Administrative Measure Publication Notice

This Notice is being published by the Financial Intelligence Analysis Unit (FIAU) in terms of Article 13C of the Prevention of Money Laundering Act (PMLA) and in accordance with the policies and procedures on the publication of anti-money laundering/combating financing of terrorism (AML/CFT) penalties established by the Board of Governors of the FIAU.

This Notice provides selected information from the FIAU's decision imposing the respective administrative penalties and is not a reproduction of the actual decision.

DATE OF IMPOSITION OF THE ADMINISTRATIVE MEASURE:

4 June 2021

SUBJECT PERSON:

Truevo Payments Limited

RELEVANT ACTIVITY CARRIED OUT:

Financial Institution

SUPERVISORY ACTION:

Onsite Compliance Review carried out in 2020

DETAILS OF THE ADMINISTRATIVE MEASURE IMPOSED:

Administrative Penalty of €443,670 and Follow-Up Directive in terms of Regulation 21 of the Prevention of Money Laundering and Funding of Terrorism Regulations (PMLFTR)

LEGAL PROVISIONS BREACHED:

- Regulations 5(1) of the PMLFTR and Section 3.3 of the Implementing Procedures Part I (IPs);
- Regulation 5(5)(a)(ii) of the PMLFTR and Section 3.5 of the IPs;
- Regulation 5(5)(a) of the PMLFTR and Section 3.4 of the IPs;
- Regulation 7(3) of the PMLFTR and Section 4.3.3 of the IPs;
- Regulation 7(1)(c) of the PMLFTR and Section 4.4 of the IPs;
- Regulations 7(1)(d), 7(2)(a) and 11(9) of the PMLFTR and Section 4.5.2 of the IPs;
- Regulation 11 of the PMLFTR and Section 4.9 of the IPs;
- Regulations 7(1)(d) and 7(2)(b) of the PMLFTR and Section 4.5.3 of the IPs; and
- Regulations 5(5)(a)(ii), 5(5)(c) and 5(5)(e) of the PMLFTR, and Sections 7.1, 7.2, 7.3 and 7.5 of the IPs.

REASONS LEADING TO THE IMPOSITION OF THE ADMINISTRATIVE MEASURE:

Regulations 5(1) of the PMLFTR and Sections 3.3 of the Implementing Procedures Part I

During the compliance examination, it was determined that the Company operated without a BRA until March 2019 despite this AML/CFT obligation coming into force in January 2019. FIAU officials observed that the Business Risk Assessment (BRA) of the Company did not identify the specific risks and threats that the Company is exposed to through its operations. Indeed it only held a generic reference to the four risk pillars without addressing the type of threats that apply to its business activity. The inherent risks were not determined by the Company. The Company, albeit carrying out what it termed as a BRA, was not aware of the risks and threats of the sector it was operating in, of the specific services that it provided and the type of clients that it served. Therefore, by not being able to identify the specific ML/FT risks that the Company was facing, it could not determine the appropriate controls that are required to be in place to address such risks and consequently it was not able to assess the overall residual risk.

The Company in its representations submitted that its BRA did have several shortcomings, yet it claimed that it had all the necessary AML/CFT policies, procedures and controls in place to ensure business risks are identified and addressed and therefore the Company was still in adherence with the obligation of conducting a business risk assessment.

To follow on such representations, the Committee took note of all the relevant AML/CFT documentation and information that was submitted by the Company to identify if this AML/CFT documentation could compensate for the BRA's shortcomings. However, the Committee determined that while such AML/CFT policies and procedures set some standards in the Company's compliance functions, they did not cover the areas that are supposed to be assessed in a comprehensive BRA.

Therefore, the Committee concluded that the Company was until March 2019 operating without a BRA and from March 2019 to January 2020 – the time that the compliance review was carried out – with an insufficient and inadequate risk assessment. Thus, the Committee decided that the Company was in systemic breach of Regulation 5(1) of the PMLFTR and Sections 3.3 of the IPs.

Regulation 5(5)(a)(ii) of the PMLFTR and Section 3.5 of the Implementing Procedures Part I

The compliance examination revealed several shortcomings in relation to the Company's customer risk assessment (CRA) policies and procedures in place. The Company did not provide any documented methodology explaining the rationale to support the risk scores assigned to each risk factor, and not all risk criteria were being comprehensively considered. The CRA tool did not take into consideration the product and interface risk, the jurisdiction risk was poorly assessed as not all of the geographic risks and the extent of the connection thereto were assessed and the high risk element of politically exposed person (PEP) involvement, when it occurred was not calculated in the final risk scores.

