



FIAU

Financial
Intelligence
Analysis Unit
Malta

The FIAU's Settlement and Enforcement Process – Training Sessions

Questions and Answers Document

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Disclaimer

This document contains answers to a selection of questions raised by participants during the Q&A sessions held across two training sessions on [the FIAU's Settlements and Enforcement Process](#), organised by the Financial Intelligence Analysis Unit (FIAU) on 21 April 2026.

Any further queries relating to the content of this document may be directed to: enforcement@fiaumalta.org.

List of Abbreviations

Abbreviation	Full Term
AML/CFT	Anti-Money Laundering/Combatting the Funding of Terrorism
CBAR	Centralised Bank Account Register
CMC	Compliance Monitoring Committee
CO	Compliance Officer
ENL	Enforcement Notice Letter
FIAU	Financial Intelligence Analysis Unit
IPM	In-Person Meeting
MLRO	Money Laundering Reporting Officer
ML/FT	Money Laundering and Funding of Terrorism
PB	Potential Breaches
PMLA	Prevention of Money Laundering Act (Chapter 373 of the Laws of Malta)
PMLFTR	Prevention of Money Laundering and Funding of Terrorism Regulations (Subsidiary Legislation 373.01)
Q&A	Questions and Answers
SMO	Senior Managing Official
SP	Subject Person

Introduction

Following recent legislative amendments introduced through [Legal Notice 82 of 2026](#) and [Legal Notice 83 of 2026](#), which respectively amended the Prevention of Money Laundering and Funding of Terrorism Regulations (PMLFTR) and the Centralised Bank Account Register (CBAR) Regulations, the FIAU organised dedicated training sessions focusing on the FIAU's enforcement process and the Settlement Agreement Policy.

The FIAU's [Settlement Agreement Policy](#) and [Enforcement Guide](#) were issued to provide clarity on the enforcement lifecycle, administrative measures, considerations, sanctions calculation methodology, and the operation of settlement mechanisms within the revised regulatory framework.

This Q&A document has been prepared to address questions that arose during the session but remained unanswered. It is intended to supplement the guidance provided during the training and to assist subject persons in better understanding the FIAU's enforcement approach following the recent legislative changes.

Q&A

The Enforcement Process

Administrative penalties

1 What is the scope and application of periodic penalty payments?

The periodic penalty payment is an administrative measure within the FIAU's enforcement toolbox. It is a sanction imposed by the FIAU that accrues over time in line with Regulation 21 of the [PMLFTR](#).

Periodic penalty payments are designed to address ongoing or current non-compliance and to incentivise immediate remediation where Anti-Money Laundering/Combating the Funding of Terrorism (AML/CFT) deficiencies persist. Accordingly, periodic penalties are not intended to sanction past failures, but rather to serve as a compliance-driving tool, ensuring that deficiencies do not remain unaddressed due to delay, indecision, or lack of prioritisation by the Subject Person (SP).

[The Enforcement Guide](#) explicitly recognises that these penalties may be imposed as a stand-alone administrative measure or in addition to a one-time, fixed administrative penalty. Unlike fixed penalties, periodic penalties are dynamic in nature and continue to accrue until a specified condition is met.

The Compliance Monitoring Committee (CMC) may determine that a periodic penalty is necessary where it believes that continued non-compliance gives rise to material Money Laundering and Funding of Terrorism (ML/FT) risk exposure. Thus, periodic penalties are imposed to encourage the SP to implement the necessary remedial measures within the shortest timeframe possible, thereby ensuring timely compliance and reducing the risk of ongoing breaches.

When imposing a periodic penalty, the CMC takes a number of considerations into account. It determines the period to be used for calculating the final penalty, as well as the date from which the penalty will start to accrue. The CMC also specifies the condition that must be met for the penalty to stop accruing or be paused. Finally, it determines how the SP must notify the FIAU that the condition has been fulfilled.

