



## 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:**

28 February 2022

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

Trustees and Fiduciaries

### **SUPERVISORY ACTION:**

Thematic Off-site compliance review carried out in 2021

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

Administrative Penalty of €12,500 in terms of Regulation 21 of the Prevention of Money Laundering and Funding of Terrorism Regulations (PMLFTR).

### **LEGAL PROVISIONS BREACHED:**

- Regulation 15(3) of the PMLFTR and Section 5.5 of the Implementing Procedures Part I (IPs)
- Regulation 5(5)(a)(ii) of the PMLFTR and Sections 3.5.1 of the IPs

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

Failure to submit an STR and/or SAR – Regulation 15(3) of the PMLFTR and Section 5.5 of the IPs

During the compliance review, FIAU officials noted adverse media on the Beneficial Overview (BO) of a customer to whom the Subject Person had been offering registered address services since 2017. The adverse media article resulted from searches the Company had carried out in 2017, at the time of onboarding. The Committee acknowledged the Subject Person's representations that at the time of onboarding, it did not have sufficient information to report, because the adverse media on the BO was at that point based merely on allegations and there were no further developments in relation to these, for several years. Nevertheless, the Committee emphasised that the Company should have remained vigilant about the relationship it was establishing and monitored for any similar information that could have led to grounds for suspicion.

During the compliance review, FIAU officials conducted individual searches which resulted in another two articles highlighting additional adverse media that arose throughout the business relationship, one

was dated November 2020 and the other August 2021. Both articles were directly related to the customer's BO. Following these additional two articles, the Company had sufficient grounds to suspect that the BO was not a person of good standing. He could be connected directly or indirectly to ML both through his ties with a former Minister of a non-European country. Furthermore, the BO had failed to pay the relevant tax on \$27 million worth of art. The Company failed to consider other adverse information that arose throughout the course of the relationship, including the BO's direct close connections to current and former ministers of a non-European country who were found guilty of charges relating to money laundering, embezzlement of state funds and other corrupt activities. Yet, despite the level of publicly available information for the Subject Person to have grounds to suspect that money laundering, tax evasion and possible BO concealment had or could have taken place, the Subject Person still failed to submit an SAR or STR to the FIAU.

The Committee emphasised that irrespective of the service being offered (even if registered address), because the BO was already subject to adverse information before onboarding, the Subject Person was required to keep abreast of any developments on the customer and its BO throughout the business relationship. Whilst acknowledging the introduction of an automated screening software, the Committee emphasised that the adverse information was so readily available in the public domain, that there was no justification for such information to have gone unnoticed.

In view of the above, the Subject Person was found to have failed to adhere to its obligation in terms of Regulation 15(3) of the PMLFTR and Section 5.5 of the IPs.

Customer Risk Assessment (CRA) – Regulation 5(5)(a)(ii) of the PMLFTR and Sections 3.5.1 and 3.5.3 of the IPs.

The compliance review identified five customer files in which a CRA was not carried out at onboarding and was instead carried out several months after the start of the business relationship. The Committee could not accept the Subject Person's justification stating that, CRAs are compiled in paper format and therefore it could have been the case that the assessments had been mislaid or misfiled. The Committee emphasised that Subject Persons are obliged to have the CRAs in place at on boarding stage to prove compliance with AML/CFT legal obligations and to prove they are aware of the specific risks the customer exposes them to. This was something which the Subject Person failed to demonstrate, both during the examination as well through its representations.

In view of the above, the Committee found the Subject Person to be in breach of its obligations in terms of Regulation 5(5)(a)(ii) of the PMLFTR and Section 3.5.1 of the IPs.

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

After taking into consideration the abovementioned breaches committed by the Subject Person, the Committee decided to impose an administrative penalty of twelve thousand five hundred euro (€12,500) with regards to the breaches identified in relation to the obligations emanating from:

- Regulation 15(3) of the PMLFTR and Section 5.5 of the IPs
- Regulation 5(5)(a)(ii) of the PMLFTR and Sections 3.5.1 and 3.5.3 of the IPs.

When deciding the appropriate administrative measures to impose, in addition to the specific considerations outlined above, the Committee took into consideration the nature and size of the Subject Person's operations and the overall impact that the AML/CFT shortcomings had or could have had, both on its own operations and on the local jurisdiction. The seriousness of the breaches identified, together with their occurrence were also considered by the Committee when deciding the administrative measure to be imposed.

**2 March 2022**

