on behalf of a client.

We have not made a decision whether to add an information warning at this stage. We invite you to make comments or provide information in response to our concerns.

### **Further information**

Any comments or further information must be sent to this office by **[date]**.

### **What happens if you do not send any comments or information?**

If you do not send any comments or additional information by the date requested above we will make a decision on whether to add an information warning based on the information we have.

## Contact us

If you have any questions, you can:

- call me on
- email me at
- call our Immigration Contact Centre on 0508 55 88 55 or 09 914 4100
- find answers to frequently asked questions or lodge an email enquiry online at [www.immigration.govt.nz/help](http://www.immigration.govt.nz/help)

You will need to tell us your application and client numbers (see the top of this letter). Please be ready to quote these numbers when you phone.

Yours sincerely

Immigration New Zealand

## APPENDIX 2

### ACTIVE CLIENT BORDER ALERT - REFERRAL TEMPLATE

**Date:**

**Client Number (CN):**

**Application Number (AN):**

**Application Type:**

**Client name:**

**Type of Alert:**

*(delete those not applicable)*

- Character
- Health
- Travel Document
- Other (specify)

**Referral completed by:**

#### EXECUTIVE SUMMARY

The client is applying for a visa. The client/sponsor/employer/agent/institute/supporting partner has an active client border alert in AMS for (list the reason).

I have considered this information and, taking all circumstances into account, I recommend the approval of this application as I consider that the client meets the applicable requirements in immigration instructions.

#### ALERT

(Screenshot of the alert and explain how it relates to this application)

#### WEIGHING AND BALANCING

(Detail your consideration of the client border alert information and reasons why the application is being recommended for approval. Note any consultation undertaken with the author of the alert, including reasons why you have not consulted the author if this is the case).

#### HEAD OF OPERATIONS OR VISA OPERATIONS MANAGER

I have considered the above information and the circumstances of this application. I **agree/disagree** that this application should be approved.

This alert should: **be suspended/be amended/remain active/be deleted.**

Signed:

Head of Operations or Visa Operations Manager

Date: