



Publication Notice: Late/No Replies to Request/s for Information

SUPERVISORY ACTION:

Late/No Replies to Requests for Information made by the FIAU

DETAILS OF THE ADMINISTRATIVE MEASURES IMPOSED

Administrative measures in terms of Regulation 21 of the PMLFTR for failure to satisfy the requirements in terms of Regulation 15(8) of the 2018 Prevention of Money Laundering and Funding of Terrorism Regulations (PMLFTR).

Data is being published in a combined form following an assessment of the administrative measures imposed by the FIAU's Compliance Monitoring Committee (CMC or the Committee) on subject persons who either failed to reply or replied late to requests made by the FIAU during the period January 2020 up to June 2021.

INTRODUCTION

The FIAU has a dedicated Intelligence Analysis team, this is in line with FATF Recommendation 29, the EU Anti-Money Laundering and Counter Funding of Terrorism Directives, as well as Article 16 of the Prevention of Money Laundering Act (PMLA). This team, among other functions, collects, processes, and analyses information obtained from various sources. To collect information, the FIAU may issue requests for information on various accounts as follows: following the receipt of Suspicious Transaction Reports (STRs), arising from the receipt of requests for information from foreign FIUs and in relation to cases generated by the FIAU itself. The entities from which information may be requested include subject persons, foreign FIUs, the Malta Police, supervisory and competent authorities, as well as government departments and agencies. Once the information is collected, processed, and analysed, the information is disseminated as intelligence to combat Money Laundering and Funding of Terrorism (ML/FT).

In 2020 the FIAU made over 31,000 requests for information to various entities, with the information being indispensable to aid investigations pertaining to ML/FT, both locally and internationally. Following the introduction of the Central Bank Account Registry (CBAR) platform, the number of requests sent to Subject Persons in 2021 decreased. Through CBAR, the FIAU's intelligence analysts can conduct dedicated searches and submit targeted requests for information to those specific credit and financial institutions that have a business relationship with the relevant natural or legal person. The total number of requests for information made between January 2020 to June 2021 is illustrated in Table 1 below.

| Sector | Category | Requests per Sector |
|---|---|---------------------|
| Financial Sector | Credit Institutions | 21,828 |
| | Financial Institutions | 11,254 |
| | Insurance Licensees | 12 |
| | Investment Service Providers | 1,044 |
| Virtual Financial Assets Sector | Virtual Financial Assets Service Providers | 32 |
| | Virtual Financial Assets Agents | 18 |
| Gaming Sector | Remote Gaming Companies | 1,974 |
| | Casino Licensees | 179 |
| | Land-Based Operators (other than Casinos) | 51 |
| Non-Financial Businesses and Professions (DNFBPs) | Trustee Corporate Service Providers | 103 |
| | Real Estate Agents | 1 |
| | Independent Professionals (Accountants, Notaries and Lawyers) | 39 |
| Grand Total | | 36,535 |

Table 1: Number of Requests for Information made per Sector from January 2020 to June 2021

ADMINISTRATIVE MEASURES

As per Regulation 15(8) of the PMLFTR, the FIAU may, where it deems necessary, demand information from any subject person. The subject person must comply as soon as is reasonably practicable but not later than five working days from when the request is first made, unless otherwise instructed by the FIAU. A subject person may make representations justifying why the requested information cannot be submitted within the required timeframe. The FIAU may, at its discretion and after evaluating the representations, extend the time as is reasonably necessary to obtain the information. The subject person must then submit the information requested within the extended timeframe.

Failure to reply to Requests for Information or the late submission of responses led to **171** 'potential breaches letters' being issued to subject persons as illustrated in Table 2 below.



| Sector | Category | Number of Subject Persons |
|---|---|---------------------------|
| Financial Sector | Credit Institutions | 3 |
| | Financial Institutions | 17 |
| | Insurance Licensees | 1 |
| | Investment Service Providers | 47 |
| Virtual Financial Assets Sector | Virtual Financial Assets Service Providers | 3 |
| | Virtual Financial Assets Agents | 4 |
| Gaming Sector | Remote Gaming Companies | 84 |
| | Casino Licensees | 1 |
| | Land-Based Operators (other than Casinos) | 2 |
| Non-Financial Businesses and Professions (DNFBPs) | Trustee and Corporate Service Providers | 5 |
| | Real Estate Agents | 0 |
| | Independent Professionals (Accountants, Notaries and Lawyers) | 4 |
| Grand Total | | 171 |

