



FINANCIAL INTELLIGENCE ANALYSIS UNIT

Administrative Penalty Publication Notice

This notice is being published on an anonymous basis by the Financial Intelligence Analysis Unit (FIAU) in terms of Article 13C (2) (b) of the Prevention of Money Laundering Act (PMLA) as amended by Act I of 2020, which came into force on 7 February 2020, and in accordance with the policies and procedures on the publication of administrative measures established by the Board of Governors of the FIAU.

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:

15th May 2020

RELEVANT ACTIVITY CARRIED OUT:

Trustee Services/ Company Services Providers/ Administrators of Private Foundations

SUPERVISORY ACTION:

On-site Compliance Review carried out between July and August 2018.

DETAILS OF THE ADMINISTRATIVE MEASURE IMPOSED:

Remediation Directive in terms of Article 30D of the PMLA, as amended by Act I of 2020.

The FIAU's Compliance Monitoring Committee (CMC) issued a Remediation Directive on the subject person to take action and remedy the contraventions identified during the compliance review and to ensure that the actions planned to be taken by the subject person are implemented.

LEGAL PROVISION:

- Findings in relation to the obligation of implementing an adequate Customer Risk Assessment (CRA) as per Regulation 5 (5)(a)(ii) of the PMLFTR and Section 4.1.1 of the Implementing Procedures Part I¹.

REASONS LEADING TO THE IMPOSITION OF THE ADMINISTRATIVE MEASURE:

At the time of the on-site compliance review, although the Company had a documented CRA in place, it failed to document the rationale behind the risk classification of countries to which it had exposures to from on-boarding particular customers. The methodology and rationale are an essential part of the risk assessment as they ensure that the necessary considerations are included and that appropriate mitigating measures can be applied to the risks identified.

The Company had also started a project to identify gaps within their customer risk assessment measures and to take subsequent actions to remedy same. Since, at the time of the on-site compliance review this project was just in the process of being started, the FIAU shall also be monitoring and

¹ Now Section 3.5 of the Implementing Procedures Part I as last amended on 17th July 2019

following up on the progress achieved by the Company in relation to this project and the measures implemented for risk assessing customers.

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

In view of the findings identified from the compliance review, and as has been explained above, the CMC proceeded to serve the Company with a remediation directive.

The aim of this remediation directive is to direct the Company to take the necessary remedial actions and ensure that the aforementioned actions are indeed implemented. Furthermore, this Remediation Directive shall also ensure that going forward the Company is in a position to adhere to the AML/CFT obligations applicable to its operations. The Directive instructs the Company to make available all documentation and/or information necessary to attest that the remedial actions have been implemented in practice.

The remediation directive obliges the Company to make available:

- A status update of the project initiated by the Company in relation to enhancing the customer risk assessment as outlined in the Company's letter of representations;
- A document that illustrates any gaps that have been identified within the Company's CRA measures for assessing ML/FT risks and any changes that have been applied by the Company to mitigate the identified ML/FT risks;
- A document that specifies any changes and updates (if any) made to the Jurisdiction Risk Assessment within the Company's system;
- A copy of the assessments of a number of jurisdictions that the Company has carried out, together with the rationale behind such risk ratings;
- Information as to how the risk posed by High risk jurisdictions is being mitigated.

The FIAU may request for additional information or documentation and may also request for a meeting to be held in order to ensure that it is able to attest the implementation of the Remediation Directive and to ensure that the Company is being compliant with its anti-money laundering/combating the funding of terrorism legal obligations

In determining the appropriate administrative measures to impose, the Committee took into consideration the representations submitted by the Company as well as the remedial actions that had already been initiated by the Company in order to address shortcomings identified during the compliance review. The Committee also took into consideration the nature and size of the Company's operations, the overall impact of the AML/CFT shortcomings identified vis-à-vis the Company's own operations and also in relation to the local jurisdiction. The seriousness of the breaches identified together with their occurrence were also taken into consideration by the Committee in determining the administrative measures imposed.

Finally, the Remediation Directive reminds the Company that in the eventuality that the requested documentation and/or information is not made available within the stipulated timeframes, the Committee shall be informed of such default, for the possibility to take eventual action, including the potential imposition of an administrative penalty in terms of the FIAU's powers under Regulation 21 of the PMLFTR.

19th May 2020