Administrative Measure 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 (PMLA) 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 respective administrative measures and is not a reproduction of the actual decision.

DATE OF IMPOSITION OF THE ADMINISTRATIVE MEASURE:

27 April 2021

SUBJECT PERSON:

Tumas Gaming Limited

RELEVANT ACTIVITY CARRIED OUT:

Land Based Casino

SUPERVISORY ACTION:

On-site Compliance Review carried out in 2020.

DETAILS OF THE ADMINISTRATIVE MEASURE IMPOSED:

Administrative Penalty of €233,156 and Follow-Up Directive in terms of Regulation 21 of the Prevention of Money Laundering and Funding of Terrorism Regulations (PMLFTR).

LEGAL PROVISIONS BREACHED:

- Regulations 5(1) and 5(4) of the PMLFTR and Sections 3.3 and 8.1 of the IPs;
- Regulation 5(5)(a)(ii) of the PMLFTR and Section 3.5 of the IPs;
- Regulations 7(1)(a) of the PMLFTR and Sections 4.3 and 4.3.1 of the IPs;
- Regulations 11(1)(b), 11(1)(c) and 11(9) of the PMLFTR and Section 4.9 of the IPs;
- Regulation 11(5) of the PMLFTR;
- Regulation 7(1)(c) of the PMLFTR and Section 4.4.2 of the IPs;
- Regulations 7(2)(a) and 7(1)(d) of the PMLFTR and Section 4.5.2 of the IPs;
- Regulation 13 of the PMLFTR and Section 9.2 of the IPs.

REASONS LEADING TO THE IMPOSITION OF THE ADMINISTRATIVE MEASURE:

The Business Risk Assessment ("BRA") – Breach of Regulations 5(1) and 5(4) of the PMLFTR and Sections 3.3 and 8.1 of the IPs

An essential requirement of an adequate BRA is the identification of threats and vulnerabilities the business is exposed to and due consideration of the risk factors both from a qualitative and quantitative point of view. The Company's BRA listed an inventory of the threats or vulnerabilities without determining the exposure to them and how would these risks impact the Company should they materialise. In addition, the Company's BRA solely assessed customer risk, being only one of the main four pillars of risk. Therefore, the Company failed to identify, and risk assess elements relating to geography, interface and products including funding methods. It also did not identify the controls implemented by the Company to mitigate the respective risks.

The Company's BRA also did not take into consideration the extent of untraced cash drops and the repercussions of possibly being unable to trace the cash activity to a particular player and possible collusion with customers. While it was explained that the Company had some measures in place to mitigate the risk of untraced cash, this was not considered to be adequate as the slot attendant may not always be able to identify the related players. In addition, the BRA failed to identify measures that would mitigate the risk of a player leaving a positive balance on a slot machine, and then the following player continues the game with that positive balance. Hence, the Company remained exposed to the possibility of collusion between players in order to convert cash and create layers of transactions.

During the compliance review it was identified that the Company is exposed to nationals or residents of non-EU or EEA countries, including Saudi Arabia, Russia, Singapore, Libya, Bangladesh, China, Serbia, Turkey, Philippines, Yemen, Dubai, Pakistan, Ghana, Kuwait, and Tunis. Notwithstanding that the Company's BRA incorporated statistical information on the number of players originating from four (4) different categories of jurisdictions, no analysis of the ML/FT risks arising from such jurisdictions and the extent of the Company's exposure to these risks was identified. There was also no reference to the controls that should be in place to mitigate such exposure. Furthermore, although the Company's BRA included references to reputable sources required to carry out a geographical risk assessment, the considerations taken from these statements or organizations and how these contributed to an understanding of the Company's geographical risks were not found nor explained. For example, although the Company had lists of jurisdictions there was no reference to the risks associated with them, such as those observed in a mutual evaluation report done by the FATF or any of its Regional Bodies.

