Administrative Measure Publication Notice

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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:

05 January 2026

RELEVANT ACTIVITY CARRIED OUT:

Auditors and Accountants (Individual)

SUPERVISORY ACTION:

Ad-hoc onsite compliance examination initiated in 2024

DETAILS OF THE ADMINISTRATIVE MEASURES IMPOSED:

Administrative penalty of €13,792 in terms of Regulation 21(1) of the Prevention of Money Laundering and Funding of Terrorism Regulations (the PMLFTR)

LEGAL PROVISIONS BREACHED:

- Regulations 7(2)(a) and 11(9) of the PMLFTR and Sections 4.5.1(a) and 4.5.2 of the FIAU Implementing Procedures – Part I (the IPs)
- Regulation 15(3) of the PMLFTR and Section 5.5 of the IPs
- Regulations 5(5) and 15(1) of the PMLFTR and Sections 5.1.1 and 7.1 of the IPs

REASONS LEADING TO THE IMPOSITION OF THE ADMINISTRATIVE MEASURE:

<u>Ongoing Monitoring – Transaction Monitoring and External Reporting Obligations – breach of Regulations 7(2)(a) and 11(9) of the PMLFTR and Sections 4.5.1 (a) and 4.5.2 of the IPs and Regulation 15(3) of the PMLFTR and Section 5.5 of the IPs</u>

Background Information

The FIAU conducted an ad hoc compliance examination limited to one customer file in the auditor's client portfolio. The Customer entity was incorporated in Malta as an investment fund authorised by the MFSA. Its primary objective is to invest in unlisted assets, particularly shares of special purpose vehicles holding rights and concessions to subsoil use. These included mining rights, concessions and assets, with a focus on projects within the energy sector in a non-EU jurisdiction. The Customer was onboarded by the auditor nearly three years ago and classified as high-risk. At the time of onboarding, there were several outstanding financial statements from prior years, and the auditor was engaged to audit these financial statements covering said periods.

Throughout its operations, the customer entity operated a number of sub-funds, and concerns were raised in relation to each. Collectively, several red flags were identified, leading the Committee to conclude that further transaction scrutiny was warranted and that the submission of a Suspicious Transaction Report (STR) to the FIAU was merited. Behind each sub-fund, there were a number of nominee investors holding the investment on behalf of underlying investors, which comprised of trusts that had different settlors and beneficiaries.

The Committee's comprehensive review of all sub-funds revealed a recurring pattern of deficiencies across the structures examined, pointing to systemic weaknesses in documentation, transparency, and oversight. Transactions were consistently complex and opaque, often involving loan assignments, set-offs, or restructurings that lacked a clear commercial or economic rationale. Valuations swung dramatically, with assets rising to hundreds of millions before collapsing to negligible values or being transferred for no consideration. Such volatility, which often lacked adequate justification and was unsupported by the necessary evidence, raised serious doubts about whether these movements reflected genuine economic activity or were instead intended to obscure the true financial position.

The Committee also noted troubling behavioural indicators. The Customer failed to report major transactions and pressed for services with urgency. This conduct, combined with adverse media reports on one of the underlying investors involving allegations of corruption, political affiliations, proxy ownership, and opaque offshore dealings, elevated the risk profile considerably. Despite these red flags, there was no evidence that the concerns were properly assessed or documented, nor that transactions were subject to appropriate scrutiny and external reporting obligations triggered when suspicions could not be dispelled.

Throughout the Auditor's exposure to this customer, numerous red flags indicative of broader AML/CFT concerns requiring further scrutiny and the submission of an external report to the FIAU were very evident. The detail is reflected below:

Red Flags

a.) Complex Ownership Structures Across Multiple Jurisdictions

A key red flag identified was the customer's highly complex ownership structure, which extended across multiple jurisdictions, including several non-EU jurisdictions recognised for presenting elevated ML/FT risks. The involvement of these higher-risk jurisdictions significantly amplified concerns, as the use of cross-border arrangements and trusts materially undermined transparency and increased the likelihood of obscuring beneficial ownership. While the Committee acknowledged that the precise level of risk ultimately depends on the customer's substantive ties to these jurisdictions, the mere presence of such high-risk elements—when combined with the customer's overall profile and the accumulation of other red flags—should have prompted far more rigorous scrutiny. The structural complexity itself, particularly in light of the jurisdictions involved, ought to have been treated as a standalone red flag warranting enhanced questioning of its underlying purpose.