Furthermore, the files examined showed that several CRAs were carried out after the clients were onboarded. On other occasions there were no CRAs performed at all and there were instances where the risk assessment of customers did not evaluate all the risk factors. Finally, the compliance review indicated that the Company was not reviewing the CRAs of its existing customers in case of trigger events throughout the business relationship.

At the time of the compliance examination the Company agreed with the abovementioned insufficiencies regarding its CRA policies and procedures. Nonetheless, in the representations it was suggested that even if the CRAs were not properly documented, the Company mitigated the customer risks via the due diligence checks and the transaction monitoring systems. These claims were however

dismissed by the Committee as the Company did not provide any evidence of such submissions and even after consideration of other findings, as relayed hereunder, the Committee noted that the compliance review also revealed serious shortcomings in the Company's transaction monitoring system. Therefore, the measures mentioned by the Company could not be considered to fulfil the Company's CRA obligations, and this was even less so in view that the measures mentioned were not even being implemented effectively.

Consequently, the Committee observed that the Company's CRA policies and procedures were inadequate. The Company failed to risk assess its clients in an efficient and timely manner. In view of this failure the Company could not understand the pragmatic risks posed by its clients to carry out additional measures and controls when necessary. Thus, the Committee decided that the Company was in systemic breach of Regulation 5(5)(a)(ii) of the PMLFTR and Section 3.5 of the Implementing Procedures Part I.

Regulation 5(5)(a) of the PMLFTR and Section 3.4 of the Implementing Procedures Part I

The FIAU officials examined all the documented AML/CFT policies and procedures provided by the Company. The Company's AML/CFT manuals did not provide any guidance regarding the customer's onboarding procedures, ongoing monitoring procedures, procedures to be applied to mitigate the risks posed by high-risk customers and the procedures to be applied when identifying transactions that appear to be unusual or suspicious. However, the Company explained in the representations that at the time of the compliance examination, it was in the process of updating its documented AML/CFT policies and procedures.

The Committee highlighted that the Company's AML/CFT documented policies and procedures were too generic and were not suitable to apply to the business operations of the Company. Thus, at the time of the compliance examination the Company had failed to have in place documented AML/CFT policies and procedures in line with the standards set by the Maltese regulatory framework.

Consequently, the Committee decided that the Company was in breach of Regulation 5(5)(a) of the PMLFTR and Section 3.4 of the Implementing Procedures Part I.

Regulation 7(3) of the PMLFTR and Section 4.3.3 of the Implementing Procedures Part I

When the Company was commencing business relationships via persons who purport to act on behalf of customers, it failed to have the necessary measures in place to ensure that the necessary due diligence was carried out on said agents. Indeed, the file examination indicated that the Company had failed to carry out the appropriate due diligence checks in relation to agents. For example, the file review indicated that the Company had failed to acquire the written authorisations which confirmed that persons or entities that were acting on behalf of clients were indeed authorised to carry out these actions on behalf of the corporate entities that they represented. Moreover, on four occasions the identity of the agents was not verified.

Nevertheless, the Company explained that the agents in question were directors and that by law were authorised to enter into such agreements on behalf of their clients. However, the Committee pointed out that while directors legally have this authority, there may be cases where the constitutive documents of corporate entities specifying that more than one director needs to sign on behalf of the company. The Company may also be represented by third parties, and the measures in place should cater for the identification, verification and authorisation of such an agent too. Thus, the Company should have measures and controls in place to identify such cases and carry out the appropriate CDD checks.

As a result, the Committee decided that the Company was in breach of Regulation 7(3) of the PMLFTR and Section 4.3.3 of the IPs.

Regulation 7(1)(c) of the PMLFTR and Section 4.4 of the Implementing Procedures Part I

According to the findings of the compliance report, the Company was not collecting sufficient information regarding the purpose and intended nature of the business relationship. Information on the customer's business, occupation and employment, and the anticipated level and nature that is to be undertaken throughout the business relationship was not obtained. The Committee examined the findings on the client files vis-à-vis the representations submitted by the Company to determine the extent of which the Company did not comply with its legal obligations.