Therefore, in view of the above considerations the Committee found the Company to be in breach of Regulations 5(1) and 5(4) of the PMLFTR and Sections 3.3 and 8.1 of the Implementing Procedures.

Customer Risk Assessment (CRA) – Breach of Regulation 5(5)(a)(ii) of the PMLFTR and Section 3.5 of the IPs

During the course of the compliance examination, while it was observed that in general the Company's customers were being risk assessed, serious difficulties were identified in keeping track of the CRAs carried out and in ensuring adequate upkeeping of them. This particularly since:

- The main sheet used to risk assess customers, which is updated daily based mainly on drops, was heavily dependent on manual escalation made by its gaming staff. During gaming sessions, notes are

taken by hand, the copies of which are provided to the shift manager to be inputted within the main sheet;

- The Company's IT system, which is used to register players at reception, also allowed the risk rating to be recorded and allowed for free text to be included. Hence, it was not obligatory to be filled in for each customer, and usually only high-level detail on the rationale behind the risk rating was included. The outcome of the Company's IT system was not observed to be integrated with the results of the main sheet.

Such shortcomings were made worse as only the Company's MLRO has to provide the final risk rating of the customer (this was noted following a request for clarifications made by the Officials). In addition, only the MLRO could explain the considerations taken to determine the rating, and this only after reviewing and analysing each respective player profile.

Furthermore, even though through the drop review Company officials may have observed changes or spikes that necessitated a change in risk, this at times was not even updated in the main sheet. Due to this possibly the IT system was not being kept updated at all times. Therefore, the measures used were also incongruent and portrayed different customer risk images. Due to this it would be difficult to determine which rating is the accurate one, which one should be used to understand the customer risk and which mitigating measures would be necessary.

The above-mentioned deficiencies were further supported by the findings arising from the customer files reviewed. This because 12.5% of the files reviewed yielded no risk assessment at all, while in 30% of the selected sample the officials observed that different ratings had been assigned to the main risk assessment sheet and the Company's IT system. Furthermore, in an additional 15% of the profiles, customers were only awarded a risk rating solely through the Company's IT system and not through the main sheet. It was only through the MLRO's clarifications that the final risk rating and risk considerations were obtained/confirmed. Additionally, for the latter player profiles, it was noted that from the considerations made available there was no evidence to demonstrate that these ratings factored in all key risk parameters. For example:

- One file warranted a Medium Risk rating by the Company, which was a result of the customer being employed locally, having regular betting patterns, no adverse media, no sanctions matches and slots activity. However, it was also noted that despite occasional credit card transactions, the customer's main method of payment was cash. However, it seems this was not considered by the Company to risk assess the customer. In addition, the Company did not take into consideration the customer's nationality, i.e., Pakistan. This factor required the assessment as to the extent of such connection to determine the level of risk that would arise from a relationship being connected to such high-risk jurisdiction.

FIAU officials also noted that the CRAs provided did not present the correct image of the risk factors which contributed to the overall risk rating of the customer. This hindered the Company's ability to effectively understand the type of controls necessary to counter the risk observed. Moreover, inconsistencies were also noted with regards to the Company's ability to ensure that the risk assessment on customers remained up to date. By means of an example:

- One customer was rated as "low" in view of the low level of activity, the player being an EU citizen, identification documentation being provided, no adverse media and no PEP/Sanction matches. However, the Company failed to consider that for a housewife to drop €41,855 in cash in 10 months and €37,635 in a 10-day period was far from being a low level of activity and clearly was not in line with what one would expect from a housewife. The Company was also expected to take into consideration the high levels of cash transactions taking place. Although the rating of the customer was eventually increased to medium in December 2019, the considerations for this increase had been visible as from December 2018.

Therefore, in view of the above considerations the Committee found the Company to have breached Regulation 5(5)(a)(ii) of the PMLFTR and Section 3.5 of the Implementing Procedures.

