Administrative Measure Publication Notice

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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:

14 January 2022

SUBJECT PERSON:

Online Amusement Solution Limited

RELEVANT ACTIVITY CARRIED OUT:

Remote Gaming Operator

SUPERVISORY ACTION:

Onsite compliance review carried out in 2019

DETAILS OF THE ADMINISTRATIVE MEASURES IMPOSED:

Administrative Penalty of €386,567 and Follow-up Directive in terms of Regulation 21 of the Prevention of Money Laundering and Funding of Terrorism Regulation (PMLFTR)

LEGAL PROVISIONS BREACHED:

- Regulation 5(1) of the PMLFTR and Section 3.3.1 of the IPs Part I
- Regulation 5(5)(a)(ii) of the PMLFTR and Sections 3.3.1 and 3.5.3 of the IPs Part I together with Sections 2.1.2 and 3.3.2 of the IPs Part II
- Regulations 5(5)(a) and 13(1) of the PMLFTR and Sections 3.4.1, 9.1 and 9.2 of the IPs Part I
- Regulation 7(1)(a) of the PMLFTR and Section 4.3.1.1(i) of the IPs Part I
- Regulation 7(1)(c) of the PMLFTR and Section 3.2 of the IPs Part II
- Regulation 7(1) of the PMLFTR and Section 4.5.2.1 of the IPs Part I
- Regulations 11(1) and 11(9) of the PMLFTR, Section 4.5.1(a) of the IPs Part I and Section 3.3.2 of the IPs Part II
- Regulation 11(5) of the PMLFTR, Section 4.9.2.2(b) of the IPs Part I and Section 3.4 of the IPs Part II
- Regulation 15(1)(a) of the PMLFTR
- Regulations 15(3) and 15(6) of the PMLFTR and Section 5.4 of the IPs Part I
- Regulation 5(5)I of the PMLFTR and Sections 7.2, 7.3 and 7.4 of the IPs Part I

REASONS LEADING TO THE IMPOSITION OF THE ADMINISTRATIVE MEASURE:

Business Risk Assessment - Regulation 5(1) of the PMLFTR and Section 3.3.1 of the IPs Part I

The Business Risk Assessment (BRA) prepared by the Company did not include considerations of all the relevant risks applicable to the Company. In fact, risk scenarios included in the BRA were not even applicable to a remote gaming company but were noted to be more relevant to Corporate Services Providers. Moreover, the assessment of the controls noted that they were inefficient, since the controls that the Company had in place were not analysed for their effectiveness.

It was also noted that the methodology used was not comprehensive enough to determine the inherent and residual risks of the Company. The BRA did not include any quantitative data such as, for example the percentages/total number of players who were making use of a particular product, such as Sportsbook or Casino, nor the percentage/total number of players who were making use of a particular payment method such as prepaid cards.

Thus, the Committee determined that the BRA was not carried out in line with the relevant regulatory obligations and found the Company in breach of Regulation 5(1) of the PMLFTR and Section 3.3.1 of the IPs Part I.

Customer Risk Assessment – Regulation 5(5)(a)(ii) of the PMLFTR, Sections 3.3.1 and 3.5.3 of the IPs Part I and, Sections 2.1.2 and 3.3.2 of the IPs Part II

During the examination, it was noted that there was no information as to how the Customer Risk Assessment (CRA) was being performed by the Company. In fact, no CRAs were found to have been carried out in 26 out of the 31 player profiles reviewed. The only five player profiles with a risk rating assigned were players of another licensed Maltese entity which was making use of the Hellenic Authorisation held by the Company. The Company could not even provide any comprehensive insight as to how the assessment was carried out. The Committee noted that there was an overall lack of understanding of customer risks, not only on paper but also in practice. This was further strengthened by the Company's failure to provide specific representations to this finding.

Since the Company failed to have any CRA measures in place, it was found in breach of Regulation 5(5)(a)(ii) of the PMLFTR and Sections 3.3.1 and 3.5.3 of the IPs Part I together with Sections 2.1.2 and 3.3.2 of the IPs Part II for the systematic shortcomings noted.

