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.

The Notice provides select information from the FIAU's decision imposing the respective administrative measure and is not a reproduction of the actual decision.

DATE OF IMPOSITION OF THE ADMINISTRATIVE MEASURE:

8 July 2021

SUBJECT PERSON:

Rebels Gaming Limited

RELEVANT ACTIVITY CARRIED OUT:

Remote Gaming Operator

SUPERVISORY ACTION:

Onsite compliance review carried out in 2020

DETAILS OF THE ADMINISTRATIVE MEASURES IMPOSED:

Administrative Penalty of €500,017 and Follow-up Directive in terms of Regulation 21 of the Prevention of Money Laundering and Funding of Terrorism Regulation (PMLFTR)

LEGAL PROVISIONS BREACHED:

- Regulations 5(1) and 5(4) of the PMLFTR and Section 8.1 of the Implementing Procedures, Part I,
- Regulations 5(5)(a)(ii) and 5(5)(a) of the PMLFTR and Sections 2.1.2, of the IPs Part II and Section 3.4 of the IPs Part I,
- Regulations 7(1)(a) and 7(1)(b) of the PMLFTR and Section 3.2 of the IPs Part II,
- Regulation 9(1) of the PMLFTR and Section 3.3.2(ii)(b) of the IPs Part II,
- Regulation 11(1) of the PMLFTR and Section 3.3.2 of the IPs Part II,
- Regulation 11(5) of the PMLFTR and Section 4.9.2.2 of the IPs Part I,
- Regulation 7(1)(c) of the PMLFTR and Section 3.2(iii) of the IPs Part II,
- Regulation 7(1)(d), 7(2)(a) and 7(2)(b) of the PMLFTR and Section 4.5.1(a) and 4.5.1(b) of the IPs Part I,
- Regulation 15(1)(b) of the PMLFTR and Section 5.1.1 and 5.1.2(a) of the IPs Part I,
- Regulation 5(5)(e) of the PMLFTR and Section 7 of the IPs Part I,
- Section 6 and 6.2 of the IPs Part I, and
- Regulation 13 of the PMLFTR and Section 9.2 of the IPs Part I.

REASONS LEADING TO THE IMPOSITION OF THE ADMINISTRATIVE MEASURE:

Regulations 5(1) and 5(4) of the PMLFTR and Section 8.1 of the Implementing Procedures, Part I

Several shortcomings were noted in relation to the aforementioned obligations. The BRA was ineffective and inadequate, and the methodology used generated unclear results. The Company's Business Risk Assessment ('BRA') failed to include pertinent risks which were applicable to the modus operandi of the Company, such as the use of affiliates/introducers (who were meeting with individuals in social places, and whose role was to introduce such individuals to the Company and collect funds from wagers) and the fact that the Company was outsourcing its Greek Operating License (hereinafter referred to as "Hellenic License") to two other gaming companies. The BRA also failed to consider its exposure to cash payments which were being made between individuals and affiliates/introducers. Additionally, the BRA did not include consideration of jurisdiction risks, particularly with regards to jurisdictions it was exposed to through offering its products/services.

The Committee also noted that the control measures that were being applied were the same for all the risks identified, these controls were mostly focused on reducing fraud and bonus abuse rather than to mitigate possible money laundering and funding of terrorism (ML/FT) risks. Thus, the Committee determined that the control measures applied were inadequate and did not address the level of risk present.

The Committee also noted that without taking the above-mentioned risk factors into consideration, the inherent risk was calculated as 'high', and that following the application of control measures, the resulting residual risk rating was calculated as 'low'. Thus, Committee members concluded that due to the inadequacies noted in the BRA, the Company was deemed to be in breach of Regulations 5(1) and 5(4) of the PMLFTR and Section 8.1 of the Implementing Procedures (IPs), Part I.

