



FINANCIAL INTELLIGENCE ANALYSIS UNIT

Administrative Penalty 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 (Cap. 373 of the Laws of Malta) and in accordance with the policies and procedures on the publication of AML/CFT penalties established by the Board of Governors of the FIAU.

This notice provides select information from the FIAU's decision imposing the administrative penalty and is not a reproduction of the actual decision.

DATE OF IMPOSITION OF THE ADMINISTRATIVE PENALTY:

18 May 2018

SUBJECT PERSON:

MFSP Financial Management Limited

RELEVANT FINANCIAL BUSINESS CARRIED OUT:

Investment Services

LEGAL PROVISIONS / GUIDANCE BREACHED:

- Regulation 7(1)(c) of the Prevention of Money Laundering and Funding of Terrorism Regulations (PMLFTR) and Section 3.1.4 of the FIAU Implementing Procedures Part I;
- Regulations 7(1)(d) and 7(2)(a) of the PMLFTR, and Section 3.1.5 of the FIAU Implementing Procedures Part I; and
- Regulation 15(6) of the PMLFTR.

REASONS LEADING TO THE IMPOSITION OF THE ADMINISTRATIVE PENALTY:

This penalty is being imposed by the FIAU on MFSP Financial Management Limited (the Company) on the basis of the findings emanating from an off-site compliance examination conducted by the FIAU which focused on four (4) business relationships established by the Company.

1. Regulation 7(1)(c) of the PMLFTR and Section 3.1.4 of the FIAU Implementing Procedures Part I

The Company failed to gather sufficient information on the purpose and intended nature of the business relationships in question and to establish a comprehensive client business and risk profile of its customers.

The information obtained by the Company on its clients during the on-boarding process was considered to be generic. The procedures and forms used by the Company to obtain information which would enable the company to build a business and risk profile of their clients did not even enable the Company to identify or distinguish between customers who may be considered as high-net-worth individuals from those who receive an average annual income.

The FIAU also determined that the Company failed to obtain information on the anticipated level of the activity that was to be undertaken through the business relationships in question. The Company relied on clients' past investment activity which, in any case, did not contain the necessary details to be used as a yardstick of prospective activity in the course of the said business relationships.

The FIAU also determined and informed the Company that the concerns raised by the FIAU in the reviewed cases with regard to the Company's on-boarding procedures and the forms used are concerns that apply equally to any other business relationship that the Company established given that the shortcomings in question are of a procedural nature and consequently, such concerns are not solely limited to the cases reviewed.

2. Regulation 7(1)(d) and Regulation 7(2)(a) of the PMLFTR and Section 3.1.5 of the FIAU Implementing Procedures Part I

The Company failed to scrutinise transactions that were carried out through the business relationships in order to ensure that the transactions undertaken were consistent with the information the Company had available on the clients.

The Company held information which indicated that the clients' expected source and origin of the funds to be used in the business relationship would consist of savings or the sale of investments. However, it resulted that in certain transactions the origin of the funds deposited into the investment portfolios originated from third parties. In these circumstances, given that the actual source and origin of funds differed from the anticipated source and origin of funds as declared in the forms used in the client on-boarding process, the Company was expected to detect and query such discrepancy.

From the information provided by the Company to the FIAU when the Company was requested by the FIAU in November 2017 to provide all the documentation or information obtained by the Company in carrying out its ongoing monitoring obligations, including the scrutiny of transactions, it resulted that the Company had not detected and queried the above-mentioned discrepancy.

It was only when the Company submitted its representations and submissions made to the FIAU in January 2018 that the Company made available additional documentation to substantiate the reasons behind the third-party funding. However, the documentation provided by the Company contained very basic and generic information, as well as a number of discrepancies. The documentation therefore cast more doubts on the provenance of the funds instead of providing a reassurance that the transactions were legitimate and had an economic rationale. The FIAU determined that the Company did not enquire for more information on the relationship between the parties when this was called for, and the Company did not sufficiently understand and query its clients on particular transactions and on the supporting documentation which it received, and was satisfied with obtaining generic, basic, and weak documentation without having delved deeper. These concerns were further aggravated by the fact that publicly available information and allegations should have led the Company to intensely monitor the business relationships, including the transactions that took place through the business relationships.

The FIAU therefore determined that the Company's ongoing monitoring system and procedures which were applied in the reviewed cases were not robust enough and did not mitigate effectively the money laundering risks that the Company was exposed to when permitting the clients in question to receive funds directly into their investment portfolios from third parties.

3. Regulation 15(6) of the PMLFTR

The Company failed to submit a suspicious transaction report (STR) to the FIAU even though, on the basis of the information it held in its possession together with publicly available information, it had reasonable grounds to suspect that the transactions and/or its clients may be linked to proceeds of crime, money laundering or the funding of terrorism.

The Company had information which indicated that some of the transactions which took place through the business relationships did not match the Company's understanding of its clients' intended activities which the Company had obtained at on-boarding stage. This discrepancy, coupled with the dubious documentation received by the Company in relation to the transactions and relationships in question, together with publicly-available information, should have led the Company to submit an STR to the FIAU.

TOTAL VALUE OF ADMINISTRATIVE PENALTY:

Thirty Eight Thousand and Seven Hundred and Fifty Euro (€38,750)

14 June 2018