



WHY DOES THE FIAU CARRY OUT AML/CFT SUPERVISION?

Products and services offered by subject persons can be attractive to criminals, who may misuse them to launder money obtained from illicit sources or to finance terrorism. For this reason, subject persons play a fundamental role in preventing the entry of illicitly obtained money into the financial system. As gatekeepers of the financial system, it is important that subject persons understand the money laundering/funding of terrorism (ML/FT) risks that their business may be exposed to, and which measures should be implemented to build a robust anti-money laundering/combating the funding of terrorism (AML/CFT) control framework to mitigate the identified risks. As the sole AML/CFT regulator in Malta, the Financial Intelligence Analysis Unit (FIAU) is committed to support subject persons in the understanding and implementation of their AML/CFT obligations, and to monitor their compliance with these obligations.

THE COMPLIANCE MONITORING PLAN

The FIAU carries out its AML/CFT compliance monitoring responsibility through the Supervision Section. In its strategy for the period 2023-2026, the FIAU committed to further strengthen its compliance monitoring function by formulating a dynamic compliance monitoring plan targeting risks identified from sectorial and subject persons' risk assessments. The FIAU also aims to implement a risk-based compliance monitoring plan which is proportionate, effective and consistent.

The FIAU reviewed the Maltese national and sectorial risk assessments, the risk assessments carried out by other international bodies, and performed an analysis of the subject persons' risk assessment through the CASPAR system.¹ Based on this, a five-year compliance monitoring plan was developed, starting in July 2024. The plan aims to effectively cover the monitoring of the identified ML/FT risks through proportionate supervisory interventions.

The FIAU is also working to gradually synchronise guidance and outreach initiatives with the areas to be supervised as per the plan. The aim is to not only enforce compliance, but above all, to continue enhancing the compliance culture and knowledge among subject persons.

¹ The Compliance and Supervision Platform for Assessing Risks (CASPAR) is a system which supports the FIAU in the collection of relevant risk data from multiple sources for the purpose of carrying out subject persons' risk assessment.

TYPES OF SUPERVISORY INTERVENTIONS

The FIAU monitors compliance by subject persons with their AML/CFT obligations through different types of supervisory interventions. These can be carried out on-site (i.e. at the subject person's premises) or off-site (i.e. desk-based). The choice of which supervisory intervention to apply is dependent on the FIAU's risk analysis and aims to achieve proportionate supervision.

Types of supervisory interventions	Description
AML/CFT returns	Regular or ad hoc requests to subjects persons for quantitative and/or qualitative data and information relating to key ML/TF risk indicators and AML/CFT controls.
Supervisory meetings	Supervisory meetings are held with subject persons to maintain an ongoing understanding of their businesses and ensure that the risk rating assigned to subject persons is an accurate representation of the level of ML/TF risk to which they are exposed.
Policies and procedures inspection	A review of the subject person's policies and procedures to assess whether the design of AML/CFT controls is adequate considering the subject person's business model and ML/TF risks to which the subject person is exposed to.
Full-scope inspection	An inspection through which a comprehensive review of all AML/CFT systems and controls implemented by subject persons or their business lines is carried out.
Targeted inspection	An inspection carried out to assess a specific aspect (or more than one aspect) of the AML/CFT control framework implemented by subject persons in relation to specific ML/TF risks they are exposed to.
Thematic inspection	An inspection carried out on a group of peer subject persons that focuses on a specific aspect (or more than one aspect) of the subject persons' AML/CFT systems and controls or business line (types of products, transactions, etc.).
Follow-up inspection	This serves to assess whether the weaknesses in the subject person's AML/CFT systems and controls framework identified during a previous supervisory intervention have been rectified.
Ad hoc inspection	An inspection that is triggered by a specific event or ML/TF risk.

THE SUPERVISORY INTERVENTION PROCESS: WHAT TO EXPECT FROM THE SUPERVISOR AND WHAT IS EXPECTED FROM A SUBJECT PERSON?

COLLABORATION

If a subject person is selected for a supervisory intervention, the FIAU expects it to collaborate throughout the process. As part of the process, the FIAU notifies the subject person about the supervisory intervention and its scope, and establishes a single point of contact, i.e., the Money Laundering Reporting Officer (MLRO), for the exchange of information and documentation during the supervisory intervention. The assessor carrying out the supervisory intervention may also need to speak to other employees as part of the process.

