



# FIAU Notice

## In Response to the FinCEN Files



The term FinCEN Files refers to a set of documents which were unlawfully disclosed from the Financial Crimes Enforcement Network (FinCEN). FinCEN is a bureau of the United States Department of the Treasury, which is responsible for collecting and analyzing information on financial transactions with a view to combating money laundering, terrorism financing and other financial crimes. FinCEN is the Financial Intelligence Unit of the United States. The information forming part of the FinCEN Files is primarily based on suspicious activity reports (SARs) received by FinCEN from reporting entities between the years 1999 and 2017.

A SAR is not necessarily an indication of money laundering or illicit activity. Nevertheless, the information contained in such SARs may trigger the need for scrutiny and further action.

The Financial Intelligence Analysis Unit (FIAU) is issuing this notice to subject persons to advise them of the implications of the information contained within the FinCEN Files and within connected media and investigative journalism articles, and of the FIAU's expectations in this regard. This notice also advises on the actions that may need to be taken by Maltese subject persons in terms of their anti-money laundering and counter funding of terrorism obligations.

# HOW DO THE FINCEN FILES AFFECT SUBJECT PERSONS IN MALTA?

SARS that have been unlawfully disclosed as part of the FinCEN Files, or media articles related thereto, may mention specific persons or entities as having been involved in a transaction or activity. Such persons or entities may be mentioned as a party to the transaction, or as the entity having processed a transaction, in such a way that gives rise to suspicion that the person or entity is or was involved in a criminal activity or illicit behaviour.



**There is a possibility that any person or entity so mentioned is connected to a local subject person, for instance as an existing or former customer, or as a counter party to a transaction which was facilitated by that subject person.**

**In such an eventuality, subject persons are reminded of their suspicious transaction reporting and ongoing monitoring obligations under the Prevention of Money Laundering and Funding of Terrorism Regulations (PMLFTR).**

**The FIAU expects any such subject persons to take the following steps:**

#### **Suspicious Transaction Reporting**

The subject person is expected to take steps to review that relationship and/or any relevant transactions that it may have processed, received or otherwise facilitated, to determine whether there are any grounds to suspect money laundering, funding of terrorism or proceeds of crime.

If a review does result in suspicion, subject persons are reminded of their obligation to promptly disclose information to the FIAU in terms of Regulation 15(3) of the PMLFTR.

#### **Customer Profile and Customer Risk Assessment**

When carrying out a review on the relationship in question, subject persons should also:

- 1) Assess the customer profile and determine whether it needs to be updated to reflect any relevant new information brought to light, and
- 2) Review the existing customer risk assessment and determine whether it needs to be updated and the resulting risk score adjusted.

#### **Enhanced Due Diligence**

The review of a customer's risk assessment may lead to an increase in the risk associated with a given customer or in additional risk factors coming to light, which would not have been previously considered.

Subject persons are therefore reminded of the requirement to carry out enhanced customer due diligence, including enhanced ongoing monitoring, in situations that pose a higher risk of money laundering or funding of terrorism.



For further guidance on the implementation of anti-money laundering and counter funding of terrorism obligations, subject persons and any interested parties are urged to familiarise themselves with the **FIAU Implementing Procedures Part I** and any other guidance documents published by the FIAU. These may be accessed on the FIAU website by clicking [here](#).

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Questions on this document or on the application of AML/CFT measures may be sent to **[queries@fiaumalta.org](mailto:queries@fiaumalta.org)**

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