Identification and Verification – Breach of Regulations 7(1)(a), 7(1)(b) and 7(3) of the PMLFTR and Section 4.3 of the IPs

Despite the fact that the Company had in place internal policies and procedures for the carrying out of identification and verification, the findings of the onsite examination indicated that the Company did not comply and fully implement these procedures in 22% of the sample of player profiles reviewed. Hence, officials noted that players were allowed to gamble and wager funds despite not having a complete address verification.

The FIAU acknowledged that other than an identification document, it is highly unlikely that any casino customer, be they local or foreign, would also be carrying with them any of the other verification documents which may be used. It also considered the possibility that this documentation might not contain information relating to the permanent residential address of the holder. However, it is encouraged that Casino Licensees inform their customers beforehand, that in the eventuality of habitual visits to the Casino, customers would be required to produce additional documentation to verify their residential address.

The procedure adopted by the Company is that when a document produced for identification purposes did not contain a residential address, the customer would be told that entry would be refused the next time they went to the Casino unless a document showing their residential address is produced. Notwithstanding, a number of instances were identified in which the Company failed to complete address verification and allowed the customer to enter the casino multiple times after reaching the €2,000 threshold.

In view of the above shortcomings the Company was found in breach of its obligations in terms of Regulation 7(1)(a) of the PMLFTR and Section 4.3 of the Implementing Procedures for multiple failures to obtain the necessary identification and verification of natural persons as required.

Enhanced Due Diligence (EDD) – Breach of Regulations 11(1)(b), 11(1)(c) and 11(9) of the PMLFTR and Section 4.9 of the IPs:

Although the Company's policies and procedures included a general reference to the circumstances that would require taking EDD measures, the procedures were generic and not comprehensive. Due to this, the Company fell short in outlining the appropriate EDD measures to be conducted whenever it

encounters higher risk scenarios. Most of the EDD measures employed by the Company focused on obtaining verification documents or validating the customer's residential address. This led to a failure to identify and address the risks arising from each set of circumstances, which most often than not related to inconsistencies between customer information and gaming activity, links to high-risk jurisdictions and cash transactions.

The Company's shortcoming was further aggravated since the EDD form available to fill in was too vague and customer due diligence driven and therefore not a good measure to mitigate the heightened risk of ML/FT. This since, apart from identification information and customer employment, the form relied solely on Source of Wealth (SOW) declarations made by the players. In most cases these declarations were generic and followed a tick-based approach. Consequently, the Company failed to adequately apply EDD measures corresponding with the player profiles which were assessed by the Company as being high risk; including players having links with non-reputable jurisdictions and customers carrying out significant gaming activities. This failure was also substantiated by the findings identified in player profiles who were rated as high risk. For example:

- In one file, the player was classified as high risk due to adverse media, cash-based gambling, and geographical risk. It was also observed that the Company was in possession of a judgement by the Maltese courts against the player for failing to declare amounts in excess of €10,000 at the Malta International Airport. Subsequently, the player deposited €416,457 at the cash desk and dropped €309,370 on live tables during the business relationship. Nevertheless, the adverse information at hand, and the excessive cash deposit made by the customer were not considered by the Company. Although the player completed the Company's EDD form in August 2018, indicating that he is a marketing consultant and that his SOW is derived from professional activities, no additional checks and evidence were obtained to corroborate the information obtained despite classifying the customer as high risk. While the Company remarked that it had a business card confirming the player's employment, this is not sufficient. This because a business card is considered as a document which is very easy to create, and consequently it does not provide comfort that the information found on it is reliable. The concern was further aggravated as the name on the business card did not even match the player's name.

- In another file, the player had been classified as high risk due to the player being uncooperative, coming from a high-risk jurisdiction, having a significant level of cash gambling, complex transactions and adverse media. Moreover, the player deposited €407,805 at one of the Licensee's cash desks during a six-day period in January 2020 and dropped €212,650 throughout the business relationship. The player completed the Company's EDD form and declared that he is a self-employed gaming consultant and his SOW originates from gaming and winnings from casinos. The player also declared that his annual income amounts to €100,000 and above. Yet, the Company here again fell short of corroborating the player's statement with evidence to substantiate both his gaming winnings and his income. Although the Company provided evidence to show that it had been in close contact with the customer in view of the player being uncooperative, to try and obtain additional documentation, it still allowed the player to continue his gaming activity, without taking more concrete steps in view of the enhanced risks the customer presented.