b.) Lack of Bank Account

During the compliance examination, it transpired that, notwithstanding the high level of transactional activity being undertaken, the Company did not have a bank account, which raises questions as to how the customer was able to conduct its operations, including sending and receiving funds, thereby giving rise to significant concerns about the transparency and legitimacy of the transactions under review. Indeed, the absence of such a bank account undermines the traceability of financial activity and strongly suggests that the transactions may have been conducted entirely on a paper-based basis, without the safeguards normally associated with regulated financial channels. This lack of verifiable records casts doubts on the authenticity of the loan and other arrangements involved, as well as heightens the risk of obfuscation.

c.) Share Capital Reduction

Some of the sub-funds were marked by undocumented loan waivers, unexplained write-offs, and complex assignments lacking clear links to genuine financing. In one of the sub-funds, a share capital reduction was used to settle an outstanding loan and enable a redemption request to proceed. While legally permissible, this approach warranted closer scrutiny, given that alternative, more transparent methods could have been availed of to achieve the same outcome.

d.) Related Party Transactions and Complex Group Restructuring

In the case of another sub-fund, a group restructuring was carried out, with the underlying transaction being considered as a related-party transaction, this since the involved party, who was also the underlying investor of the same sub-fund, acted on both sides, transferring assets had been originally invested to a trust in which he held a beneficial interest, without receiving any consideration. Although the transaction was presented as a related-party arrangement, the rationale provided by the auditor was vague. As such, the Committee stressed that, the appointed auditor was expected to assess the underlying purpose of such restructuring rather than dismiss concerns solely because related parties were involved. Even if the restructuring made economic sense, the auditor was required to obtain further information and documentation to properly understand its rationale, the ancillary intra-group movements, and how these transactions aligned with the broader financial behaviour of the customer.

e.) Frequent Liquidations

Numerous entities within the sub-funds were liquidated shortly after executing significant high-value transactions. This pattern raises concerns of potential asset stripping, which in the context of AML/CFT may be a technique used to obscure the origin or destination of funds, thus hindering the traceability of financial flows. The timing of these liquidations—particularly key entities that were wound up immediately following the restructuring and subsequent share disposal—further amplifies the need to apply further scrutiny in light of the heightened AML/CFT risks.

f.) Lack of Documentation

Across several sub-funds, significant documentation deficiencies were identified. The auditor failed to obtain adequate records explaining the purpose of loans, the role of third parties, or the nature of relationships between counterparties, resulting in weak transparency across these structures. Crucial information relating to loan receivables was not disclosed, and due diligence on third parties was missing.

The Committee also noted retroactive amendments to redemption notices, further compounding concerns. Taken together, these gaps made it impossible to clearly understand the rationale behind transactions or to determine whether they were legitimate or potentially suspicious.

g.) Redemption Issues

Redemption processes across the sub-funds were delayed and inconsistent. In one case, shares were redeemed four years following the redemption request; in another case, shares were redeemed in mid-2022 but were only reflected as leaving the fund with no assets in mid-2023. These issues were further compounded in the same sub-fund by conflicting explanations regarding the disposal of its sole investment. A letter issued in June 2023 stated that an agreement to sell all underlying assets had been entered into in May 2022, yet the relevant shares had in fact been transferred out in January 2022—five months earlier. The letter also claimed that the sub-fund held no assets as of May 2022, despite being issued more than a year after all investors had already redeemed, with no clear purpose or audience.

