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:

2 April 2026

RELEVANT ACTIVITY CARRIED OUT:

Collective Investment Scheme

SUPERVISORY ACTION:

Onsite compliance examination carried out in 2023

DETAILS OF THE ADMINISTRATIVE MEASURES IMPOSED:

Remediation Directive in terms of Regulation 21(4)(c) 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 Section 3.5 of the FIAU Implementing Procedures – Part I (the IPs)

REASONS LEADING TO THE IMPOSITION OF THE ADMINISTRATIVE MEASURE:

<u>Customer Risk Assessment (CRA) – breach of Regulation 5(5)(a)(ii) of the PMLFTR and Section 3.5 of the IPs</u>

During the compliance examination, it transpired that two CRAs are carried out for each customer file – one by the Company and another by the Fund Administrator to which the CRA process has been outsourced. Shortcomings were identified in relation to both types of CRAs, as outlined below:

- CRA conducted by the Fund Administrator: This CRA consisted of a set of "yes" or "no" questions, with an overall risk rating (low, medium or high) assigned to each customer. However, the risk assessment did not explain how the responses to each of these questions led to such risk rating. Moreover, certain questions were overly generic and not tailored to the specific type of customers serviced by the Company, namely regulated entities.
- CRA conducted internally by the Company: Although it was noted that this CRA made reference to the four risk pillars, i.e., customer risk, geographical risk, product/service/transaction risk,

and interface/delivery channels risk, such a risk assessment was considered overly generic and lacking sufficient granularity. For example, with respect to customer risk, the CRA did not include a number of key factors, such as the main customer categories serviced. Similarly, in relation to geographical risk, the CRA did not assess whether the customer had links to jurisdictions other than the one in which it is regulated. Furthermore, no meaningful consideration was given to the remaining two risk pillars, as these were deemed by the Company as being non-applicable in the context of the Company's business activities, resulting in a lack of supporting detail within the assessment.

In its deliberations, the Committee emphasised that a fundamental cornerstone of the CRA process, in line with Section 3.5 of the IPs, is the consideration of all four risk pillars. Therefore, the CRA must incorporate risk factors and considerations encompassing each of such risk pillars. Additionally, the subject person is to ensure that the CRA undertaken on the customer is adequate and supported by a clear rationale underpinning the final risk rating assigned, an element which is currently missing from the CRA completed by the Company.

Adding to this, the Committee highlighted the fact that there is no legal requirement emanating from the PMLFTR or the IPs for subject persons to maintain both an internal CRA and a separate CRA prepared by the third party to which the CRA process is outsourced, such as a Fund Administrator. That said, there is nothing inherently wrong with a customer being subject to a risk assessment by both the Company and its Fund Administrator in tandem. What is important, however, is that that the Company ultimately remains responsible for the proper implementation of the CRA. In the event of any divergence in risk ratings between the Company's CRA and that of the Fund Administrator for a given client, the risk assessment of the Company must prevail.

Lastly, a further issue identified during the compliance examination is that the Company does not have a documented CRA methodology which outlines the rationale used to determine the overall money laundering/funding of terrorism (ML/FT) risk posed by a customer, as well as how each risk factor contributes to the client's overall risk rating. Consequently, it is not possible to adequately assess whether the risk rating awarded to a specific customer is adequate and truly reflective of the risk exposure presented by the same.

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

In view of the breach identified in relation to Regulation 5(5)(a)(ii) of the PMLFTR and Section 3.5 of the IPs, the Committee proceeded to serve the Company with a Remediation Directive in terms of Regulation 21(4)(c) of the PMLFTR.

In reaching its decision regarding the administrative measures to impose, the Committee considered all the information made available by the Company, both during the compliance examination, as well as through the representations submitted. Despite emphasising the significance of the Company's failure to ensure full compliance with its AML/CFT obligations at law, the Committee highlighted that there were several mitigating factors which led to the sole imposition of a Remediation Directive rather than combining the same with an administrative penalty. Notably, the Committee took into account that, although the Company did not have a documented CRA methodology in place, it was, at a minimum, still risk assessing its customers, albeit the CRAs in place were considered rudimentary and in need of improvement. Consideration was also given to the fact that the shortcomings identified during the compliance examination were essentially limited to a single obligation, namely the CRA. While not detracting from the importance of this obligation, it indicates that there was no total disregard

by the Company towards its obligations more generally. Moreover, even though this deficiency does have an impact on the Company's operational framework, its impact on the sector within which the Company operates, and on the local jurisdiction as a whole, is deemed to be more limited. Further to the above, the Committee also factored in the nature, size and operations of the Company as well as the level of cooperation exhibited by the Company throughout the whole process. Lastly, the Committee ensured that the administrative measure imposed is effective, dissuasive, and proportionate to the identified failure and the perceived ML/FT risks.

By means of the Directive, the Company is expected to take the necessary remediation to ensure that it has a sound understanding of the risks surrounding its operations and has implemented sufficient controls to mitigate such identified risks. Ultimately, the main aim of this Directive is for the FIAU to ascertain that the Company enhances its AML/CFT safeguards and undertakes the required remedial actions to attain full compliance with its AML/CFT legal obligations emanating from the PMLFTR and the IPs. The Company is being directed to remediate the identified breach by implementing a number of remedial actions, including but not limited to the following:

- Establishing a formally documented CRA methodology, duly approved by the Board of Directors.
- Ensuring that a consistent approach is adopted when carrying out the CRA, which is based on the four risk pillars, underpinned by adequate risk factors and considerations for each pillar, and includes a clear explanation of the rationale behind the determination of the final risk rating.
- Re-assessing the current customer base based on the updated CRA methodology, ascertaining that all active customers are assigned a risk rating reflective of their ML/FT risk.

The Directive served on the Company shall ensure 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 Take-aways

- In line with Section 3.5.1 of the IPs, a CRA needs to be conducted whenever a new business relationship is to be entered into or an occasional transaction is to be carried out. This requirement applies irrespective of the type of customer involved, and therefore, subject persons cannot automatically classify certain categories of customers under a specific risk rating. For instance, it is not permissible for subject persons to assign a low risk rating to certain clients because they are generally perceived to present a lower level of interest risk, such regulated or listed entities. Accordingly, in such cases, the normal CRA process must be undertaken.

- In achieving the objective of understanding the threats and vulnerabilities to which it is exposed through its customers, it is important that the subject person considers those areas from which risk may manifest, essentially consisting of the four risk pillars mentioned in Section 3.5.1(a) of IPs, namely customer risk, geographical risk, product, service and transaction risk, as well as interface or delivery channels risk. The customer's reputation, nature, and behaviour should also be given due consideration. Under each of these risk pillars, adequate risk factors and considerations should

be assessed to enable a proper evaluation of risk, with this analysis ultimately feeding into the client's overall risk score and corresponding risk rating.

- The CRA methodology, which is an integral component of any subject person's AML/CFT policies and procedures, need to be properly documented. Indeed, the presence of a methodology underpinning the CRA framework, which clearly explains how the CRA is to be undertaken in practice, which risk factors and considerations are to be evaluated under each risk pillar, and how these ultimately influence the determination of the final risk rating, is critical. This is because, without such a methodology, there would be a lack of standardisation and objectivity in the assessment of customers, potentially leading to situations where different individuals carrying out the same CRA may arrive at different conclusions.

2 April 2026