



## 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 (the PMLA) and in accordance with the policies and procedures on the publication of AML/CFT administrative measures established by the Board of Governors of the FIAU.

The Notice provides select information from the FIAU's decision imposing the respective administrative measures and is not a reproduction of the actual decision.

### **DATE OF IMPOSITION OF THE ADMINISTRATIVE MEASURE:**

29 August 2025

### **RELEVANT ACTIVITY CARRIED OUT:**

Collective Investment Scheme

### **SUPERVISORY ACTION:**

Off-site compliance examination carried out in May 2022

### **DETAILS OF THE ADMINISTRATIVE MEASURES IMPOSED:**

Remediation Directive in terms of Regulation 21 of the Prevention of Money Laundering and Funding of Terrorism Regulations (the PMLFTR)

### **LEGAL PROVISIONS BREACHED:**

- Regulation 5(5)(a)(ii) of the PMLFTR and Sections 3.5.1 and 3.5.2 of the FIAU Implementing Procedures – Part I (the IPs)
- Sections 6.2 and 6.3 of the IPs

### **REASONS LEADING TO THE IMPOSITION OF THE ADMINISTRATIVE MEASURE:**

Customer Risk Assessment (CRA) – breach of Regulation 5(5)(a)(ii) of the PMLFTR and Sections 3.5.1 and 3.5.2 of the IPs

During the compliance examination, it was noted that the Company did not have a CRA in place for its limited customer base, which consisted of clients belonging to the same Group as the Company, as well as a specifically created investment structure in which the Company itself participated. The lack of such risk assessments meant that the Company was not in a position to obtain a clear understanding of the risks associated with its business relationships. The Committee determined that this constituted a breach of the applicable AML/CFT obligations, noting that the requirement to conduct CRAs applies irrespective of the nature or structure of the customer base.

Notwithstanding the above, the Committee positively acknowledged that the Company has since taken proactive steps to remediate this shortcoming by undertaking the necessary CRAs for all its clients, any by further strengthening its internal CRA processes.

#### Outsourcing – breach of Section 6.2 and 6.3 of the IPs

The compliance examination report also identified certain deficiencies in the Company's oversight of AML/CFT measures and procedures outsourced to the Fund Administrator. In particular, it transpired that the process for monitoring outsourced functions was not only fragmented, but there was an absence of information regarding the outcomes of reviews and testing performed on the outsourced activities. Indeed, the quarterly Money Laundering Reporting Officer (MLRO) reports in which such testing was discussed did not include documented issues or evidence of corrective action taken in response to identified weaknesses thereby undermining the credibility and effectiveness of the oversight framework. Ultimately, the Committee concluded that, in view of the above, the Company was unable to demonstrate adequate and well-documented monitoring of the its outsourced AML/CFT measures and procedures.

Despite these failings, the Committee gave positive consideration to the fact that, following the completion of the compliance examination, the Company began enhancing its oversight framework. This included improvements in reporting and documentation practices, which demonstrated that appropriate checks are now in place, and that oversight of outsourced functions is now being carried out in a more structured and documented manner.

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

In view of the breaches identified, the Committee proceeded to serve the Company with a Remediation Directive in terms of Regulation 21(4)(c) of the PMLFTR. The aim of this administrative measure is to direct the Company to take the required remedial actions to ensure that it has a sound understanding of the risks surrounding its operations and has implemented sufficient controls to mitigate such identified risks.

In reaching its decision regarding the administrative measures to impose, the Committee took into consideration all the information made available by the Company, both during the compliance examination, as well as through its representations. The Committee also considered the importance of the AML/CFT obligations that the Company has breached, together with the seriousness of the findings and their material impact. Furthermore, the Committee took into account the nature, size and operations of the Company, and how the services it rendered and the AML/CFT controls in place may have impacted the local jurisdiction as a whole. In addition, the Committee factored in the level of cooperation exhibited by the Company throughout the whole process, and the overall regard that the Company has towards its obligations. The Committee also took note of the Company's commitment towards updating and enhancing specific AML/CFT processes, as well as the remedial actions that it has indicated are either underway or already implemented. Lastly, the Committee ensured that the administrative measure imposed is effective, dissuasive, and proportionate to the identified failures and the perceived ML/FT risks.