The Committee identified that in 2 customer files that were not identified in the compliance review as posing a higher risk of ML/FT and that necessitated EDD to be carried out, the Company had failed to acquire the necessary information on the purpose and intended nature of business relationships. In particular, the Company had not collected any information on the anticipated level and nature of transactions, the customers who would be served and the markets involved. Thus, the Committee concluded that the Company had failed to screen its clients properly, acquire the necessary information and understand their business profiles in two of the files reviewed.

Thus, the Committee decided that the Company was in breach of Regulation 7(1)(c) of the PMLFTR and Section 4.4 of the IPs.

Regulation 11 of the PMLFTR and Section 4.9 of the Implementing Procedures Part I

Another failure by the Company related to its compliance to the EDD measures required to be applied whenever a high ML/FT risk is identified. The compliance review outlined that the Company was not carrying out the appropriate EDD measures to mitigate the high-risk elements of some of its clients assessed as posing higher risk of ML/FT. Furthermore, it failed to address the high-risk elements of business relationships in which PEPs were presented. The Company's measures also did not make any distinctions between CDD and EDD measures. Thus, the compliance report showed that the Company had serious shortcomings with regards to the screenings and controls applied to its high-risk customers.

Nonetheless, the Company claimed that the high-risk elements of its higher risk rated clients were mitigated and monitored through the transaction monitoring system of the Company. Nevertheless, the Committee noted that no evidence was submitted to prove that this system was actually operating efficiently and addressing the high-risk elements of the higher risk clients. As also outlined below, there were serious failures surrounding the Company's ability to effectively carry out transaction monitoring. In addition, the documentation and information in the customer files indicated that the Company had not carried out any measures to address the higher risks of money laundering/financing of terrorism (ML/FT) on several occasions. Such higher risk elements in the merchants' profiles included, clients connected with high-risk jurisdictions and/or operating in high-risk business activities such as crypto trading and online dating services.

Similarly, in two client files where PEP connections were identified, the Company claimed that these business relationships were risk rated as moderate as the PEPs involved were local and not foreign politicians. Therefore, the Company did not even carry out the necessary EDD measures even in these cases where such measures are prescribed by law. In fact, the Company was not aware that changes in legislative provisions effective from January 2018 necessitated the carrying out of EDD for both local

and foreign PEPs. The Company failed to carry out any EDD measures and controls to mitigate the risks arising from starting a business relationship associated with PEPs.

In addition to this, the Company failed to explain in their representations the reasons why measures and controls such as PEP status, sanctions and adverse media screenings were considered as EDD measures by the Company, when such measures are part of the CDD controls in accordance with the existing regulations. Hence, it was evident that once again the Company was not aware of the basic obligations of the AML/CFT regulatory and legal framework that is was supposed to comply with, and was not able to distinguish between CDD and EDD measures.

Consequently, the Committee agreed that the Company failed to carry out the appropriate EDD measures applying to the higher risk rated clients and did not carry out any EDD measures in the case of PEPs despite these measures being prescribed by law. The Committee, therefore, decided that the Company was in systemic breach of Regulation 11 of the PMLFTR and Section 4.9 of the Implementing Procedures Part I.

Regulation 7(1)(d), 7(2)(a) and 11(9) of the PMLFTR and Section 4.5.2 of the Implementing Procedures Part I

The findings of the compliance examination revealed several shortcomings in the Company's transaction monitoring system. Indeed, it was observed that while the Company had presented measures that on paper seemed to be effective, it was observed that the Company failed to effectively implement such measures.

In several customer files It was observed that the Company failed to consider and seek an explanation as to account-related activity that cats doubts as to the viability of the merchant's operations. By way of example at times the ratio of declined transactions exponentially increased the ratio of processed transactions, making it difficult to comprehend the viability of the merchant's operations. This should have been an indication to trigger additional checks, to ascertain the legitimacy of the merchant's operations. However, the Company failed to carry out any such measures. The Company considered that such ratios were normal and usual in relation to the services that they provide, without providing a reason for this to be considered as being normal.

In addition to this, the FIAU officials identified that until January 2019, the Company's ongoing monitoring system was not taking into consideration the countries from payments to merchant customers were being affected. Thus, the Company was not able to identify if payments were connected to high-risk or non-reputable jurisdictions and as a result was not able to carry out the appropriate mitigating measures to tackle the risks connected with specific jurisdictions.