In view of the above, the Company was found in systemic breach of its obligations in terms of Regulation 11(1)(b), 11(1)(c) and 11(9) of the PMLFTR and Section 4.9 of the IPs for its failure to carry out the necessary enhanced due diligence measures that would address the higher ML/FT risk the customer was exposing the Company to.

Politically Exposed Persons – Breach of Regulation 11(5) of the PMLFTR

In the carrying out of the compliance examination a systematic deficiency was identified in relation to all PEP profiles reviewed, this since no evidence was presented by the Company to demonstrate that senior management approval was sought or obtained. Despite noting the Company's statement that although the absence of records on file might suggest that senior management approval was not being obtained, the internal procedures require such approval and emphasised that such approval has always been sought by phone. Notwithstanding, the Committee decided that in the absence of the necessary documentation and evidence to substantiate this, the Company was in breach of its legal obligations in terms of Regulation 11(5) of the PMLFTR.

Purpose and Intended Nature of the Business Relationship – Breach of Regulation 7(1)(c) of the PMLFTR and Section 4.4.2 of the Implementing Procedures

The Compliance examination identified a number of shortcomings concerning the Company's obligation to obtain information on the purpose and intended nature of the business relationship. Particularly, it was observed that the Company held unfounded information on the anticipated level of activity, obtained generic understanding of income earning activity and generally lacked information on players' income bracket.

Unfounded information on the anticipated level of activity

Although the MLRO presented four (4) levels of anticipated activity level (high, medium, medium to low and low), no reference was made to this within the company's procedures. Furthermore, no documentation was maintained on file regarding the definition of these levels, how the anticipated level of activity was determined by the Company and what the different levels of activity would entail (in terms of value and frequency). Whilst acknowledging that initially the anticipated level of activity would be difficult to comprehend, based on the established relationship and the activity carried out, the Company would be in a much better position to predict what to expect in case of gaming activity for players if the activity levels were clearly defined. Therefore, simply dividing customers into high, medium, or low level of activity is far from being efficient. The concern was further aggravated in view of the Company's exposure to untraced cash, as it was ultimately impossible for the Company to be fully aware of the player's levels of activity.

In view of this, it was determined that the system utilized by the Company was not sufficient to fulfil this requirement since the system failed to keep comprehensive track of player activity and record this information about individual customers.

Generic understanding of income earning activity

During the examination, FIAU officials noted that in some instances, the occupation defined by the players was broad and failed to provide sufficient understanding of the player's occupation, for example:

- In one file, the player indicated that he works in the customer service industry and that he is the sole director of a company which he owns with his brother. Nonetheless, no additional information on the company's activities and his salary as director or his dividends received as shareholder were obtained. Consideration was given to the fact that the Company did obtain the constitutive documents, however the Committee observed that these were obtained after the compliance examination had taken place.

No information on players' income range

The FIAU officials carrying out the compliance examination noted a number of player profiles which had risk ratings ranging from medium to high, for which the Company had failed to obtain an understanding of the player's annual income. This made the Company unable to determine whether funds used by players were in line with their income capabilities. By means of an example:

- One player was listed as "retired". It was submitted that the client had been a regular visitor to the casino for several years and wagered very small amounts, thus being indicative that the intent of this client was to gamble for leisure. Furthermore, the MLRO was aware that the client's husband provided the funding for her gameplay and that his source of income was from his previous two jobs working as a driver and waiter. Hence the source of income included savings and their monthly pension. However, the Company's statements were uncorroborated as the bank statement collected as evidence was of the player and not of the husband who was funding her gaming activities. This lack was further aggregated because the account activity consisted primarily of cash deposits and cash withdrawals (most of which were not affected over the counter) with no specific transactions being traced to social security benefits via direct debits.