Regulations 5(5)(a)(ii) and 5(5)(a) of the PMLFTR and Section 2.1.2 of the IPs Part II and Section 3.4 of the IPs Part I

Prior to the onsite examination, FIAU officials had reviewed information submitted in the Risk Evaluation Questionnaire and noted how the Company declared that 99% of its player base were risk rated as 'low' risk, with no players falling into the 'medium' or 'high' risk categories. While onsite, FIAU officials noted that the players of the Company were not risk assessed under the above-mentioned risk categories (i.e. 'low', 'medium' and 'high') but in three different categories (being 'pass', 'open' and 'internal refer'), while the Customer Risk Assessments (CRA) of the two intermediary companies differed substantially from that of the Company. Furthermore, the Committee also noted how the CRAs being carried out both by the Company and by the intermediary companies lacked the sufficient depth required and were not focusing on AML/CFT risks.

In addition, the Committee was also informed that the CRA as explained by the MLRO of the Company differed substantially from that explained in the Company's AML/CFT Policies and Procedures. During the onsite examination, FIAU officials noted how the risk calculated for a number of players, who were risk assessed as 'pass' and which translated to 'low', was not justified in view of the information found on the player profile.

In the representations submitted, both the Company and the two intermediary companies explained that following the issuance of the Compliance Report, they will update the CRAs in place to becme in line with the requirements. Hence, the Committee concluded that at the time of the compliance examination, the Company was in breach of Regulations 5(5)(a)(ii) and (5)(5)(a) of the PMLFTR and Section 2.1.2 of the IPs Part II and Section 3.4 of the IPs Part I.

Regulations 7(1)(a) and 7(1)(b) of the PMLFTR and Section 3.2 of the IPs Part II

The Committee noted how the Company had allowed players to keep on depositing despite reaching the Euro 2,000 threshold and not having verification documentation in place. Committee members also noted how certain documentation obtained to verify the residential address of the players were not in line with the Company's own policies and procedures and with the Company's AML/CFT obligations. By way of example, the Company collected partial screenshots of an online shopping bill (which bill was dated 2016 and the player had registered in 2017, and which document cannot be considered as reliable since the address of the delivery may not always be the residential address of the player) and tax notification letters of business establishments (business establishments are not considered as residential address, hence why this could not be accepted). There were also instances where the identification document collected was not clear and thus this could not be accepted as a valid verification of the player's identity.

Additionally, the FIAU officials observed how the identification and verification of the players who were on-boarded by the two intermediary companies were not being carried out by the Company, as required under the intermediary agreement in place between the Company and the intermediary companies, and as stipulated under the MGA authorization letter, but were being carried out independently by the said companies.

In view of this, the Committee found the Company in breach of Regulations 7(1)(a) and 7(1)(b) of the PMLFTR and Section 3.2 of the IPs Part II.

Regulation 9(1) of the PMLFTR and Section 3.3.2(ii)(b) of the IPs Part II

The Compliance report explained how there were instances where the identification and verification documentation was collected from players a long time after the Euro 2,000 deposit threshold was reached. In one particular file, it was noted that a copy of the identification document was collected two and a half years after the deposit threshold was reached.

In its representations, the Company explained that it had changed its back-office system, hence the discrepancies in the dates between when the Euro 2,000 threshold was reached to when the documentation was uploaded. However, the Committee took into consideration that in previous instances where Subject Persons changed the back-office system, data was normally uploaded in bulk, and the data would almost always show the same date for all the documents uploaded.

Committee members also noted how even though the Company was responsible for all the player base, including those players onboarded by the two intermediary companies (as per the intermediary agreements in place), the Company did not even have visibility of the players who registered with the two intermediary companies. Hence, the Company could not ensure that the identification and verification measures were being adequately applied by the intermediary companies.

In view of this, the Committee concluded that the Company was in breach of Regulation 9(1) of the PMLFTR and Section 3.3.2(ii)(b) of the IPs Part II.

Regulation 11(1) of the PMLFTR and Section 3.3.2 of the IPs Part II

Committee Members determined that the Company did not have an appropriate methodology to apply enhanced due diligence (EDD) measures and to understand what constitutes a high-risk. In fact, no evidence of any EDD measures were found in a number of the files reviewed. Particularly, players who were exposed to higher risks, such as for example those making use of high-risk payment methods and who were exposed to higher risk jurisdictions had no EDD measures being applied.

In its representations, the Company acknowledged the fact that it had started carrying out EDD measures such as collecting documentation supporting the source of wealth and source of funds of the customer after being notified by the FIAU that a visit was to take place.