In view of the above, the Committee determined that the Company failed to comply with its AML/CFT regulatory obligations with regards to transaction monitoring. It was not screening the transactions that it processed in an adequate manner and failed to apply any additional measures when high-risk ML/FT elements prescribed such actions. Furthermore, the Company also failed to assess the jurisdiction connection of payments that it received via the merchants that it serviced. Thus, the Committee decided that the Company was in serious and systemic breach of Regulations 7(1)(d), 7(2)(a) and 11(9) of the PMLFTR, and Section 4.5.2 of Implementing Procedures.

Regulation 7(1)(d) and 7(2)(b) of the PMLFTR, and Section 4.5.3 of the Implementing Procedures Part I

As part of the compliance examination the FIAU officials also examined the ongoing monitoring procedures of the Company regarding the updating of documents, data, and information. The

Committee took note of the findings vis-à-vis of the Company's representations. The Company had failed on one occasion to keep the information, documentation and data up to date. Therefore, the Committee decided that the Company was in breach of breach of Regulations 7(1)(d) and 7(2)(b) of the PMLFTR and Section 4.5.3 of the Implementing Procedures Part I.

Regulations 5(5)(a)(ii), 5(5)(c) and 5(5)(e) of the PMLFTR, and Sections 7.1, 7.2, 7.3 and 7.5 of the Implementing Procedures Part I

The Company did not provide sufficient AML/CFT training to its employees and was not implementing any employee screening policies and procedures when hiring new personnel. However, the Company rejected these findings and claimed that sufficient AML/CFT training was provided to its employees. Likewise, it claimed that it had a rigorous recruitment process and that prospective employees are subject to due diligence including police conduct certificates.

It resulted that the AML/CFT training material provided to employees was very generic, did not apply to the Company's operations and did not cover all the AML/CFT operations and sectors. For example, the material which referred to the training provided to the risk department about the process of the suspicious transaction reports, did not explain the red flags that should alert the employees to identify a suspicious transaction. Consequently, while the employees were provided with training of how to submit a suspicious transaction report, they were not being taught how to identify a suspicious transaction.

Similarly, as far as the vetting of employees is concerned the Company submitted a list of the documentation, the information, and the certificates that prospective employees need to provide prior to being offered an employment contract. Yet, the list of these requirements indicated that the employees of the Malta office of the Company are not screened regarding their criminal conduct. Thus, the Company's procedures to vet prospective employees were not meeting the standards set in the Implementing Procedures.

Thus, the Committee decided that the Company was in breach of Regulations 5(5)(a)(ii), 5(5)(c) and 5(5)(e), and Sections 7.1, 7.2, 7.3 and 7.5 of the Implementing Procedures Part I.

ADMINISTRATIVE MEASURES TAKEN BY THE FIAU'S COMPLIANCE MONITORING COMMITTEE:

After taking into consideration the abovementioned findings, the Committee decided to impose an administrative penalty of €443,670 (four hundred forty-three thousand, six hundred and seventy euro) regarding the breaches identified in relation to:

- Regulation 5(1) of the PMLFTR and Section 3.3 of the Implementing Procedures Part I;
- Regulation 5(5)(a)(ii) and Section 3.5 of the Implementing Procedures Part I;
- Regulations 7(1)(d), 7(2)(a) and 11(9) of the PMLFTR and Section 4.5.2 of Implementing Procedures Part I
- Regulation 11 of the PMLFTR and Section 4.9 of the Implementing Procedures Part I;

Furthermore, the Committee served the Company with a reprimand for failing to have in place and apply efficient Ongoing Monitoring Procedures regarding the Updating of Documents, Data and Information in line with Regulations 7(1)(d) and 7(2)(b) of the PMLFTR and Section 4.5.3 of the Implementing Procedures Part I, and for failing to obtain the appropriate information on the clients' profiles regarding the Purpose and Intended Nature of the Business Relationship and the Customer's

Business and Risk Profile in terms of Regulation 7(1)(c) of the PMLFTR and Section 4.4 of the Implementing Procedures Part I.