The main purpose of the aforementioned Directive is for the FIAU to ascertain that the Company enhances its AML/CFT safeguards and undertakes the requisite remedial actions to attain full compliance with its AML/CFT legal obligations emanating from the PMLFTR and the IPs issued thereunder. The Company is being directed to remediate the identified breaches by implementing a number of remedial actions, including but not limited to the following:

- Ensuring the CRAs are conducted for all clients in line with regulatory requirements and internal procedures. Such risk assessments must address all relevant risk pillars, be supported by clear and documented criteria, and provide a well-justified rationale for the overall risk rating assigned. Moreover, CRAs should also be revised and, if needed, updated, on a regular basis, depending on the risk rating assigned and other relevant factors.
- Revising its internal policies to more clearly set out its responsibilities in relation to outsourced functions, and to implement regular monitoring and testing of such functions. This includes maintaining adequate documentation of reviews undertaken, recording any issues identified, and evidencing how these are escalated and remediated.
- Strengthening internal oversight by ensuring that governance structures and reporting lines provide sufficient visibility over outsourced functions, with senior management being able to demonstrate that effective supervision and follow-up measures are in place.

The Directive served on the Company shall ascertain that sufficient and tangible progress is achieved on the adoption and implementation of all the procedures and measures referred to above. In the event that the requested information and/or supporting documentation are not made available within the stipulated timeframes, or the Company falls short of its obligations in terms of this Directive, the Company's default will be communicated to the Committee for its eventual actions, including the possibility of the imposition of an administrative penalty in terms of the FIAU's powers under Regulation 21(1) of the PMLFTR.

### **Key Takeaways**

- CRAs must be carried out for all direct customers whenever a new business relationship is to be entered into or an occasional transaction is to be carried out, this in line with Regulation 5(5)(a)(ii) of the PMLFTR and Sections 3.5 of the IPs. This requirement applies even where clients form part of the same Group or an underlying investment structure. One example of such investment structures is the master-feeder arrangement, in which the feeder funds are considered the customers of the master fund and are therefore required to undergo a CRA. However, no risk assessment is needed for the sub-funds, as these do not possess a separate legal personality.
- Internal policies and risk assessment frameworks should clearly define the process for CRAs, including the identification of all relevant risk factors, the application of documented risk criteria, and a justified overall risk rating. Proper documentation ensures risk assessments are evidence-based, transparent, and compliant with regulatory standards. The CRA template should also be regularly updated to reflect any new or emerging risks, with findings reviewed and approved by senior management or the MLRO.
- Subject persons are responsible for ensuring that any AML/CFT functions outsourced to a Fund Administrator or other service provider are effectively monitored, this in line with Sections 6.2 and 6.3 of the IPs. Oversight of the outsourced functions should be structured, documented, and regularly tested. This includes maintaining evidence of reviews, spot checks, or sample testing, as well as documenting how any issues or deficiencies identified are escalated, addressed, and followed-up. Comprehensive reporting and record-keeping strengthen governance and support accountability.

- Without adequate monitoring measures in place, the Company will not be in a position to ensure that the outsourced AML/CFT measures and procedures are being carried out as mandated by law and in line with its own policies and procedures. Some examples of measures that the Company can seek to employ in order to ascertain effective supervision encompass the submission of periodical reports by the third party, spot checks, and requests for CDD information on specific customers
- Internal policies should clearly define responsibilities for monitoring outsourced activities and ensure that the Company, through senior management and/or the MLRO, can demonstrate effective oversight of service providers. Maintaining thorough documentation and incorporating robust follow-up mechanisms helps subject persons identify, assess, and mitigate risks associated with third-party service arrangements, including outsourcing to Fund Administrators.

**29 August 2025**

