



Publication Notice: Late/No Replies to Requests for Information made by the FIAU

SUPERVISORY ACTION:

Late/No Replies to Requests for Information made by the FIAU

DETAILS OF THE ADMINISTRATIVE MEASURES IMPOSED

Administrative measures in terms of Regulation 21 of the PMLFTR for failure to satisfy the requirements of Regulation 15(8) of the 2018 Prevention of Money Laundering and Funding of Terrorism Regulations (PMLFTR)¹.

Data is being published in an aggregate form covering all the administrative measures imposed by the Compliance Monitoring Committee following an assessment of late or non-submission by Subject Persons to requests for information made by the Financial Intelligence Analysis Unit as soon as is reasonably practicable but not later than five working days from when the request is first made. The requests for information were made during the period January 2017 to March 2018.

INTRODUCTION

The FIAU's analytical function is carried out by the Intelligence Analysis section. This consists of collecting, processing and analysing information obtained from various sources. The information collected leads to potential dissemination to be used as intelligence to combat ML/FT. The main source of information is the submission of STRs and the ensuing requests for information from various sources, including persons subject to the PMLFTR and foreign counterparts.

The FIAU made 6,015 requests for information to 314 entities in 2017. These include persons subject to the PMLFTR, foreign FIUs, the Police, supervisory authorities, and Government departments and agencies. This figure represented an increase of almost 42% when compared to 2016, and this upward trend was also observed in Q1 2018. As has been noted over previous years, credit institutions still remained the primary source of information for the FIAU with this conclusion being based on the fact that the majority of all requests for information sent by the FIAU were directed towards such entities.

¹ Regulation 15(11) as per the PMLFTR of 31st July 2008 was the Regulations in force at the time that the breach was committed. It is pertinent to point out that there were no changes in the obligations imposed on subject persons for this specific requirement through the changes enacted by the PMLFTR of 2018.



Sector	Category	Requests per Sector
Financial Sector	Credit Institutions	6,219
	Financial Institutions	276
	Life/Long-term Insurance	2
	Investment Service Providers	4
Gaming Sector	Land-Based Casinos	34
	Remote Gaming	34
Non-Financial Businesses and Professions (DNFBPs)	TCSPs	1,040
	Advocates	4
Grand Total		7,613

Table 1: Number of Requests for Information made per Sector from January 2017 to March 2018

ADMINISTRATIVE MEASURES

As per Regulation 15(8) of the Prevention of Money Laundering and Financing of Terrorism Regulations (the “PMLFTR”), the FIAU may, where it deems necessary demand information from any subject person, and that subject person shall comply as soon as is reasonably practicable but not later than five working days from when the demand is first made unless otherwise instructed by the FIAU. Provided further that a subject person may make representations justifying why the requested information cannot be submitted within the said time and the FIAU may, at its discretion and after having considered such representations, extend such time as is reasonably necessary to obtain the information, whereupon the subject person shall submit the information requested within the time as extended.

Failure to reply to Requests for Information or submitting responses after the stipulated timeframes has led to the issuance of a potential breaches letter to a total of **63** subject persons as illustrated in Table 2.

Sector	Category	Number of Subject Persons
Financial Sector	Credit Institutions	16
	Financial Institutions	4
	Life/Long-term Insurance Undertakings	0
	Investment Service Providers	1
Gaming Sector	Land-Based Casinos	0
	Remote Gaming Operators	0
Non-Financial Businesses and Professions (DNFBPs)	TCSPs	42
	Advocates	0
Grand Total		63

Table 2: Potential Breaches Issued by Category

Subject persons who received the potential breaches letter as aforementioned were invited to submit representations (supported with any evidence as necessary) in relation to their failure to reply to requests for information or replying after the stipulated deadline. In line with the FIAU's policies and procedures, all representations received by the FIAU were presented to the FIAU's Compliance Monitoring Committee (the "Committee") for a final determination of the case. Following consideration of all cases and corresponding representations, the Committee determined that a breach subsisted for a total of **50 subject persons**².