In determining the value of a periodic penalty, the CMC assesses, among other things, the seriousness and impact of the breach determined, the reasons for non-compliance, the SP's willingness and commitment to remediate, whether the SP has gained financially or third parties have lost financially due to delayed compliance, and the financial strength of the SP. This ensures that the penalty remains proportionate, effective and dissuasive, while still targeted at achieving remediation.

Periodic penalties are a forward-looking enforcement tool designed to address ongoing non-compliance, drive timely remediation and mitigate and reduce ML/FT risks where deficiencies persist.

Enforcement Correspondence

2 What is an enforcement notice letter (ENL)?

The ENL is a newly introduced form of communication within the Enforcement Process, as set out in the [Enforcement Guide](#). It is issued once a case is escalated to Enforcement, the CMC is notified of the case, and the CMC is formally constituted.

The ENL marks the formal commencement of the enforcement phase and confirms that enforcement proceedings have begun. The letter includes details of the CMC members assigned to the case, indicative timeframes for the enforcement process, and information regarding access to the case documentation folder. It also informs the SP of its right to legal assistance during the enforcement phase. This letter aims to provide additional transparency on the enforcement process and to inform the SP of the case's progress.

Procedural fairness, participation and appeals

3

The [PMLFTR](#) stipulates that administrative penalties may be imposed on individuals and identifies four distinct categories for this purpose, including key AML function holders. Who would be considered to fall within this category?

In cases where a breach is considered serious, repeated or systematic and is committed by an SP that is a body or other association of persons, the FIAU may, in addition to any penalty imposed on the SP, also impose an administrative penalty on certain key officials of the SP in their personal capacity.

This may occur where it is established that these key officials, whether intentionally or through gross negligence, were aware of inadequate AML/CFT controls and failed to act with the requisite diligence or otherwise caused or contributed to ineffective controls.

Such key AML function holders may, include the Money Laundering Reporting Officer (MLRO) and the Compliance Officer (CO), and may extend to other individuals holding senior executive management positions, directors or other individuals holding similar functions or equivalent roles.

4 **If an MLRO has identified certain AML/CFT failings and formally raised these to the Board or one of its committees, would this result in potential personal liability being attributed to the Board?**

Senior Managing Officials (SMOs), including members of the Board and senior executive management, may be subject to personal liability where, through an act or omission, intentional conduct or gross negligence, they cause or contribute to AML/CFT breaches. This includes situations where SMOs fail to exercise adequate oversight, fail to act on known deficiencies, or allow breaches to persist despite being aware of them.

Where the MLRO identifies AML/CFT failings and formally escalates these to the Board or one of its committees, the escalation constitutes a critical governance safeguard. However, where the Board (or relevant committee) is aware of the AML/CFT failings or of other material AML/CFT concerns and fails to take appropriate and timely remedial action, responsibility in this regard does not rest solely with the MLRO.

Hence, once issues have been properly raised by the MLRO, the responsibility shifts to the Board/committee(s) to ensure that corrective actions are implemented effectively and within a reasonable timeframe. A failure by the Board/committee(s) to act on known failings may therefore expose Board members to personal administrative measures, as it would indicate ineffective governance, oversight and disregard for AML/CFT obligations.

The CMC assesses responsibility on a case-by-case basis, taking into account whether the Board was sufficiently and genuinely informed, whether remedial actions were taken or meaningfully attempted, whether remediation was unjustifiably delayed, and the overall role and conduct of the individuals concerned.

5**At which stage of the enforcement process is the SP allowed to participate?**

Once a Potential Breaches (PB) Letter has been issued, the SP is afforded a number of opportunities to represent itself at different stages of the process, including, the right to:

- Submit written representations following the issue of the PB letter, supported by relevant documentation and annexes where applicable. The PB letter will also provide access to the case documentation folder to the SP;
- Request an in-person meeting (IPM) with the CMC to elaborate on its written representations orally following the submission thereof;
- Submission of additional written representations following the IPM, to formally record and expand upon points raised during the meeting.