The Committee acknowledged the remedial actions that the Company started to carry out after the compliance examination as outlined in its representations, together with the Company's commitment to comply with its AML/CFT obligations in line with the standards set by the Maltese legal and regulatory framework. Hence, the Committee issued a Directive on the Company to ensure that such measures and safeguards are implemented and directed the Enforcement Section of the FIAU to follow up on such process. In terms of its powers under Regulation 21of the PMLFTR, the Committee directed the Company to provide the FIAU with an Action Plan setting out the actions already taken, the issues that still need to be addressed, the actions that should be carried out and the timeframes by which these actions should be implemented. A summary of the actions that should be carried out by the Company is provided below:

i) A revised BRA which identifies and specifies the risks which the Company is exposed to via its business activity.

ii) CRA measures and controls in line with the standards set by the Implementing Procedures, including a review of the Company's active clients in accordance with the updated CRA standards that will be implemented by the Company.

iii) Documented AML/CFT Policies and Procedures applying to the Company's profile, type of clients, services and products provided, and its business operations.

iv) Updated CDD measures and controls that specify the information and the documentation which the Company needs to collect before establishing and also during the business relationship. This should also provide the processes that the Company should follow when commencing a business relationship via third parties representing corporate entities.

v) Ensure that it implements EDD measures that do mitigate the higher risk factors it is exposed to through the business relationships established. Such measures should also prescribe the actions required in cases where the EDD measures to be carried out are prescribed by law as in the case of PEPs.

vi) Transaction monitoring measures and controls that enable the effective monitoring and scrutiny of transactions that are not within the customer's established profile or that are otherwise anomalous, unusual or large transactions. These measures and controls should enable the Company to efficiently monitor all customers, the volume and value of transactions and the funds transferred. The Company should ensure that, its updated measures also include a consideration of the jurisdictions that it is exposed to through the established business relationships. In addition the measures must include a consideration of the ML/FT red flags and suspicious patterns that the Company's operations may be prone to. Finally, the Company should also have the necessary measures and controls in place to assess the information and the alerts produced by its transaction monitoring system and carry out any necessary actions in case of suspicious activity.

vii) Introduce efficient ongoing monitoring measures that will keep information, documents and data held on the client relationships up to date. The measure/process/system among others should collect sufficient information on the business relationships, carry out periodical reviews, check for expired documentation and consider the trigger events which indicate changes in the business relationships that require additional actions.

viii) The Company should also update the measures and controls in place referring to the AML/CFT awareness, training and vetting of its employees. The Company should carry out sufficient CDD checks on its employees and ensure that it collects criminal conduct certificates or documents of equivalent importance for the employees who are involved

in the financial operations of the Company. Furthermore, the Company should ensure that its employees are provided with sufficient internal and external AML/CFT training relevant to their role and the Company's business operations. It is noted that the Company should also retain records of the training provided to its employees.

In determining the appropriate administrative measures to impose the Committee took into consideration the representations submitted by the Company, the remediation actions the Company stated to have started implementing. In addition, to its commitment to ensuring compliance, the nature and size of the Company's operations, the overall impact, actual and potential of the AML/CFT shortcomings identified vis-à-vis the Subject Person's own operations and also on the local jurisdiction. The seriousness of the breaches identified together with their occurrence were also taken into consideration by the Committee in determining the administrative measures imposed. The systemic nature of the breaches observed was also take into consideration.

In the eventuality that the abovementioned Action Plan and the supporting documentation are not made available within the stipulated timeframes, the Committee will be informed of the default, with the possibility to take eventual action, including the possibility of the further imposition of an administrative penalty in terms of the FIAU's powers under Regulation 21 of the PMLFTR.

04 June 2021

APPEAL:

On Monday 05 July 2021, the FIAU was duly notified that Truevo Payments Limited has, in accordance with the provisions of Article 13A of the Prevention of Money Laundering Act (PMLA), appealed the decisions taken by the FIAU. The Company has appealed all breaches as mentioned in this publication in relation to which the FIAU's Compliance Monitoring Committee decided to impose an administrative penalty. The Company appealed on the grounds of wrong evaluation of facts and also raised the issue as to whether the process that led to the imposition of this administrative penalty is in line with the right to a fair hearing. The quantum of the administrative penalty imposed is also being challenged by the Company.

16 July 2021

Pending the outcome of the appeal, the decision of the FIAU leading to the imposition of the administrative penalty is not to be considered final and the resulting administrative penalty cannot be considered as due, given that the Court may confirm, vary or revoke, in whole or in part, the decision of the FIAU. As a result, the FIAU may not take any action to enforce the administrative penalty pending judgement by the Court. This publication notice shall be updated once the appeal is decided by the Court to reflect the outcome of same.

5 August 2021