Thus, the Committee determined that the Company was in breach of Regulation 11(1) of the PMLFTR and Section 3.3.2 of the IPs, Part II.

Regulation 11(5) of the PMLFTR and Section 4.9.2.2 of the IPs Part I

Although the Company had informed FIAU Officials that it does not accept Politically Exposed Persons (PEP) and that it was making use of an inhouse PEP screening tool, it was noted that the reports extracted from this tool did not include any information on the names of the players who were screened apart from the date of when the screening took place. In its representations, the Company stated that having only the date of the check meant that none of its players were PEPs, since if there were any hits, the names would show on the report. The Committee however reiterated that this could not be established since no details of the results of these checks were found and additionally, it is a well-known fact that these systems have a tendency to generate false positives. In this case, not even these could be viewed from the report presented by the Company. The Committee, while appreciating the Company's efforts of setting up an inhouse system, expressed that since the report was limited to just a record of a date and a time, it could not be ascertained that the Company was screening its players.

With regards to the intermediary companies, it was noted that PEP screening was being carried out after the deposit threshold was being reached. Thus, players were still allowed to deposit these funds, in excess of Euro 2,000 before a PEP check was being carried out, which is not in line with the requirements. In one instance, it was noted that a PEP check on a player of one of the intermediary companies was not carried out, with the Company arguing that the reason for not carrying out the check was because the player had self-excluded. In this regard the Committee argued that the Company was still required to carry out its screening even though the player who had self-excluded is now an inactive customer. This check had never been carried out when the player was active.

In view of the above, the Committee concluded that the Company was in breach of Regulation 11(5) of the PMLFTR and Section 4.9.2.2 of the IPs Part I.

Regulation 7(1)(c) of the PMLFTR and Section 3.2(iii) of the IPs Part II

During the interview with the MLRO, it was indicated that the Company requests information on the employment of the players, together with their source of wealth (SOW) and expected source of funds (SOF) and the estimated amount that the player is willing to wager on the Company's platform, especially if there are AML/CFT concerns or possible fraud indicators. Notwithstanding this however, the MLRO also explained that there are instances when additional information on top depositors is not requested, since these players would be personally known either by them or by their affiliates/introducers on the street, especially for Italian and Greek players. However, during the compliance examination, the Committee noted how in 20 of the files reviewed, information pertaining to the SOW and SOF was not collected. The same shortcomings were also noted in the two intermediary companies. In one instance, information was provided to the FIAU officials in a verbal manner, the information was obtained from open sources and no documented proof was provided.

The Company agreed with the findings reported and informed the Committee that it will set up a system to identify instances where SOW/SOF information and/or documentation is required to be collected. Thus, the Committee determined that the Company was in breach of Regulation 7(1)(c) of the PMLFTR and Section 3.2(iii) of the IPs Part II.

Regulations 7(1)(d), 7(2)(a) and 7(2)(b) of the PMLFTR and Section 4.5.1(a) and 4.5.1(b) of the IPs Part I

The Committee learnt that the Company was making use of a manual ongoing monitoring system to monitor its transactions and to detect expired documentation. Although the use of a manual system is not wrong, considering the number of players registering with the Company and the volume and values of transactions taking place daily, Committee members determined that the system was not sufficient.

Consequently, and in the absence of an effective system, serious shortcomings were identified pertaining to the obligation to carry out ongoing monitoring. These are being relayed hereunder:

- Failure to have a system in place that flags irregular transactions and to link multiple accounts to ensure effective ongoing monitoring.
- Failure to effectively monitor incoming and outgoing transactions relating to players who came through the affiliate network (i.e., cash payments). The Company did not have real time visibility of such transactions, as these were taking place in a social environment between two individuals and not via the Company's online platform, thus not showing in any audit trail.
- Player transactions not in line with the information known about the player and held on file, whereby the information and documentation held on the SOW/SOF did not justify the value and volume of the deposits.
- Lack of consideration towards the players' liquidity and SOW/SOF information, particularly in instances where the Company only relied on open source information and did not corroborate this information with information and documentation held from the player. As an example, upon carrying out an open source check on a player, it was determined that this player is an entrepreneur in the hospitality industry, who was going to benefit from a sale of an immovable property valued at 10 million Dollars. However, upon closer inspection, Committee members noted that the individual included in the search provided was not actually their player, since the only information that matched was the name and surname, while the date of birth and residential address differed.
- Failure to detect expired documentation and to ensure that the documentation held by the Company was kept up to date.

