



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:

12 January 2022

RELEVANT ACTIVITY CARRIED OUT:

Corporate Service Provider

SUPERVISORY ACTION:

Thematic Off-site compliance review carried out in 2021

DETAILS OF THE ADMINISTRATIVE MEASURE IMPOSED:

Remediation Directive in terms of Regulation 21 of the Prevention of Money Laundering and Funding of Terrorism Regulations (PMLFTR).

LEGAL PROVISIONS BREACHED:

- Regulations 7(5) and 8(1) of the PMLFTR and Section 4.6.1 of the Implementing Procedures Part I (IPs).

REASONS LEADING TO THE IMPOSITION OF THE ADMINISTRATIVE MEASURE:

Timing of Customer Due Diligence

In four of the files reviewed during the compliance examination, the subject person was found to have failed to verify the customer's identity and, where applicable, the BO's identity before establishing a business relationship with the respective customer. Hence, the subject person was found to have been offering services to customers without holding the required Customer Due Diligence (CDD) documentation. This documentation was required before beginning the respective service.

For example, in one file, the subject person did not provide evidence to account for when the corporate customer verification documents had been obtained. The subject person attributed this shortcoming to ongoing disputes between the shareholders at the time of onboarding. This, however, does not exonerate the subject person from being legally obliged to ensure that the required CDD documentation are collected and verified prior to the establishment of the business relationship.

By proceeding with the provision of its services without the required documentation in hand prior to the establishment of the business relationship, the subject person was found to be in breach of Regulations 7(5) and 8(1) of the PMLFTR and Section 4.6.1 of the IPs.

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

In view of the breaches identified and highlighted in this Notice, the CMC proceeded to serve the subject person with a Remediation Directive. The aim of this administrative measure is to direct the subject person to take the necessary remedial action to ensure that it understands the risks surrounding its operations and that the subject person has implemented sufficient controls to mitigate such identified risks. Furthermore, to ensure that the subject person is effectively addressing the breaches set out above, the Committee also instructed the subject person to make available all documentation and/or information necessary to prove that the remedial actions have been implemented in practice. The Remediation Directive also directs the subject person to implement the following:

- Provide documented explanations as to the enhancements undertaken to ensure that CDD documentation is adequately obtained in a timely manner as required in terms of Regulations 7(5) and 8(1) of the PMLFTR and Section 4.6.1 of the IPs. These enhancements will also be tested through the provision of the CDD documentation collected for a selection of files.

In determining the appropriate administrative measure to impose the Committee took into consideration the representations submitted by the subject person as well as the remedial actions undertaken to address the shortcomings identified during the compliance review. The Committee also took into consideration the nature and size of the subject person's operations, the overall impact of the AML/CFT shortcomings identified vis-à-vis the subject person's own operations and the local jurisdiction. The seriousness of the breaches identified together with their occurrence were also considered by the Committee to determine the administrative measures imposed.

Finally, the Remediation Directive reminds the subject person that in the eventuality that the requested documentation and/or information is not made available within the stipulated timeframes, the Committee will be informed of this default. This leading to possible eventual action being taken, including the potential imposition of an administrative penalty in terms of the FIAU's powers under Regulation 21 of the PMLFTR.

14 January 2022