6**If the FIAU identifies breaches by a SP that occurred in the past but have already been remediated, would enforcement action and penalties still be applied?**

Each situation is determined on a case-by-case basis, the CMC reaches its conclusions following an evaluation of the full facts of the case. However, it must be noted that the fact that breaches were remediated prior to the FIAU's final decision does not, in itself, preclude the imposition of enforcement action or administrative penalties. Nevertheless, any proactive remediation undertaken by a SP following a compliance examination are taken into consideration by the CMC. Remediation is considered as a mitigating factor when determining the appropriate administrative measure and, where applicable, the amount of any administrative penalty.

The Committee ensures that any penalty imposed is proportionate, effective and dissuasive, taking into account all relevant circumstances of the case, including the seriousness, duration and impact of the breaches, as well as the SP's conduct both before and after the compliance examination, including remediation efforts.

Sanctions Calculation Tool

7

How is the sanctions calculation tool designed and used to determine administrative penalties?

The FIAU's sanctions calculation tool has been developed as an internal decision-support mechanism to ensure consistency, proportionality and compliance with the applicable legislative framework when determining administrative penalties. The tool, which has been calibrated and tested, is not intended to function as an automatic or purely mathematical formula, but rather as a structured aid that brings together the various factors the CMC is required to consider when assessing breaches of AML/CFT obligations.

The FIAU has chosen to make public the key considerations that inform the sanctions calculation tool, as set out in the [Enforcement Guide](#). The tool is built on three (3) pillars:



Pillar 1 addresses the gravity and impact of the breaches and assesses the breach per obligation whilst also considering other elements such as breach seriousness, duration, whether the breach was systematic from a qualitative point of view and repetitive from a quantitative perspective amongst others. The base amount is calculated at Pillar 1.



Pillar 2 then considers the SPs' regard towards its AML/CFT obligations. Other considerations are also taken at this stage which act as mitigating and aggravating factors

- Examples of mitigating factors include: if the SP has remediated, if the SP's senior management has taken all the necessary measures to prevent the breach and if the SP was transparent and brought the breach to the attention of the FIAU.
- Examples of aggravating factors include: if the SP has not remediated and has not committed to resolve, if the SP has not remediated but committed to resolve, if the SP is uncooperative, any misconduct and if there are any repeated breaches.



Pillar 3 then focuses on the size and sector of the SP. Here, the tool considers the financial strength of the SP through various metrics (including but not limited to) its turnover or income, the number of customers and customer monies held.



Other things taken into consideration may also be the following:

- The profit earned or losses avoided by the breaches identified.
- The impact to third parties.
- Actions taken by other authorities.

All the above considerations ensure that the administrative penalty imposed is proportionate, effective and dissuasive. The CMC also has the discretion to override the administrative penalty should it deem it necessary to ensure that a proportionate penalty is imposed.

The tool operates within the parameters set by the applicable legislative framework, including maximum penalties and supports internal consistency across enforcement outcomes while preserving the FIAU's discretion to assess each case on its own facts and circumstances.

8

How does the sanctions calculation tool take into account the duration and nature of breaches?

The sanctions calculation tool explicitly incorporates the duration as a distinct factor under Pillar 1 (gravity and impact) to gauge how long a breach persisted before detection or resolution. The tool differentiates between breaches that are short-lived and those that persist for a prolonged period. For example, breaches that subsist for a material length of time are treated as significantly more serious than breaches that are quickly identified and remedied, such as those lasting only a few months. The longer a breach remains unaddressed, the greater its impact on the effectiveness of the SP's AML/CFT framework and on the wider jurisdiction.