CONTRIBUTION

Prior to starting a supervisory intervention, the assessor will request the subject person to provide preliminary documentation and information which is required for the purpose of the supervisory intervention. While the documentation and information requested (and their extent) will vary according to the scope and type of the supervisory intervention, this would typically include the customer list and AML/CFT related policies and procedures. Additional information and/or documentation may be requested during the supervisory intervention to allow the subject person to demonstrate compliance with AML/CFT obligations (such as copies of risk assessments and CDD measures applied on customers serviced). While assessors will guide subject persons on what information and/or documentation should be provided, the onus is on the subject persons to provide the necessary information and/or documentation demonstrating compliance with their AML/CFT obligations. Documents should be sent electronically via a secure platform as guided by the assessor. It is important that the documents requested are made available to the assessor in a timely manner for the supervisory intervention to be carried out efficiently. Should the subject person encounter any difficulties in complying with stipulated deadlines, it is important that the matter is promptly discussed with the assessor. Non-compliance with the provision of information and/or documentation may lead to enforcement action.

FEEDBACK AND COMMITMENT

The outcome of a supervisory intervention is based on a number of considerations, such as the overall regard to AML/CFT obligations as exhibited by subject persons and whether serious breaches of AML/CFT obligations have been identified. The outcome of a supervisory intervention can be one of the following:

- **Outcome A:** A closure letter is issued in cases where no/minor AML/CFT shortcomings are identified during the compliance examination. This can include recommendations for further improvements.
- **Outcome B:** A remediation letter is issued requesting the subject person to implement a remedial action plan within a stipulated timeframe to address the non-serious shortcomings identified during the supervisory intervention. When remedial action is requested, the subject person is expected to demonstrate commitment to implementing the remedial action within the timeframe stipulated by the FIAU. Where required, support from the FIAU is provided to the subject person during this process. If the subject person fails to implement the required remedial action, enforcement action may be taken by the FIAU.
- **Outcome C:** A potential breaches letter is issued in cases where serious shortcomings are identified during the supervisory intervention. In this case, the subject person is requested to submit representations within a stipulated timeframe. The potential breaches letter and the subject person's representations are subsequently referred to the FIAU's Compliance Monitoring Committee for its consideration. This may also lead to the imposition of administrative measures.

More detailed information on the supervisory intervention process can be accessed through the link: <https://fiaumalta.org/news/https-fiaumalta-org-event-aml-supervisory-examinations-what-to-expect-fiau-malta/>.

THE AML/CFT COMPLIANCE MONITORING PLAN FOR THE PERIOD JULY 2024 TO JUNE 2025

The first year of the five-year compliance monitoring plan details the supervisory work that the FIAU plans to carry out during the annual supervisory cycle commencing in July 2024 in respect of the different sectors. Article 27(3)(b) of the Prevention of Money Laundering Act (PMLA) also permits the FIAU to request other supervisory authorities to carry out supervisory interventions on behalf of, or jointly with, the FIAU. Therefore, some supervisory interventions will be carried out by the Malta Financial Services Authority and the Malta Gaming Authority, on behalf of, or jointly with the FIAU. Other supervisory interventions not included hereunder may also take place during the supervisory cycle, if the FIAU is in receipt of material risk data during the year.

Credit and Financial Institutions

Controls in place to prevent cash derived from the proceeds of crime from entering the financial system through the misuse of credit and financial institutions' products and services; and

Credit and Financial Institutions

Application of adequate customer due diligence measures on customers using pooled accounts.

Remote Gaming Operators

Application of effective mitigating measures in instances where customer due diligence measures cannot be completed.

Remote Gaming Operators, Land Based Casinos and Investments

Risk assessment performed on higher risk customers and the application of commensurate customer due diligence measures.

Company Service Providers

Identifying and assessing risks at a business and customer level when providing company services.

Auditors, Accountants and Company Service Providers

The application of customer due diligence measures on customers who fail to file financial statements.

Auditors and Accountants

The scrutiny of transactions undertaken throughout the course of a business relationship to ensure that transactions undertaken are consistent with the subject person's knowledge of the customer and of his business and risk profile.

Real Estate and Notaries

Assessing the level of AML/CFT knowledge and awareness in the real estate sector.

All sectors

Assessment of the adequacy of remedial action plans implemented by subject persons as directed by the FIAU.

CONTACT US

Subject persons are guided to contact the Supervision Section by email at compliance@fiaumalta.org should they have any queries regarding the supervisory process.

