



FIAU

Revision of Chapter 5 of the Implementing Procedures – Part I

One of the issues highlighted in Malta’s Mutual Evaluation Report revolved around the timeframe for subject persons to submit Suspicious Transaction Reports (“STRs”) to the Financial Intelligence Analysis Unit (“FIAU”) as it was deemed that the said timeframe did not provide for the prompt submission of such reports. To address this issue, amendments were carried out to Regulation 15(3) of the Prevention of Money Laundering and Funding of Terrorism Regulations (“PMLFTR”) and the said regulation now requires that STRs be submitted to the FIAU promptly.

Chapter 5 of the Implementing Procedures – Part I provides additional requirements and directions on internal and external reporting procedures that subject persons are to have in place so as to ensure that any suspected or known instance of money laundering or funding of terrorism (“ML/FT”) is reported to the FIAU within the timeframes set out in the PMLFTR. The amendments to Regulation 15 of the PMLFTR required that the said Chapter be also revised and the version being issued today sets out how subject persons are to ensure that reporting takes place in a prompt manner.

The FIAU is therefore today issuing a revised version of the Implementing Procedures – Part I, copy of which may be accessed and/or downloaded from the FIAU’s website. The FIAU is also publishing a copy of Chapter 5 with tracked changes for ease of reference.

The main changes being introduced are the following:

Timeframes

- Internal reports are to be filed with the MLRO not later than the next working day from when a subject person’s employee becomes aware of any information or matter that is considered by the said employee to give rise to knowledge or suspicion of ML/T. This timeframe is to be adhered to, independently of whether the employee in question is to consult with any superiors or otherwise.
- STRs are to be submitted to the FIAU on the same day on which the MLRO determines that the information or matter set out in the internal report actually gives rise to knowledge or suspicion of ML/FT. The FIAU does acknowledge that in some instances the case to be reported may be quite complex and the MLRO may not be able to organize and submit the information and documentation at hand within the same day as the one on which the MLRO would have determined the need to file a STR. In such instances, the STR need not be submitted within the same day as long as the STR is filed within the shortest time possible and without undue delays.

Consideration of Internal Reports

- MLROs are required to consider internal reports with the utmost urgency and without unreasonable delay. Recognising that not all internal reports may contain the necessary information and/or be accompanied by the required documentation for the MLRO to make this determination, the revised Chapter 5 does not set out any specific timeframe within which the MLRO is to make said determination. However, the revised Implementing Procedures do provide that this exercise has to be carried out without any unreasonable delay and a number of criteria are provided which set out the FIAU's expectations when it comes to how the MLRO is to consider internal reports and prioritise the same.

Delegation of MLRO functions

- Renewed emphasis is being put on the need for MLROs to be provided with the necessary resources to carry out their work in an effective manner. The revised Chapter 5 also highlights that any action to be undertaken by the MLRO with respect to reporting need not be taken by the MLRO himself but may be delegated to any employee falling under the MLRO's supervision. It has to be pointed out that any such delegation is to be accompanied by the appropriate level of supervision by the MLRO as the MLRO remains responsible for the carrying out of the core functions assigned to this function.

Any reference to different timeframes for the submission of STRs present in any Implementing Procedures – Part II or any other document issued by the FIAU is to be considered as superseded by the requirements of Regulation 15(3) and of the revised Chapter 5 of the Implementing Procedures – Part I.

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