



## Administrative Measure Publication Notice

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This Notice provides select information from the FIAU's decision imposing the respective administrative penalties and/or other administrative measures. It is not a reproduction of the actual decision.

### **DATE OF IMPOSITION OF THE ADMINISTRATIVE MEASURE:**

17 December 2021

### **SUBJECT PERSON:**

Bank of Valletta p.l.c.

### **RELEVANT ACTIVITY CARRIED OUT:**

Credit Institution

### **SUPERVISORY ACTION:**

Off-site Supervisory Review initiated from information obtained from the Centralised Bank Account Register (CBAR/Register).

### **DETAILS OF THE ADMINISTRATIVE MEASURE IMPOSED:**

Administrative Penalty of €2,636,400 and follow-up directions to take effective remedial actions in terms of Regulation 21 of the Prevention of Money Laundering and Funding of Terrorism Regulations (PMLFTR).

### **LEGAL PROVISIONS BREACHED:**

- Regulation 7(1)(b) of the PMLFTR.

### **REASONS LEADING TO THE IMPOSITION OF THE ADMINISTRATIVE MEASURE:**

Information obtained from the Register suggested that the Bank had not determined the beneficial ownership of a number of corporate customers. It also transpired that the Bank had obtained basic identification details of the individuals having the beneficial ownership of a number of corporate customers through a bulk exercise carried out in June 2021 from the Beneficial Ownership Register maintained by the Malta Business Registry (MBR), prior to which the Bank did not determine the beneficial owners of such customers and carry out the necessary measures itself.

The Compliance Monitoring Committee (the Committee/CMC) was informed about the Bank's alleged default and proceeded to consider a total of 2,442 corporate customers for which the Bank either held or

had held no beneficial ownership information, or otherwise had incomplete beneficial ownership information. In reaching its conclusions, the CMC additionally considered the information provided by the Bank in its reply to the potential breaches letter issued, as well as the electronic correspondence between the Bank's representatives and FIAU officials from the Enforcement Section. The Committee observed that the 2,442 corporate customers consisted of the following:

- 1,298 corporate customers for which the Bank had obtained beneficial ownership information from the MBR and prior to which (i.e., before June 2021), the Bank had either held no beneficial ownership information or had only incomplete beneficial ownership information. These 1,298 corporate customers were made up of:
  - o 259 corporate customers for which the Bank had held no beneficial ownership information; and
  - o 1,039 corporate customers for which the Bank had failed to determine additional individuals having the beneficial ownership of said customers, either at onboarding stage or else through the performance of periodic/event driven reviews. In some of these instances, the Bank had itself determined and identified at least 1 beneficial owner and had established a link in between the said individual and the corporate customer.
- 1,144 corporate customers for which the Bank had no beneficial ownership information. This amount consisted of:
  - o 492 corporate customers the status of which at the time of the review was indicated as struck off, in dissolution or inactive on the MBR;
  - o 556 corporate customers requiring a review of the customer due diligence information and documentation held, some of which included entities with a corporate structure that included foreign companies; and
  - o 96 corporate customers classified as law firms.

The Committee expressed its concerns at the Bank's failures and commented that the obligation to understand who the individual(s) behind a corporate customer is, is considered as one of the most basic and essential steps of customer due diligence. Without such information, the Bank was essentially unaware whom it was ultimately servicing. Consequently, such default negatively impacted the Bank's ability to form a comprehensive understanding of its corporate customer and hindered the Bank from adequately conducting other AML/CFT obligations, such as the performance of a thorough customer risk assessment, the screening of its customers' beneficial owners and the application of the necessary corresponding mitigating measures.

The Committee also noted that the failure to link an individual with a corporate customer (as noted above) essentially meant that the Bank had failed to understand who the owner of the corporate customer was. The fact that the Bank knew the individual(s) behind the corporate customer (through a different relationship with the individuals) but did not make such a link, added little, if any, value for the Bank since it was still unable to make a connection between the parties, and to therefore have a comprehensive understanding of the corporate customer and its risks.



The Committee also considered the fact that the Bank had relied on MBR data for the purpose of determining and establishing the identity of the beneficial owners of 1,298 corporate customers, rather than initially carrying out its own independent checks. Furthermore, the Committee also noted that the Bank had performed this exercise in June 2021, before which it therefore had not determined and identified such beneficial owners and, in the absence of which, it would have remained without any beneficial ownership identification information or otherwise with incomplete beneficial ownership information.

In view of the seriousness of the failures identified, the Committee determined that the imposition of an administrative penalty in terms of Regulation 21 of the PMLFTR was warranted.

In arriving at the total amount of the administrative penalty to impose, the Committee, in addition to the specific considerations outlined above, also took into consideration the size of the Bank's operations and its activities. The Committee further considered the importance and seriousness of the obligation breached.

The Committee also considered that the Bank was at all times collaborative with the FIAU and was transparent in its explanations of the shortcomings identified. It also noted that a total of 1,067 corporate customers were dormant, and that therefore, had not effected a transaction for a period of at least 12 months.

The Committee also took into consideration that the Bank is investing heavily in an AML/CFT Transformation Programme (2020-2021) aimed at enhancing its policies, procedures, and measures in effectively combatting ML/FT risks, including a review and update of past customer due diligence. The Bank has also been meeting with FIAU officials on a periodic basis to update the FIAU on the development of the AML/CFT Transformation Programme. While the AML/CFT Transformation Programme is still ongoing, the FIAU has observed commitment by the Bank in safeguarding its operations from ML/FT risks. As part of the AML/CFT Transformation Programme, the Committee has requested the Bank to take concrete action to ensure that it performs all the necessary checks to ascertain the beneficial ownerships of all its corporate customers. The Committee also noted that the Bank has now updated the beneficial ownership information on CBAR.

Consequently, the Committee concluded that the penalty of two million six hundred and thirty-six thousand and four hundred euro (€2,636,400) is warranted for the Bank's failure to determine the beneficial ownership or otherwise having incomplete information on the beneficial ownership of 2,442 corporate customers in contravention of Regulation 7(1)(b) of the PMLFTR.

**17 December 2021**