Table 2: Potential Breaches Issued by Category

Subject persons in receipt of the potential breaches letter were invited to submit representations in relation to their failure to reply to requests for information or for replying late, supported with any evidence as necessary. Representations received were presented to the FIAU's Compliance Monitoring Committee (the Committee) to make a final decision about the case. In its deliberations on each case and when deciding on the amount of the administrative penalty to impose (where appropriate), the Committee took into consideration: the representations made by the subject person, and nature and seriousness of the findings. Furthermore, it considered the possibility that the subject person might have prejudiced local and/or international analytical reviews or investigations through its failure to reply or by replying late to FIAU requests for information.

Following the evaluation of all cases and corresponding representations, the Committee decided to impose an administrative measure on **one hundred and nineteen (119) distinct subject persons**. These consisted of pecuniary fines totalling **€304,550** imposed on 67 subject persons and written reprimands imposed on 52 subject persons. Whenever the findings warranted, and in line with the FIAU's policies and procedures, an amalgamation of administrative measures including both a reprimand and a pecuniary penalty were imposed on subject persons.

Table 3 illustrates the total number and value of administrative penalties imposed per Sector. As can be noted the total count of administrative penalties imposed by the FIAU, is lower than the number of potential breaches that was initially issued. The reason for this difference is because, based on the specific information in relation to the case (including the representations submitted by the subject

person) the Committee concluded that a number of subject persons were not in breach of their obligations.

| Sector | Category | Number of Subject Persons | Administrative Measures Imposed | |
|---|---|---------------------------|---------------------------------------|----------------------|
| | | | Value of Administrative Penalties (€) | Number of Reprimands |
| Financial Sector | Credit Institutions | 3 | €7,000 | 2 |
| | Financial Institutions | 16 ¹ | €92,750 | 14 |
| | Insurance Licensees | 1 | €750 | 1 |
| | Investment Service Providers | 16 | €81,200 | 7 |
| Virtual Financial Assets Sector | Virtual Financial Assets Service Providers | 3 | €0 | 3 |
| | Virtual Financial Assets Agents | 4 | €6,000 | 1 |
| Gaming Sector | Remote Gaming Companies | 68 | €113,800 | 41 |
| | Casino Licensees | 0 | €0 | 0 |
| | Land-Based Operators (other than Casinos) | 1 | €0 | 1 |
| Non-Financial Businesses and Professions (DNFBPs) | Trustee Corporate Service Providers | 3 | €2,550 | 1 |
| | Real Estate Agents | 0 | €0 | 0 |
| | Independent Professionals (Accountants, Notaries and Lawyers) | 4 | €500 | 3 |
| Grand Total | | 119 | €304,550 | 74 |

Table 3: Number and Value of Administrative Penalties Issued

¹ 1 of the administrative measures imposed has been appealed in front of the Court of Appeal (Inferior Jurisdiction) by the subject persons in line with what is provided for in terms of Article 13A of the Prevention of Money Laundering Act. Pending the outcome of the appeal, the decision of the FIAU is not to be considered final and the resulting administrative penalty cannot be considered as due, given that the Court may confirm, vary, or reject, 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.

CONCLUSION

The FIAU emphasises that requests for information sent by the Intelligence Analysis Section are crucial and indispensable to obtain information for the Unit's analytical function. Therefore, no circumstance should prevent a subject person from replying to these requests within the timeframes required. This also applies in cases of NIL return. Failure to reply or to reply late to requests for information made by the FIAU, not only results in a subject person failing to satisfy the requirements of Regulation 15(8) of the PMLFTR, but this failure also has a detrimental impact on the FIAU's analytical function.

The purpose of this exercise is not only to take administrative action against subject persons who fail to reply to FIAU requests for information or otherwise reply late. It is also to ensure that subject persons appreciate the importance of these requests and the serious repercussions for breaching Regulation 15(8) of the PMLFTR.

29 December 2022