Policies, Procedures and Record Keeping – Regulations 5(5)(a) and 13(1) of the PMLFTR and Sections 3.4.1, 9.1 and 9.2 of the IPs Part I

Although the Company had documented policies in place, no evidence of a customer acceptance policy was found. Moreover, these documented policies were not always in line with Maltese AML/CFT legislation and were considered too generic. In fact, the policies failed to include the measures and steps to be followed and the nature of the information to be made available to the MLRO when suspicion of ML/FT is noted. The Company only provided a copy of a suspicious transaction report (STR) form after the compliance examination. However, it was noted that the form did not belong to the Company itself but to another Maltese licensed entity who was making use of the Hellenic Authorisation granted to the Company. The Company did not provide records of any internal reporting or of any STRs escalated and indicated that discussions of any suspicions took place verbally.

Due to these findings the Committee concluded that although the Company did have documented policies in place, these were not in line with the relevant obligations governing Remote Gaming Companies. Consequently, the Committee found the Company in breach of Regulation 5(5)(a) and Regulation 13(1) of the PMLFTR and Sections 3.4.1, 9.1 and 9.2 of the FIAU's IPs Part I.

Identification and Verification – Regulation 7(1)(a) of the PMLFTR and Section 4.3.1.1(i) of the IPs Part I

During the examination, officials conducting the examination noted that for one of the player profiles reviewed, even though the player was given a status that meant that customer due diligence had been completed, the proof of address was not collected. Additionally, it was also noted that in five other player profiles, the collected proof of address was a mobile phone bill. Although in its representations the Company admitted that the mobile phone bill was not in line with AML/CFT obligations, it indicated that it should not be penalised for this shortcoming due to the low number of cases where this was identified.

However, the Committee concluded that though this shortcoming was not identified in a large proportion of the sample reviewed, the fact that the Company was aware that mobile phone bills should not be accepted, but did so all the same, still constitutes a breach.

In view of this, the Company was found in breach of Regulation 7(1)(a) of the PMLFTR and Section 4.3.1.1(i) of the IPs Part I.

Purpose and Intended Nature – Regulation 7(1)(c) of the PMLFTR and Section 3.2 of the IPs Part II

No information on the occupation/profession of the player was found in 28 out of the 31 player profiles reviewed, whilst in the remaining 3 files, insufficient information had been obtained. The Company did not submit any representations with regards to this finding. Committee Members expressed that because of the lack of and insufficient information with regards to the players' liquidity, the Company had failed to establish a comprehensive customer profile. Consequently, in the absence of this detail, the Company was unable to ensure compliance with other AML/CFT obligations, particularly the ongoing monitoring of the business relationship. This since such a shortcoming could have potentially hindered the Company from recognising any unusual patterns of play throughout the business relationship.

Due to this, the Committee decided that the Company had systematically breached its obligations as stipulated under Regulation 7(1)(c) of the PMLFTR and Section 3.2 of the IPs Part II for all the 31 player profiles reviewed.

Transaction Monitoring – Regulation 7(1) of the PMLFTR and Section 4.5.2.1 of the IPs Part I

Officials identified 16 player profiles whose transactional pattern and behaviour required assessing to determine whether the transactional behaviour was suspicious. Although these 16 player profiles held accounts with the Company and with other Maltese licensed entities (who were making use of the Company's Hellenic Authorisation), their accounts were not linked. Therefore, the Company was failing to detect multiple accounts of the same player under the other domains.

Additionally, no transaction monitoring scenarios or alert thresholds were provided to the officials, and it was evident that the Company was not scrutinising the transactions effectively. Since no alert thresholds or automated triggers were in place, the Company was not able to identify when the Euro 2,000 threshold was reached, and as a result it could not apply effective ongoing monitoring.

The Committee expressed its disappointment at the fact that despite the volume of players who were depositing daily with the Company, and that the Company was operating through four domains (which makes the overall player monitoring even more difficult), it only opted to carry out manual monitoring of transactions. Without a transaction monitoring system in place, transaction monitoring was difficult, if not impossible.

The Committee therefore concluded that the Company was in breach of Regulation 7(1) of the PMLFTR and Section 4.5.2.1 of the IPs Part I.

Enhanced Due Diligence – Regulations 11(1) and 11(9) of the PMLFTR, Section 4.5.1(a) of the IPs Part I and Section 3.3.2 of the IPs Part II

In 16 of the player profiles reviewed, officials conducting the examination noted that the Company was expected to carry out enhanced due diligence (EDD), in view of the heightened risks identified in the relationship. Although the MLRO indicated that Tax Return statements were being requested from players who had exceeded the Euro 2,000 threshold, he admitted that 80% of the requests went unanswered. Yet, the accounts of the players remained open beyond the 30-day timeframe that players should be given to submit the requested documentation. Additionally, although the officials were informed that social media checks were being carried out on these players, none of these checks were could be verified.