The administrative measures imposed for the breaches identified in terms of Regulation 15(8) of the PMLFTR included pecuniary fines totalling €357,900 imposed on 47 subject persons and written reprimands imposed on 3 subject persons. In certain instances and whenever the findings warranted doing so and in line with the FIAU's policies and procedures, an amalgamation of administrative measures which included both a reprimand and a pecuniary penalty were imposed on subject persons. Table 3 below illustrates a breakdown of the total number and value of administrative measures imposed per Sector.

Sector	Category	Number of Subject Persons	Administrative Measures Imposed	
			Amount of Administrative Penalties (€)	Number of Reprimands
Financial Sector	Credit Institutions	13	€ 165,000	8
	Financial Institutions	3	€ 54,000	0
	Life/Long-term Insurance	0	€ 0	0
	Investment Service Providers	1	€6,600	1
Gaming Sector	Land-Based Casinos	0	€ 0	0
	Remote Gaming	0	€ 0	0
Non-Financial Businesses and Professions (DNFBPs)	TCSPs	33 ³	€132,300	16
	Advocates	0	€ 0	0
Grand Total		50	€357,900	25

Table 3: Number and Value of Administrative Penalties Issued

In reaching a conclusion on the amount of the administrative penalty, the Committee took into consideration: the representations submitted by the subject person, the nature and size of each subject person and the seriousness of the findings including the possibility of the subject person having

² As can be noticed the total administrative penalties imposed by the FIAU is lower than the number of potential breaches that had initially been issued. The reason for such a difference is owed to the process wherein the Committee would consider the specific information in relation to the case, including the representations submitted by the subject person.

³ 5 of the 31 administrative measures imposed have been appealed in front of the court of appeal, (inferior jurisdictions) by the subject person.

prejudiced local and/or international analytical reviews or investigations through its failure to reply or replying late to FIAU requests for information

CONCLUSION

The FIAU emphasises that requests for information sent by the Intelligence Analysis Section are crucial and indispensable in obtaining information for the Unit's analytical function and therefore, no circumstance should prevent the Subject Person from replying to said requests within the timeframes required. This also applies in cases of NIL return. Failure to reply or to reply late to requests for information made by the FIAU, does not only result in a subject person failing to satisfy the requirements of Regulation 15(8) of the PMLFTR but such non-adherence also has a detrimental impact on the FIAU's analytical function.

Therefore the purpose of this exercise is not only to take administrative action against subject persons who fail to reply to FIAU requests for information or otherwise reply late, but also to ensure that subject persons appreciate the importance of said requests and the serious repercussions for breaching Regulation 15(8) of the PMLFTR.

30 November 2020

APPEAL OUTCOMES

On the 2nd March 2022, the Court of Appeal (Inferior Jurisdiction) decided the appeal brought forward against the decision of the FIAU dated 3rd July 2020, whereby the FIAU imposed an administrative penalty of €6,000. The Court varied the FIAU's decision and reduced the administrative penalty to €500.

On the 9th March 2022, the Court of Appeal (Inferior Jurisdiction) decided the appeal brought forward against the decision of the FIAU dated 14th July 2020, whereby the FIAU imposed an administrative penalty of €6,600 and a reprimand. The Court revoked the FIAU's decision in its entirety.

On the 9th March 2022, the Court of Appeal (Inferior Jurisdiction) decided the appeal brought forward against the decision of the FIAU dated 6th March 2020, whereby the FIAU imposed an administrative penalty of €40,500 and a reprimand. The Court varied the FIAU's decision and reduced the administrative penalty to €6,450.

On the 15th June 2022, the Court of Appeal (Inferior Jurisdiction) decided the appeal brought forward against the decision of the FIAU dated 14th July 2020, whereby the FIAU imposed an administrative penalty of €9,000. The Court confirmed the breaches but reduced the administrative penalty to €2,600.

On the 22nd June 2022, the Court of Appeal (Inferior Jurisdiction) decided the appeal brought forward against the decision of the FIAU dated 26th June 2020, whereby the FIAU imposed an administrative penalty of €12,000. The Court confirmed the breaches but reduced the administrative penalty to €2,000.