The tool also distinguishes between isolated breaches, systematic failures and repetitive infringements. Systematic breaches are those arising from structural weaknesses in systems and/or controls, rather than one-off errors. These point to broader deficiencies in how AML/CFT obligations are implemented and are therefore treated more seriously. Repetitive breaches, on the other hand, relate to the recurrence of the same or similar failures over time, particularly where such failures had been previously identified and should have been remedied. Repetition is an explicit aggravating factor in the tool, as it indicates that prior remedial action was ineffective or unsustainable.

In assessing seriousness, duration is assessed together with other elements, such as qualitative and quantitative nature of the breach, the importance of the obligation breached and the impact on the SP, the group, the jurisdiction, or the European Union.

As previously outlined, the sanctions calculation tool serves as a guiding framework rather than a rigid formula. While it provides structured input on duration, repetition and seriousness, the final determination of the administrative penalty remains at the discretion of the CMC, which must always ensure that the outcome is effective, proportionate and dissuasive, and fully aligned with the specific facts and circumstances of the case.

Q&A

Settlements

Eligibility and Timing

9 Will settlement be offered to all SPs regardless of the findings, and if not, what factors would lead the FIAU to pursue enforcement action rather than a settlement process?

As also outlined in [The Enforcement Guide](#), cases where material shortcomings are identified that undermine the SP's AML/CFT framework, the case is escalated to the FIAU's Enforcement Section. All cases will be presented to the CMC which, on a case-by-case basis, will assess and determine whether a settlement agreement may be offered or not. The decision as to whether to offer a settlement agreement remains entirely within the discretion of the CMC.

In line with Regulation 22 of the [PMLFTR](#), and as further explained in the [Settlement Agreement Policy](#), the CMC shall not enter into a settlement agreement in cases where this is not deemed to be in the public interest. The Policy goes on to list a number of non-exhaustive circumstances where the CMC shall not enter into a settlement agreement. In addition, Regulation 22(2) of the [PMLFTR](#) prohibits the Unit from entering into another settlement agreement with the same SP if that SP has entered into a settlement agreement with the FIAU within the preceding two (2) years. This two-year period is calculated from the date on which the corrective actions under the previous settlement agreement were fully completed.

Notwithstanding the above, the policy provides for two exceptions. These apply where:

- (i) the first settlement agreement relates to breaches identified following a compliance examination and the second settlement agreement relates to operational breaches (or vice versa) or
- (ii) both settlement agreements relate to operational breaches, if they arise from different obligations.

In all cases, no more than two settlement agreements may be entered into within the two-year period.

Settlement is, therefore, not offered to all SPs and is entirely discretionary. The [policy](#) states that the proposal of a settlement agreement is always at the discretion of the FIAU, acting through the CMC and depends on a case-by-case assessment.

The CMC will not offer settlement where this would not be in the public interest, including the following non-exhaustive list:

- Very serious and/or systematic breaches exposing the jurisdiction to significant ML/FT risks.
- Significant governance failures or senior management involvement or obstruction.
- Prior serious, repeated or systemic breaches where remediation has not been effectively undertaken.
- Uncooperative behaviour during enforcement or compliance examinations.
- The SP was found in serious, repeated and/or systematic breach of the same obligations in the preceding five (5) years, and the SP had been found to not have taken concrete remedial action.

In essence, settlement is an enforcement tool but not a default option. It will only be considered where the circumstances of the case justify it in line with public-interest considerations.

Negotiation and structure

10

What is the difference between a Settlement Agreement and an out-of-court settlement agreement since the conditions mentioned are the same?

The possibility of an out-of-court settlement, as set out in Section 3 of the [Settlement Agreement Policy](#), is introduced through a transitional provision. This provision applies only to cases where an appeal was already pending at the time the legal notice introducing the settlement framework entered into force, and where the case would have been eligible for settlement under Regulation 22 of the [PMLFTR](#) had the framework been in place when the penalty was imposed.