In view of the above, the Company was viewed as not being in a position to build a comprehensive business and risk profile on its customers. For these reasons, the Committee found the Company to have failed to adhere to Regulation 7(1)(c) of the PMLFTR and Section 4.4.2 of the Implementing Procedures.

On-Going Monitoring – Breach to Regulations 7(2)(a) and 7(1)(d) of the PMLFTR and Section 4.5.2

As already stated above, the Company did not obtain sufficient level and detail of information on its customers' profile. In the absence of adequate information, the Company is unable to adequately carry out effective monitoring of the transactional activity undertaken by its customers. Having said this, even on the basis of the limited information obtained, the Company should have been able to identify all instances where the deposits made by the customers were inconsistent with the Company's knowledge of the customer and his/her business and risk profile. Yet, this was not the reality as explained hereunder:

- On 18 January 2009, the player in one file surpassed the €2,000 threshold and from the EDD form collected on the 26 July 2019 it was noted that the player had declared that he was a director in the customer services business with an annual income between €0 – €40,000 originating from his company ownership. Taking into consideration the income bracket indicated, the Officials noted that that the player had deposited €972,622 at the cash desk during the period 13 July 2008 to 21 February 2020 and dropped €824,111 on live games during the period 1 January 2008 to 4 March 2020. Yet no information and/or documentation to verify the source of funds used for these transactions was obtained by the Company. Despite the Company's statement that its ongoing

monitoring systems made sure that the average drop per session remained with the buy-in figure for a junket, it had still failed to verify whether this level of play was affordable for the player. This since his income was not commensurate with his gaming activity, hence, the Company was at a minimum expected to ask the customer for the source that was funding his gaming activity.

- In relation to the gaming activity undertaken by another player, specifically €101,200 dropped and €90,600 lost in 20 days during February 2018 and additionally €23,180 dropped and €19,180 lost in 25 days during December 2019. The Company held information that the client was a well-known Businessman who was known to have owned various businesses and dealt in real estate. Furthermore, the Company was in possession of documentation that verified the sale of properties which in aggregate covered the gambling activity of the client and therefore corroborated the information the Company had in the customer profile. Furthermore, documentation held by the Company indicated that during a particular period in 2016the player in question sold properties having a cumulative value of €500,000. The Committee however considered that during the period April 2016 – February 2018, the player dropped €988,700 and lost €164,735. It was additionally noted that the player visited the Casino in excess of 300 times. However, the Company only asked the player to complete the EDD form on 6 March 2020, albeit the customer had the same gambling pattern throughout the business relationship. Being a well-known businessman is not a justification for not querying the source of funds, especially given the added risks to which cash intensive relationships exposes the Company to.

In view of the findings pertaining to transaction monitoring, the Company was found in breach of Regulation 7(2)(a) of the PMLFTR and Section 4.5.2 of the IPs.

Record Keeping – Breach of Regulations 13(1) and 13(2) of the PMLFTR

Although the Company's record keeping procedures lists a number of documentation which must be retained in accordance with the period stipulated at law, FIAU officials noted that several information pertaining to customer profiles was not presented to them during the compliance review.

During the review it was clear that even in the case of long lasting and active business relationships, the Company was unable to present customer identification and verification checks performed earlier during the business relationship. Specifically for 52% of the files reviewed, the Company explained that information was either stored on the server (where legacy information for long lasting business relationships was stored) or no record was maintained. The concerns were made worse as following the compliance examination, the FIAU was informed that data stored on the Company's hard disk was corrupted and therefore earlier identification and verification checks could not be produced. Notwithstanding, the Company was able to retrieve a number of documents from their archives. While understanding that this may, to a certain extent be outside the control of the Company, on the other hand the Company had to ensure that data, information, and documentation is sufficiently, adequately, and comprehensively recorded, stored and backed up in a manner that eliminates risks of data being lost, destroyed, or corrupted.

