



FINANCIAL INTELLIGENCE ANALYSIS UNIT

Publication of AML/CFT penalties

Policies and Procedures

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FINANCIAL INTELLIGENCE ANALYSIS UNIT

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Introduction & scope

1. The Financial Intelligence Analysis Unit (“FIAU”) is required to publish the administrative penalties it imposes in exercise of its powers under the Prevention of Money Laundering and Funding of Terrorism Regulations (“PMLFTR”). This requirement was first introduced by virtue of Act III of 2015 which amended the Prevention of Money Laundering Act (“PMLA”) adding Article 13A.
2. The Board of Governors of the FIAU during its 136th meeting held on Wednesday, 27th May 2015, established the policies and procedures to be followed by the FIAU when publishing administrative penalties in accordance with the said Article 13A.
3. Act XXVIII of 2017, amending the PMLA, revised the provisions regulating the publication of administrative penalties which are now regulated by Article 13C of the PMLA. In terms of Article 13C the FIAU shall publish the administrative penalties it imposes in terms of the PMLFTR when such penalties become final and due, and where the amount of the penalty exceeds ten thousand Euros (€10,000). In accordance with the provisions of Article 13C the publication of administrative penalties shall be made in accordance with policies and procedures established by the Board of Governors of the FIAU.
4. The Board of Governors of the FIAU during its 166th meeting held on Friday, 22 December 2017, endorsed this document which constitutes a revised and updated version of the policies and procedures to be followed by the FIAU when publishing administrative sanctions and which takes into account the provisions of the new Article 13C of the PMLA.

Administrative penalties subject to publication

5. The FIAU is empowered to impose administrative penalties for failure by subject persons to comply with lawful requirements, orders or directives issued by the FIAU and for contraventions by subject persons of any provision of the PMLFTR, or of any procedures or guidance issued by the FIAU in terms of Regulation 17 of the PMLFTR.
6. The FIAU shall publish those administrative penalties which fulfil all the following criteria:

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- i. the total value of the administrative penalty exceeds ten thousand Euros (€10,000);
 - ii. the administrative penalty has become final and due; and
 - iii. the administrative penalty was imposed in relation to failures and/or contraventions that were identified by the FIAU or any other supervisory authority, on or after the coming into force of Act III of 2015.
 7. In case of an administrative penalty imposed by the FIAU in respect of multiple failures and/or contraventions, the total value imposed in terms of that administrative penalty shall be taken into account for the purposes of assessing whether the criteria envisaged under paragraph 6(i) is met.
 8. Administrative penalties shall be considered final and due where:
 - i. the administrative penalty is imposed and the 20 day time period stipulated under Article 13A of the PMLA elapses without any appeal being lodged; or
 - ii. the administrative penalty is appealed and the imposition of an administrative penalty is confirmed; or
 - iii. the administrative penalty is appealed, and the appeal is deserted or withdrawn.

Medium of publication

9. Penalties subject to publication shall be published on the FIAU website in such a manner that they are clearly visible and easily accessed by website users.

Information to be published

10. The information published shall include:
 - i. The identity details of the natural or legal person subject to the administrative penalty (i.e. full name, identification document number or registration number of the legal person or legal arrangement);
 - ii. The kind of relevant activity or relevant financial business carried out by the natural or legal person in respect of which the administrative penalty was imposed;
 - iii. Date of imposition of the administrative penalty;
 - iv. Where the administrative penalty is appealed, the date when the administrative penalty has become final and due;
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- v. The value of the administrative penalty imposed;
 - vi. A reference to the lawful requirement/s, order/s or directive/s issued by the FIAU that was not abided by or the legal provision/s or procedures that was contravened;
 - vii. A summary of the facts leading to the imposition of the administrative penalty; and
 - viii. Where the contravention is a serious, repeated or systematic one, a reference to that fact.

Timing of publication

11. Publication by the FIAU of administrative penalties in terms of Article 13C of the Prevention of Money Laundering Act and in accordance with these policies and procedures shall take place within not less than two and not more than six working days from the date when the imposition of the administrative penalty becomes final and due.

Period of publication

12. Published administrative penalties shall remain posted on the FIAU website for a period of five years from publication. Upon expiration of the five year publication period the publication notice shall be removed from the FIAU website.

Exemptions

13. Where the FIAU is of the view that the publication of an administrative penalty and related information mentioned in these policies and procedures would jeopardise the stability of financial markets or any on-going supervisory, analytical or investigative work, the FIAU may:
 - i. postpone the publication of that administrative penalty for as long as this necessity subsists; or
 - ii. publish the administrative penalty on an anonymous basis, in which case the FIAU may opt to publish the relevant personal data at a later date when the reasons for anonymising the publication cease to exist; or

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- iii. in the event that the options mentioned in the previous points (i) and (ii) above are considered to be insufficient in the circumstances, decide not to publish the administrative penalty imposed.

Revocation of previous policies and procedures

14. The policies and procedures on the publication of AML/CFT penalties approved by the Board of Governors of the FIAU on Wednesday, the 27 May 2015 shall be revoked and replaced by these policies and procedures.
15. The revocation of the policies and procedures approved by the Board of Governors of the FIAU on the 27 May 2015 shall not effect the validity of previous publications made by the FIAU in terms of those policies and procedures, which publications shall remain to be governed by those policies and procedures.