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:

2 September 2022

SUBJECT PERSON:

Olimp Limited

RELEVANT ACTIVITY CARRIED OUT:

Remote Gaming Operator

SUPERVISORY ACTION:

Offsite compliance review carried out in 2020

DETAILS OF THE ADMINISTRATIVE MEASURES IMPOSED:

Administrative Penalty of € 130,460

LEGAL PROVISIONS BREACHED:

- Regulations 5(1), 5(3) and 5(4) of the PMLFTR and Section 3.3 of the FIAU's Implementing Procedures (IPs).
- Regulation 5(5)(a)(ii) of the PMLFTR, Sections 3.5 of the IPs Part I, and Sections 2.1.1 and 2.2 of the IPs Part II.
- Regulation 7(1)(a) and 9(1) of the PMLFTR, Section 4.3.1 of the FIAU's IPs Part I and Sections 3.2(i) and 3.3.2 of the IPs Part II.
- Regulation 7(1)(c) of the PMLFTR and Sections 3.2 (iii), 3.2 (iv) and 3.3.2 of the IPs Part II.
- Regulation 11 of the PMLFTR and Sections 4.9 and 8.1.3 of the IPs Part I and Section 3.3.2 of the IPs Part II.
- Regulation 15 of the PMLFTR and Section 5.1.2 of the IPs Part I.

REASONS LEADING TO THE IMPOSITION OF THE ADMINISTRATIVE MEASURE:

<u>Business Risk Assessment - Regulations 5(1), 5(3) and 5(4) of the PMLFTR and Section 3.3 of the IPs</u>

The Company did not have a Business Risk Assessment (BRA) in place at the time of the compliance examination. In its representations, the Company informed the Committee that it has carried out a draft of the BRA, which was carried out in 2020, and therefore two years after the obligation has been in place. A copy of the said draft was attached with the representations. Following a review of this draft BRA, it was noted that the Company failed to identify its threats and risks and it failed to determine its inherent and

residual risks. The Company was expected to compile an inventory of risks, both actual and potential. These would then need to be assessed depending on the likelihood of them happening versus the impact that such risk would leave if it materializes. Following this assessment, the Company would be able to determine its inherent risk. The BRA also needs to assess the controls in place, to ensure that these are robust enough to mitigate the risks, and determine if more controls are required. It is only after the assessment of the controls in place that the Company can work out and determine its residual risk.

Instead, the draft document outlined the action points that the Company needs to implement to mitigate its risks, and a list of risks, without any indication as to how such risks were assessed or what controls are being done to mitigate same.

In view of this, the Committee determined that the Company has systematically breached its obligations under Regulations 5(1), 5(3) and 5(4) of the PMLFTR and Section 3.3 of the FIAU's IPs.

Customer Risk Assessment - Regulation 5(5)(a)(ii) of the PMLFTR, Sections 3.5 of the IPs Part I, and Sections 2.1.1 and 2.2 of the IPs Part II

No documented customer risk assessment (CRA) methodology was in place at the time of the compliance examination. Although it was noted that players had a risk rating assigned, it become apparent that such rating was not relating to ML/FT risks, as envisaged under Regulation 5(5)(a)(ii) of the PMLFTR, but based on business related factors such as how profitable the player was to the Company. Since the Company did not have a CRA in place, it was not in a position to ensure that it understood the level of customer due diligence necessary and the level and frequency of ongoing monitoring it was expected to carry out. Although both the Implementing Procedures Part I and the sector specific ones (IPs Part II) cover this obligation in great detail, and despite the fact that the FIAU carried out multiple training seminars on a regular basis, the Company continued its operations without implementing CRA measures. No representations were submitted by the Company to rebut the findings.

The Committee thus found the Company in breach of Regulation 5(5)(a)(ii) of the PMLFTR, Sections 3.5 of the IPs Part I, and Sections 2.1.1 and 2.2 of the IPs Part II for the Remote Gaming Sector.

Customer Due Diligence - Regulation 7(1)(a) and 9(1) of the PMLFTR, Section 4.3.1 of the FIAU's IPs Part I and Sections 3.2(i) and 3.3.2 of the IPs Part II

Several shortcomings in relation to the identification and verification measures were noted during the compliance examination. The Company was expected to carry out customer due diligence measures on these players since all of these had exceeded the Euro 2,000 threshold as per legal obligations. Some of the shortcomings identified are being relayed hereunder:

- The permanent residential address of 5 player profiles was not verified.
- The copy of the identification document collected for 3 player profiles were not adequate since only the front side was made available.

Here again, the Company did not submit any representations. The Committee found the Company in breach of its obligations in terms of Regulations 7(1)(a) and 9(1) of the PMLFTR, Section 4.3.1 of the FIAU's IPs Part I and Sections 3.2(i) and 3.3.2 of the IPs Part II.

Purpose and intended nature of the business relationship - Regulation 7(1)(c) of the PMLFTR and Sections 3.2 (iii), 3.2 (iv) and 3.3.2 of the IPs Part II

Prior to the sample file review, the MLRO informed the Officials that information on the player's source of funds is being collected, and that limits are set on the player's profile in accordance with their betting activity. However, none of the player profiles reviewed held any information on the occupation of the player, their source of wealth and expected source of funds or on the expected level of activity. Thus, limits on the player profiles could not be set since the Company did not have any information on its players in

order to determine same. The Committee remarked that the absence of such information meant that the Company with offering its services without even having an understanding of the player's profile, and which inevitably, hindered the Company's ability to implement effective control measures, thus heightening exposure to money laundering risks.