In view of the above shortcomings the Company was found in breach of its obligations in terms of Regulations 13(1) and 13(2) of the PMLFTR.

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

In view of the findings identified, the examination revealed an approach by the Company towards adherence to its AML/CFT obligations. Due to the numerous breaches, some of which were serious nature it was deemed that the imposition of an administrative penalty amounting to €233,156 would be proportionate, effective and dissuasive. This penalty was imposed with regards to the breaches identified in relation to the following obligations:

- Regulations 5(1) and 5(4) of the PMLFTR and Sections 3.3 and 8.1 of the IPs;
- Regulation 5(5)(a)(ii) of the PMLFTR and Section 3.5 of the IPs;
- Regulations 11(1)(b), 11(1)(c) and 11(9) of the PMLFTR and Section 4.9 of the IPs;
- Regulation 7(1)(c) of the PMLFTR and Section 4.4.2 of the IPs;
- Regulations 7(2)(a) of the PMLFTR and Section 4.5.2 of the IPs; and
- Regulation 13 of the PMLFTR and Section 9.2 of the IPs.

The Committee also imposed a reprimand for the Company's breaches of Regulations 7(1)(a) of the PMLFTR and Sections 4.3 and 4.3.1 of the IPs; and Regulation 11(5) of the PMLFTR.

The Committee acknowledged the remedial actions taken and planned to be taken by the Company. Namely through the implementation of an AML/CFT platform which seeks to consolidate the player's profile, calculates an AML/CFT risk-rating based on the customer risk factors, consolidates the player results, provides an anticipated level of activity, consolidates record-keeping, raises alerts/escalates in case of trigger events, provides automatic screening and also enhances ongoing monitoring.

Hence, in addition to the above-mentioned penalty and in terms of its powers under Article 21(4)(c) of the PMLFTR, the FIAU also served the Company with a Follow-Up Directive. The aim of this administrative measure is to direct the Company into implementing several requirements in order to ensure that it understands the risks surrounding its operations and that the Company has implemented sufficient controls to mitigate such identified risks. To ensure that the Company is effectively addressing the breaches set out above, the Committee directed the Company to provide it with an Action Plan setting out the actions already taken by the Company, what actions it still has to implement and, in both instances, how these resolve the issues with the Company's AML/CFT policies, procedures and measures set out here above. The Action Plan is to cover amongst others the following:

- An updated BRA, which shall be accompanied by the process that has been followed to risk assess the risks of the Company, as well as for the assessment of the effectiveness of the controls implemented, including the provisions implemented by the Company to assess jurisdiction risks.
- The updating of the EDD Form used by the Company and also its procedures for the carrying out of Enhanced Due Diligence.
- To update its measures so that generic understanding of employment such as *in employment, businessman, housewife* is not the only information obtained, but that these are substantiated with the detail necessary to be able to create an understanding of what activity is expected. This shall also include reference to the obtainment of both the details of their employment and income earned, as well as any other means through which their activities with the Company are expected to be funded.

- To provide an update on the progress achieved on the new CRM/Accounting system, together with more detailed information on how the system will be used and the benefits it will also have in satisfying the Company's AML/CFT obligations.

In determining the appropriate administrative measures to impose, the Committee took into consideration the representations submitted by the Company together with the remedial action that the Company had already started to implement, the nature and size of the Company's operations, the overall impact, actual and potential, of the AML/CFT shortcomings identified vis-à-vis the Company's own operations and also 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 Company has also been duly informed that in the eventuality that the Company fails to provide the above-mentioned action plan and supporting documentation available within the specified deadline, the Company's default shall be communicated to the Committee for its eventual actions, including the possibility of the imposition of an administrative penalty in terms of the FIAU's powers under Regulation 21 of the PMLFTR.

28 April 2021