Some examples of the player profiles which required EDD, and for which no EDD measures were performed, or otherwise were deemed as inadequate, are being relayed hereunder:

- A 25-year-old player who was making use of two payment methods including prepaid cards and who was playing casino games, had deposited over Euro 114,000. The player withdrew over Euro 117,000 and therefore was considered to be winning with more than Euro 2,000 against the Company. Despite this, the Committee took into consideration the age of the player who was considered as relatively young, the types of games played and the value and frequency of the deposits. Consequently, the relationship and the behaviour of the player were considered as high risk by the Committee. In fact, the Committee noted how in a specific month the player had deposited around 68 times using prepaid cards. The risk factors should have alerted the Company to perform enhanced ongoing monitoring on this player, and to determine and verify the source that was funding the player's gaming activity.

- A 34-year-old player who made use of two payment methods including prepaid cards, played casino games, and deposited over Euro 18,000 in less than 2 months prior to self-excluding. No source of funds or source of wealth documentation was collected for this player. The Committee took into consideration the age of the player, the games played, the payment methods used, together with the value and high frequency of the deposits and noted that these altogether presented a high-risk to the Company. The Company was expected to monitor the activity, carry out checks and determine the source that was funding the player's gaming activity.

- A 23-year-old player who made use of three different payment methods including a wallet account and who deposited over Euro 10,000 in around two months. The Company suspended the gaming account upon receiving information that the player was depositing funds into his wallet account using a stolen credit card. The Committee took into consideration that the player was relatively young, made use of multiple payment methods and had a high frequency of deposits. Consequently, the Company was expected to conduct EDD on the player.

Additionally, there were other instances where the Company collected documentation, however, it failed to review it. In fact, one of the players had submitted two tax returns which indicated that he earned over Euro 9,000 in 2016 and over Euro 13,000 in 2018, yet in a period of over two years he had deposited over Euro 195,000 using 6 different payment methods. The Committee expressed that collecting documentation on players yet failing to review it, cannot be considered as an adequate EDD measure.

In view of this, Committee Members determined that the Company was in breach of Regulations 11(1) and 11(9) of the PMLFTR and Sections 4.5.1(a) of the IPs Part I and 3.3.2 of the IPs Part II.

Politically Exposed Persons (PEPs)– Regulation 11(5) of the PMLFTR and Section 4.9.2.2(b) of the IPs Part I and Section 3.4 of the IPs Part II

The Company's PEP measures were not in line with Maltese AML/CFT legislation. The PEP measures that were being carried out consisted of cross-checking new players against a document which only listed Greek ministers. Therefore, if a player were to become a PEP throughout the business relationship, the player's new status would not have been identified. In addition, officials conducting the examination did not find any records of the PEP screening that was being carried out. Even though the Company informed the Committee that since the compliance review had taken place, it has started to make use of an automated system to determine whether any of its customers are PEPs, Committee Members concluded that at the time of the compliance examination the Company was in breach of Regulation 11(5) of the PMLFTR and Section 4.9.2.2(b) of the IPs Part I and Section 3.4 of the IPs Part II.

MLRO – Regulation 15(1)(a) of the PMLFTR

During the compliance examination the officials noted that although the MLRO was quite knowledgeable about the players, he lacked the necessary knowledge on AML/CFT obligations and due to this was not performing his functions as required.

The Committee noted that the Company was expected to employ an individual with sufficient experience and knowledge to carry out the role of an MLRO. This hindered him from exercising the necessary seniority and authority.

In view of this, the Committee decided that the Company had systematically breached Regulation 15(1)(a) of the PMLFTR at the time of the compliance examination.

Internal and External Reporting – Regulation 15(3) and 15(6) of the PMLFTR and Section 5.4 of the IPs Part I

Even though the Company was informed that one of its players was funding his wallet account with a stolen credit card, it did not submit a suspicious transaction report (STR) to the FIAU. Further to this, officials conducting the examination were informed that any suspicious behaviours or transactions would be verbally communicated by the third-party providers to the MLRO. Yet, no reports were ever submitted both internally to the MLRO or externally to the FIAU.