In view of the above, the Committee found the Company in breach of Regulations 7(1)(d), 7(2)(a) and 7(2)(b) of the PMLFTR and Section 4.5.1(a) and 4.5.1(b) of the IPs Part I.

Regulation 15(1)(b) of the PMLFTR and Section 5.1.1 and 5.1.2(a) of the IPs Part I

During the compliance examination, the FIAU officials noted how the MLRO was not adequately versed with the PMLFTR and the FIAU's IPs. This observation was evident from the comments made in relation to the BRA, CRA, EDD, requirements in relation to the purpose and intended nature of the business relationship and scrutiny of transactions. FIAU officials reported that the MLRO was not able to explain how the Company was carrying out ongoing monitoring on its clients, and in fact, no reviews or any file testing were made available during the examination. When the MLRO was asked for any AML/CFT reports prepared for the Board of Directors, none were provided. Furthermore, the MLRO also lacked oversight to more than 50% of the Company's customers who are under the intermediary agreements.

The Committee also noted that at the time of the visit, the MLRO's role could be undermined by a conflict of interest arising from the multiple roles held by the same individual. In fact, the MLRO was also the Head of Marketing, the ultimate beneficial owner (100% shareholding) and one of the two Directors of the Company. Committee members expressed their concerns as to whether the MLRO was able to act independently and impartially to carry out the onerous obligations of such a role. Furthermore, the fact that the MLRO did not have access to the players who were being outsourced to the intermediary companies meant that s/he was not in a position to monitor the activities taking place and submit any SAR/STRs should there be any ML/FT suspicion.

Therefore, in view of the above, the Committee determined that the Company is in breach of Regulation 15(1)(b) of the PMLFTR and Section 5.1.1 and 5.1.2(a) of the IPs.

Regulation 5(5)(e) of the PMLFTR and Section 7 of the IPs Part I

Not all the employees of the Company had received AML/CFT training from the MLRO, the training was provided as part of the internal induction course. The Company, did not provide the dates of the training session held and although it was indicated that it was in the process of preparing a training program with the help of a professional third party, no further details were provided about this future training.

The Company rebutted the findings and informed Committee Members that all employees within the customer support and marketing department had received basic training on AML/CFT. The Company also explained that it has since recruited a new MLRO who will be ensuring that any necessary training is provided.

However, the Committee reiterated that throughout the compliance examination, an overall lack of knowledge on AML/CFT matters was observed, particularly when FIAU officials interviewed employees and the MLRO present at the time of the compliance examination. In view of this the Company was found in breach of Regulation 5(5)(e) of the PMLFTR and Section 7 of the IPs Part I.

Section 6 and 6.2 of the IPs Part I

As already explained further above in this publication, the Company was outsourcing its Hellenic license to two gaming companies, both licensed in Malta (intermediary companies). FIAU Officials noted how although the intermediary agreements in place between both parties, together with the MGA authorisation letter clearly stipulated that the outsourced players still fall under the responsibility of the Company and that AML/CFT measures had to be carried out by the Company, this was not taking place.

The Committee was also informed that the Company did not even have a list of the players who were being registered by the two intermediary companies under the said agreement, let alone how it could carry out AML/CFT measures or scrutinise any of the transactions. Although the Company explained in its representations that it was relying on the MLROs of the two intermediary companies to carry out AML/CFT measures, the Company admitted that in reality, the intermediary agreement was mostly focused on the business and commercial aspect and was not taking into consideration the AML/CFT aspects.

The Committee remarked that the Company was obliged to ensure that the requirements that regulate the outsourcing of certain AML/CFT obligations are strictly adhered to. In view of this, Committee Members found the Company in breach of Section 6 and 6.2 of the IPs Part I.

Regulation 13 of the PMLFTR and Section 9.2 of the IPs Part I

Prior to the compliance examination, the Company provided a list of active players, the list did not include the players being serviced under the intermediary agreements. FIAU Officials noted how the Company could not provide a complete list since it did not even have visibility of the players under the intermediary agreements. In its deliberations, the Committee noted that the Company's failure to compile a complete player list prior to the onsite examination, was unacceptable since at the very least, the Company should have an up to date database of all its clients.