Such delays, contradictory timelines, and retrospective explanations undermine the reliability of reporting and raise significant AML/CFT concerns. Inconsistent recognition of redemptions and unclear asset-transfer narratives can obscure fund flows, hinder the tracing of investor activity, and create opportunities for the layering or concealment of illicit proceeds, thereby materially impairing transparency and effective ML/FT risk mitigation.

h.) Sudden Fluctuations and Inconsistent Valuation

Significant fluctuations in the sub-funds' asset valuations were noted. By way of examples, one of the companies was valued at over half a billion USD in one year and dropped to nil next year, then was sold for almost one million USD after a failed sale attempt at USD 100 million. Likewise, another company's valuation rose from USD 150 million in 2018 to nearly USD 500 million by 2021, before being transferred for no consideration.

i.) Significant Unexplained Transactions and Omission of Key Financial Information

One of the sub-funds recorded a transaction worth tens of millions of dollars between two companies that was not reflected in the financial statements. The transaction appeared entirely paper-based, with no evidence of cash movement, raising serious concerns about its legitimacy and the potential for artificial value inflation. The Committee noted that the omission of such a material transaction from the financial statements, combined with its paper-based structure and complex layering, suggested possible attempts to obscure or misrepresent the true nature of the activity. In particular, a USD 40 million loan facility was routed through a number of paper-based transactions effected on the same day and involving different entities situated in different jurisdictions (some of which were also non-EU). These paper-based transactions, which included deeds of assignment and subsequent write-offs, ultimately resulted in having the original debtor becoming a creditor.

j.) Customer Behaviour and Information Gaps

The customer entity's reluctance to provide complete and timely information and the urgency with which services were requested, significantly hindered the proper understanding of risk exposure and raised suspicions about intent. The Committee found it particularly concerning that, during the examination, serious doubts arose regarding the accuracy and sufficiency of the details provided. It emphasised that the customer's behaviour, marked by a lack of cooperation and limited participation in due diligence, should itself have been treated as a red flag.

k.) Adverse Media on One of the Underlying Investors

Adverse media from on one of the underlying investors and beneficial owner of the sub-funds, including allegations of bribery, political affiliations, proxy ownership, and opaque offshore dealings, significantly elevated the customer's risk profile and warranted heightened scrutiny. Despite the volume and seriousness of these reports, the auditor failed to document how such concerns were assessed, addressed, or mitigated during the audit engagements.

In this case, the reports originated from credible, independent sources, persisted over a prolonged period, and involved serious allegations of corruption and misconduct. The appointed auditor was expected to conduct and document a thorough analysis of this information, rather than dismiss it without adequate consideration.

Conclusion

In conclusion, the Committee determined that the auditor failed to obtain sufficient information or conduct appropriate additional inquiries to understand the rationale and legitimacy of the complex structures, the associated high-value transactions, material fluctuations in the valuation of assets and of shares, unexplained write-offs or waivers of loans and the liquidation of entities following the carrying out of high-value transactions. This failure was particularly serious given the clear potential for such arrangements to obscure fund flows, undermine transparency, and conceal the true nature and economic substance of the transactions, thereby raising material concerns regarding legitimacy and the true financial position of the sub-funds. The Committee emphasised that the auditor was required to apply heightened diligence, supported by sufficient and reliable documentation, to fully understand the parties involved, assess the risks arising from the business relationship, and ensure that all material transactions were properly scrutinised and recorded. Ultimately, when considering all material red flags, reporting the customer and its transactional behaviour to the FIAU was necessary.

<u>The MLRO's AML Knowledge Deficiency – breach of Regulations 5(5) and 15(1) of the PMLFTR and Sections 5.1.1 and 7.1 of the IPs</u>

The compliance examination report revealed that at times, the auditor, as the MLRO of his business, held a limited understanding of certain AML/CFT obligations, as evidenced during meeting and interviews conducted as part of the compliance examination. This shortcoming had a collateral impact on the ability of the auditor to fulfil his regulatory responsibilities in an effective manner.

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

After taking into consideration the above-mentioned findings, the Committee proceeded to impose an administrative penalty of €13,792 for the breaches identified in relation:

- Regulations 7(2)(a) and 11(9) of the PMLFTR and Sections 4.5.1 (a) and 4.5.2 of the IPs
- Regulation 15(3) of the PMLFTR and Section 5.5 of the IPs

In arriving at the final amount of the administrative penalty to impose, the Committee took into consideration a range of aggravating and mitigating factors. The Committee could not stress the importance of the AML/CFT obligations breached, together with the overall seriousness of the findings identified and their material impact. Specifically, the Committee noted that the inadequate transaction monitoring and external reporting measures undertaken by the auditor could have led to the unintentional facilitation of ML/FT. The Committee further considered the substantial transactional activity undertaken by the customer which totalled in millions, further aggravating the ML/FT risks exposed to. Moreover, the Committee took into account the nature, size and operations of the auditor's activities, and evaluated how the services provided as well as the AML/CFT controls the auditor in place or lacked may have impacted the local jurisdiction as a whole.