Here again, the Company did not submit any representation. The Committee determined that the finding constitutes a breach of Regulation 7(1)(c) of the PMLFTR and Sections 3.2 (iii), 3.2 (iv) and 3.3.2 of the IPs Part II.

Enhanced Due Diligence - Regulation 11 of the PMLFTR and Sections 4.9 and 8.1.3 of the IPs Part I and Section 3.3.2 of the IPs Part II

During the compliance examination it was noted how three of the players reviewed were nationals and residents of a non-reputable jurisdiction. Although the MLRO had indicated that EDD is carried out on high-risk customers, and that a screening platform is used to obtain information as part of the EDD measures, it was noted that none of these three players was risk assessed as high.

During the deliberations, the Committee took into consideration that the country was included in the FATF list of jurisdictions with strategic deficiencies a few months before the commencement of the compliance examination. While it could have been the case that the risk rating of the players was carried out prior to the inclusion of such country into the said list, the Company was expected to have measures in place to identify such a change and apply EDD measures on these players, in line with its legal obligations yet also considering the particularities of the relationships subject to the EDD requirement.

No submissions were put forward by the Company. The Committee determined that this finding constitutes a breach of Regulation 11 of the PMLFTR and Sections 4.9 and 8.1.3 of the IPs Part I and Section 3.3.2 of the IPs Part II.

MLRO - Regulation 15 of the PMLFTR and Section 5.1.2 of the IPs Part I

From the compliance examination it was noted that the Company's MLRO was outsourced and that he did not have an employment relationship with the Company. This individual worked with an IT company and also occupied the roles of a compliance and legal officer. Committee members reiterated that the functions of an MLRO cannot be outsourced. No representations were submitted by the Company. The Committee determined that the Company was in breach of Regulation 15 of the PMLFTR and Section 5.1.2 of the IPs Part I.

ADMINSITRATIVE MEASURES TAKEN BY THE FIAU'S COMPLIANCE MONITORING COMMITTEE:

After taking into consideration the abovementioned findings together with (i) the nature of the services and products offered by the Company; (ii) the size of the Company which was considered to be relatively small; (iii) the seriousness of the obligations breached; (iv) the impact that such breaches could potentially have on both the Company and the local Gaming industry, the Committee decided to impose an administrative penalty of Euro 130,460 with regards to the breaches identified in relation to:

- Regulations 5(1), 5(3) and 5(4) of the PMLFTR and Section 3.3 of the IPs.
- Regulation 5(5)(a)(ii) of the PMLFTR, Sections 3.5 of the IPs Part I, and Sections 2.1.1 and 2.2 of the IPs Part II.
- Regulation 7(1)(a) and 9(1) of the PMLFTR, Section 4.3.1 of the FIAU's IPs Part I and Sections 3.2(i) and 3.3.2 of the IPs Part II.
- Regulation 7(1)(c) of the PMLFTR and Sections 3.2 (iii), 3.2 (iv) and 3.3.2 of the IPs Part II.
- Regulation 11 of the PMLFTR, Sections 4.9 and 8.1.3 of the IPs Part I and Section 3.3.2 of the IPs Part II.
- Regulation 15 of the PMLFTR and Section 5.1.2 of the IPs Part I.

Under normal circumstances, a Follow-up directive would be imposed for the breaches identified in terms of Regulation 21(4)(c) of the PMLFTR, however the Committee took into consideration that the Company had surrendered its gaming licence. Had the Company not surrendered its licence, a process to follow up on the measures necessary to ensure compliance with the local AML/CFT legislative provisions, both in relation to the failures for which the Company has been found in breach (as relayed above), as well as on the remedial actions that the Company would have initiated. However, in view of the Company's decision to surrender its license, it can no longer being considered as a Subject Person and hence the Follow up Directive cannot be served.

Key take-aways

- The obligation to have a BRA has been in place since 2018. A BRA has to take into consideration the actual and potential risks of the Company and that controls have to be assessed in line with these risks to ensure that the controls are robust enough to mitigate the identified risk. It is only after this assessment is carried out that Subject Persons can determine the residual risk of the business.
- Without having a CRA that identifies ML/FT risks and which determines the customer's risk profile in accordance with same, a subject persons would not be able to determine a customer profile. It is important to remember that carrying out a CRA is fundamental both for the effective application of customer due diligence measures and also for monitoring purposes.
- Without carrying out proper identification and verification measures, a subject person runs the risk of being used and abused by individuals who are not who they claim to be.
- Information on the customer's source of wealth and source of funds is essential in order to build a comprehensive customer risk profile. It is only with such information that any changes in the customer's behaviour can be identified and assessed.
- Subject Persons are legally obliged to carry out EDD measures when their customers have links with non-reputable jurisdictions, irrespective if other risk factors within the relationship do not contribute to the heightened risk. The level and extent of EDD should then be commensurate to the risks being faced through such relationship.
- An MLRO cannot be outsourced and must be an official in employment with the subject person. MLROs need to be well versed in the operations of the Company, to be able to assess red-flags ad typologies specific to its operations and to implement measures for the early detection of ML/FT risks that may require reporting. The MLRO must have sufficient seniority and command to whom officers and employees of the Subject Person are to report to, in case they have knowledge and suspicion of ML/FT. This officer is also required to have unrestricted access to any relevant information held by the Subject Person at all times.

5 September 2022