The Committee expressed that the submission of STRs cannot be underestimated since by submitting these reports to the FIAU, the Company would not only be satisfying its legal obligations, but most importantly, it would be assisting the FIAU in combating crime.

In view of this, Committee Members concluded that the Company had breached its obligations in terms of Regulations 15(3) and 15(6) of the PMLFTR and Section 5.4 of the IPs Part I.

Training of Employees – Regulation 5(5)(e) of the PMLFTR and Sections 7.2, 7.3 and 7.4 of the IPs Part I

During the compliance review, the officials conducting the examination were not provided with any training logs, with the MLRO indicating that a more tailored training programme will be implemented in the future.

E-learning certificates were provided, of training attended by the MLRO and employees from other Maltese licensed entities who were making use of the Hellenic Authorisation granted to the Company. However, the Committee noted that these certificates were not in line with Maltese Regulations. The Company expressed that it should not be held accountable for the shortcomings of the employees of the Maltese Licensed entities, since its obligation was to monitor the outsourcing and reliance that was taking place. However, the Committee expressed that term employees should not only refer to individuals who have a contract of employment with the Company but should also include individuals who are engaged by the Company to assist it with the carrying out of its business activities in terms of relevant activity.

Therefore, Committee Members decided that the Company was in breach Regulation 5(5)(e) of the PMLFTR together with Section 7.2, 7.3 and 7.4 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 three hundred eighty-six thousand, five hundred and sixty-seven Euro (€386,567) in relation to:

- Regulations 5(1) of the PMLFTR and Section 3.3.1 of the IPs Part I
- Regulation 5(5)(a)(ii) of the PMLFTR and Sections 3.3.1 and 3.5.3 of the IPs Part I together with Sections 2.1.2 and 3.3.2 of the IPs Part II
- Regulations 5(5)(a) and 13(1) of the PMLFTR and Sections 3.4.1, 9.1 and 9.2 of the IPs Part I
- Regulation 7(1)(a) of the PMLFTR and Section 4.3.1.1(i) of the IPs Part I
- Regulation 7(1)(c) of the PMLFTR and Section 3.2 of the IPs Part II
- Regulation 7(1) of the PMLFTR and Section 4.5.2.1 of the IPs Part I
- Regulations 11(1) and 11(9) of the PMLFTR, Section 4.5.1(a) of the IPs Part I and Section 3.3.2 of the IPs Part II
- Regulation 11(5) of the PMLFTR, Section 4.9.2.2(b) of the IPs Part I and Section 3.4 of the IPs Part II
- Regulation 15(1)(a) of the PMLFTR
- Regulations 15(3) and 15(6) of the PMLFTR and Section 5.4 of the IPs Part I

In addition to the above, in terms of its powers under Regulation 21(4)(c) of the PMLFTR, the FIAU 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 actions taken intended to address the breaches highlighted above, as well as any other additional actions being implemented by the Company included but not limited to:

- The most recent version of the BRA together with the process that has been followed to risk assess risks relevant to the Company.
- The CRA being adopted by the Company together with its methodology.
- Update on the tools or systems being used by the Company to assist it with AML/CFT matters.
- Update on the Company's measures in relation to obtaining information and documentation on the purpose and intended nature of the business relationship.
- Updates on PEP screening.
- Updates on enhanced due diligence measures performed by the Company.
- Updates on the transaction monitoring procedure being carried out.
- Updates on the training being attended by Company officials.
- Updates in relation to the MLRO employed by the Company.

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 breached, it also considered whether the failures were systematic in nature. The impact that these failures could potentially have on the operations of the Company, on the Gaming industry and on the local financial system were also taken into consideration. The Company's lack of knowledge of several its AML/CFT obligations and lack of regard in ensuring that it has the necessary policies, procedures, and measures in place to adhere to these obligations were also taken into consideration in the overall decision by the Committee. The Committee also took into consideration that the Company expressed that it has since started remediating.

However, the Committee also considered that the Company was overall reactive to the compliance review rather than being compliant of its own accord with its AML/CFT obligations, out of an understanding and respect to them. In taking its decision, the Committee also took into consideration the fact that the MLRO and the Company representatives were generally cooperative during the carrying out of the compliance examination.

The Company is also aware that if the requested information and/or documentation is not made available within the stipulated timeframes, the Committee will be informed of this default with 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.

14 January 2022