This transitional provision applies for a period of six (6) months from the date of entry into force of the relevant legal notice. This process operates as a transitional mechanism to resolve enforcement actions that were already in litigation. It requires the SP to accede to the FIAU's earlier determinations, waive or withdraw appeal proceedings, pay the reduced penalty and, where applicable, carry out (or complete) any required remediation.

On the other hand, a Settlement Agreement, as set out in Regulation 22 of the [PMLFTR](#) and Section 2 of the [Settlement Agreement Policy](#), is an administrative measure which applies to cases before enforcement action is finalised. Its primary objective is to provide the FIAU and the SP a means of achieving an early and mutual settlement of AML/CFT breaches based on conditional agreement to remediate and achieve compliance with one's legal obligations.

11**Are there any elements of a settlement agreement that are not open to discussion?**

The Policy makes clear that, while procedural and practical aspects may be discussed, the substantive enforcement determinations are fixed. In particular, the following are non-negotiable:

- (i)** The determination of breaches: The nature, seriousness and materiality of the breaches, as determined by the CMC, are final. A SP must provide an unconditional admission of the breaches, in writing, as a precondition for settlement.
- (ii)** The quantum of the administrative penalty: Both the original penalty and the reduced penalty following settlement are determined solely by the CMC. No discussions or negotiations may take place on the full administrative penalty, the reduced amount, or the percentage reduction applied.
- (iii)** Waiver of appeal and legal challenge: Settlement requires the SP to renounce all appeal rights and any other form of challenge or action against the FIAU in relation to the decision.
- (iv)** Requirement for remediation: Remediation is a fundamental and indispensable element of settlement.
- (v)** Publication: Publication of the settlement agreement is mandatory under Article 13C of the [PMLA](#). While the content of the publication is discussed with the SP, the Policy is explicit that the SP has no right to dictate what is included or excluded, and that the final content remains entirely within the FIAU's prerogative.

Discussions during settlement focus mainly on the structure and feasibility of the remediation action plan, the implementation timelines, practical monitoring and follow-up arrangements, and the factual narrative of remediation and cooperation reflected in the publication, without limiting FIAU discretion.

Publication of settlements

12 Will settlements also be subject to publication?

Yes, all settlements will be published. Under Section 4 of the [Settlement Agreement Policy](#), the FIAU is required to publish a summary of any settlement agreement or out-of-court settlement agreement in line with Article 13C of [PMLA](#). Such publications are governed by the FIAU's [Policy and Procedures on the Publication of AML/CFT Administrative Penalties and Measures](#). Settlements are administrative measures and must continue to be effective, proportionate and dissuasive, while remaining subject to the same overarching publication framework.

With regards to publication, if the reduced penalty following settlement exceeds €50,000, the publication will be by name of the SP. In this regard, the €50,000 threshold is assessed on the reduced amount agreed through settlement, and not the original penalty. With regards to operational breaches, particularly those that fall below this threshold, publication may take place in an abridged statistical format. However, in cases where an operational breach exceeds the €50,000 threshold, the measure will be published in a stand-alone publication.

13 If settlements are to be published, will the SP be allowed to review the notice before it is published, and will the SP be allowed to suggest amendments to the publication?

According to Section 2.2 of the [policy](#), during the settlement process, specifically during the second settlement meeting, the FIAU and the SP discuss the contents of the publication to be issued on the FIAU's website. This discussion allows the SP to review the proposed notice and to provide input or suggest amendments. However, the policy is explicit that this discussion does not confer any right on the SP to dictate, impose or require changes. The final version of the publication remains entirely within the prerogative of the FIAU. It is important to note that the focus of the settlement publication notices is primarily on remediation measures and the SP's cooperation, rather than solely on punitive aspects.

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Questions on this document may be sent to:

enforcement@fiaumalta.org

Financial Intelligence Analysis Unit
Trident Park, No. 5, Triq I-Mdina,
Central Business District Birkirkara, CBD 2010

Telephone: (+356) 21 231 333

E-mail: info@fiaumalta.org

Website: www.fiaumalta.org