In view of this, the Committee found the Company in breach of Regulation 13 of the PMLFTR and Section 9.2 of the IPs Part I.

ADMINSITRATIVE MEASURES TAKEN BY THE FIAU'S COMPLIANCE MONITORING COMMITTEE:

After taking into consideration the abovementioned findings, the Committee decided to impose an administrative penalty of five hundred thousand and seventeen Euro (€500,017) in relation to:

- Regulations 5(1) and 5(4) of the PMLFTR and Section 8.1 of the IPs Part I,
- Regulations 5(5)(a)(ii) and 5(5)(a) of the PMLFTR and Sections 2.1.2, of the IPs Part II and Section 3.4 of the IPs Part I,
- Regulations 7(1)(a) and 7(1)(b) of the PMLFTR and Section 3.2 of the IPs Part II,

- Regulation 9(1) and Section 3.3.2(ii)(b) of the IPs Part II,
- Regulation 11(1) of the PMLFTR and Section 3.3.2 of the IPs Part II,
- Regulation 11(5) of the PMLFTR and Section 4.9.2.2 of the IPs Part II,
- Regulation 7(1)(c) of the PMLFTR and Section 3.2(iii) of the IPs Part I,;
- Regulation 7(1)(d), 7(2)(a) and 7(2)(b) of the PMLFTR and Section 4.5.1(a) and 4.5.1(b) of the IPs Part I,
- Regulation 15(1)(b) of the PMLFTR and Section 5.1.1 and 5.1.2.a of the IPs Part I; and
- Regulation 13 of the PMLFTR and Section 9.2 of the IPs Part I.

Furthermore, the Committee also served the Company with a reprimand in relation to the below:

- Regulation 5(5)(e) of the PMLFTR and Section 7 of the IPs Part I; and
- Section 6 and 6.2 of the IPs Part I (it is to be noted that the decision to issue a reprimand for this finding rather than to impose a fine was taken on the basis that the consequences of this breach were already dealt with in other findings, for which the Committee had already imposed a pecuniary penalty).

In addition to the above, in terms of its powers under Regulation 21(4)(c) of the PMLFTR, the FIAU also served the Company with a Follow-up Directive. This requires the Company to provide an Action Plan setting out the actions already taken, and any further action points intended to address the breaches highlighted above, as well as any other additional actions being implemented by the Company included but not limited to:

- Jurisdiction Risk Assessment,
- Customer Risk Assessment together with its methodology,
- Updated Business Risk Assessment,
- Updated Policies and Procedures in relation to:
  - Obtaining information and documentation on the purpose and intended nature of the business relationship,
  - Carrying out timely PEP checks and recording such checks,
  - Carrying out proper ongoing monitoring including transaction monitoring,
- Update on any training carried out and on future training sessions to be held (training plan),
- Update on the outsourcing agreements in place, including any enhancements carried out, and whether these are still in place or otherwise,
- Update in relation to the new/current MLRO together with the Company's plan to ensure that the MLRO's duties are not conflicting with other positions and duties within the Company,
- The manner in which the Company will determine if information found on open sources is actually relevant to the player and the manner in which the Company will obtain information and documentation on the source of wealth/source of funds of its players and how will such information and documentation be verified,
- The Company's plan towards ensuring that all player transactions, irrespective of whether these transactions were processed via affiliates/introducers, are adequately recorded and easily retrievable.

In determining the final administrative penalty to impose, the Committee took into consideration the nature of the services and products offered by the Company and the size of its business operations. The Committee also considered the seriousness of the obligations that the Company has breached, and considered whether such failures were systematic in nature. The impact that these failures could potentially have on both the operations of the Company, on the Gaming industry and on the local financial system were also taken into consideration. The Committee also took into consideration that the Company, upon becoming aware of the compliance review, started taking measures and actions to start following its

AML/CFT legal obligations, which actions taken or planned to be taken shall be assessed as part of the follow up action on the Company.

In the eventuality that the requested information and/or documentation 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.

9 July 2021