More positively, as part of reaching its final decision, the Committee took note of the auditor's commitment towards updating and enhancing his AML/CFT processes, as well as the remedial actions that he has initiated or implemented. Further to this, the Committee factored in the level of cooperation exhibited by the auditor throughout the entire process, highlighting the very good levels of cooperation during the compliance review with the supervisory officials. Lastly, the Committee ensured that the administrative penalty imposed is effective, dissuasive and proportionate to the failures identified and the ML/FT risks that were perceived during the compliance examination.

The administrative penalty hereby imposed is not yet final and may be appealed before the Court of Appeal (Inferior Jurisdiction) within the period prescribed by the applicable law. It shall become final upon the lapse of the appeal period or upon final determination by the Court.

Key Take-aways

- In line with Section 4.5.2 of the IPs, subject persons are required to implement an effective and adequate transaction monitoring programme. This programme must enable them to identify behaviours or transactions that deviate from the usual pattern, do not align with the customer's profile, or otherwise fall outside what is normally expected. Such transactions must be questioned in further detail to ensure that their legitimacy and purpose are properly understood.

  To better understand the operations and transactions of customers, the subject person is expected to scrutinise, document, and assess whether these transactions make business and economic sense. This involves evaluating not only the flow and structure of the transactions but also their underlying rationale. Where agreements or deeds are involved, the subject person must go beyond a formal review and ensure that the purpose and legitimacy of the same are clearly understood and substantiated. This level of inquiry is essential to determine whether the transactions are genuine, commercially justified, and aligned with the customer's profile, or whether they raise concerns that warrant further investigation.

  When dealing with funds, subject persons must ensure that they adequately scrutinise and are satisfied with the level of information obtained and maintained. At the subscription stage, this requires a thorough understanding and examination of both the source of wealth and the source of funds, so that the legitimacy of the subscription can be properly assessed. Similarly, when redemptions occur, subject persons are expected to question and understand the rationale behind them, ensuring that such transactions are consistent with the customer's profile.

In addition, subject persons should critically assess the valuations applied to the fund's underlying assets, both at the outset and on an ongoing basis. Valuations must be reasonable, supported by appropriate evidence, and aligned with the economic reality of the investment. Material or unexplained fluctuations in valuation should trigger enhanced scrutiny, as such movements may indicate attempts to artificially inflate asset values, disguise losses, or facilitate ML/FT through the manipulation of reported performance.

As emanating from Section 4 of the IPs – Part II for Auditors and Accountants, while it is acknowledged that auditors do not themselves carry out transactions on behalf of their customers, the audit process necessarily involves examining the customer's activities and transactions on a sample basis to determine whether the financial statements present a true and fair view in accordance with the applicable accounting framework. In this context, auditors should also take into account the knowledge and information obtained from previous audits performed on the same customer. Doing so enables them to compare yearly transactions and overall activity, and to assess whether the current cycle is consistent with prior periods or whether deviations exist that warrant closer scrutiny.

- When determining whether an STR should be submitted to the FIAU, the subject person must take into account all identified red flags in a holistic manner and assess the level of concern they present when considered together. It is important to recognise that the presence of adverse media relating to a customer does not, on its own, automatically trigger the obligation to file an STR. Instead, adverse media should be factored into the broader analysis of the customer's risk profile.

  Such information must be evaluated alongside other data held on the customer and matched against the customer's activity and behaviour within the business relationship. This balanced approach ensures that adverse media is not viewed in isolation but is considered in the wider context of transactional patterns, customer conduct, and the overall risk assessment, thereby supporting a more accurate determination of whether an STR is warranted.

05 January 2026