



## Publication Notice: Late/No Replies to Request/s for Information

### **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 in terms of Regulation 15(8) of the 2018 Prevention of Money Laundering and Funding of Terrorism Regulations (PMLFTR).

Data is being published in a combined form following an assessment of the administrative measures imposed by the FIAU's Compliance Monitoring Committee (CMC or the Committee) on subject persons who either failed to reply or replied late to requests made by the FIAU during the period July 2021 to December 2022.

### **INTRODUCTION**

In line with FATF Recommendation 29, the EU Anti-Money Laundering and Counter Funding of Terrorism Directives, as well as Article 16 of the Prevention of Money Laundering Act (PMLA), the FIAU has a dedicated Intelligence Analysis team. Among other functions, this team collects, processes, and analyses information obtained from various sources. To collect information, the FIAU may issue requests for information on various accounts as follows: following the receipt of Suspicious Transaction Reports (STRs), arising from the receipt of requests for information from foreign FIUs and in relation to cases generated by the FIAU itself. The entities from which information may be requested include subject persons, foreign FIUs, the Malta Police Force, supervisory and competent authorities, as well as government departments and agencies. Once the information is collected, processed, and analysed, the information is disseminated as intelligence to combat Money Laundering and Funding of Terrorism (ML/FT).

As illustrated in Table 1 below, between July 2021 and December 2022, the FIAU made over 6,000 requests for information to various entities, with the information being indispensable to aid investigations pertaining to ML/FT, both locally and internationally. The period under review saw a decrease in the number of requests for information sent to reporting entities due to the increased use of the Centralized Bank Account Registry (CBAR) platform. The register reduces the need to send out requests to credit and financial institutions for the sole purpose of identifying whether a subject holds a relationship with that entity. The total number of requests for information made between July 2021 and December 2022 is illustrated in Table 1 below.

Sector	Category	Requests per Sector
Financial Sector	Credit Institutions	4,139
	Financial Institutions	1,492
	Insurance Licensees	5
	Investment Service Providers	26
Virtual Financial Assets Sector	Virtual Financial Assets Service Providers	0
	Virtual Financial Assets Agents	115
Gaming Sector	Remote Gaming Companies	674
	Casino Licensees	125
	Land-Based Operators (other than Casinos)	8
Non-Financial Businesses and Professions (DNFBPs)	Trustee Corporate Service Providers	15
	Real Estate Agents	20
	Independent Professionals (Accountants, Notaries and Lawyers)	1
<b>Grand Total</b>		<b>6,620</b>

**Table 1:** Number of Requests for Information made per Sector from July 2021 to December 2022

## ADMINISTRATIVE MEASURES

As per Regulation 15(8) of the PMLFTR, the FIAU may, where it deems necessary, demand information from any subject person. The subject person must comply as soon as is reasonably practicable but not later than five working days from when the request is first made, unless otherwise instructed by the FIAU. A subject person may make representations justifying why the requested information cannot be submitted within the required timeframe. The FIAU may, at its discretion and after evaluating the representations, extend the time as is reasonably necessary to obtain the information. The subject person must then submit the information requested within the extended timeframe.

Failure to reply to Requests for Information or the late submission of responses led to 79 'potential breaches letters' being issued to subject persons as illustrated in Table 2 below.



Sector	Category	Number of Subject Persons
Financial Sector	Credit Institutions	1
	Financial Institutions	8
	Insurance Licensees	0
	Investment Service Providers	3
Virtual Financial Assets Sector	Virtual Financial Assets Service Providers	2
	Virtual Financial Assets Agents	1
Gaming Sector	Remote Gaming Companies	45
	Casino Licensees	0
	Land-Based Operators (other than Casinos)	0
Non-Financial Businesses and Professions (DNFBPs)	Corporate Service Providers	5
	Trustees and Fiduciaries	1
	Real Estate Agents	0
	Independent Professionals (Accountants, Notaries and Lawyers)	13
<b>Grand Total</b>		<b>79</b>

**Table 2:** Potential Breaches Issued by Category

Subject persons in receipt of the potential breaches letter were invited to submit representations in relation to their failure to reply to requests for information or for replying late, supported with any evidence as necessary. Representations received were presented to the FIAU’s Compliance Monitoring Committee (the Committee) to make a final decision about the case. In its deliberations on each case and when deciding on the amount of the administrative penalty to impose (where appropriate), the Committee took into consideration: the representations made by the subject person, together with the nature and seriousness of the findings. Furthermore, it considered the possibility that the subject person might have prejudiced local and/or international analytical reviews or investigations through its failure to reply or by replying late to FIAU requests for information.

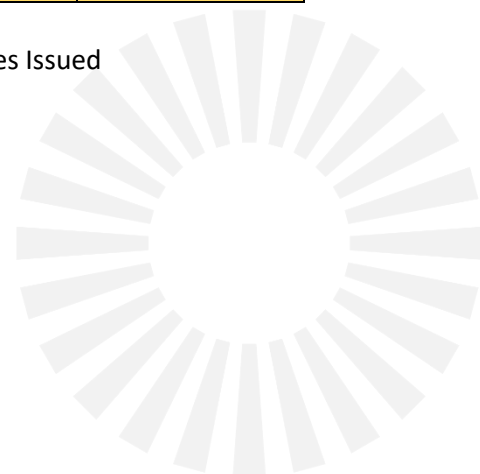
Following the evaluation of all cases and corresponding representations, the Committee decided to impose an administrative measure on **seventy-one (71) distinct subject persons.** These consisted of pecuniary fines totalling **€123,800** imposed on 46 subject persons and written reprimands imposed on 25 subject persons. Whenever the findings so warranted, and in line with the FIAU’s policies and procedures, an amalgamation of administrative measures including both a reprimand and a pecuniary penalty was imposed on subject persons.



Table 3 illustrates the total number and value of administrative penalties imposed per Sector. As can be noted the total count of administrative penalties imposed by the FIAU, is lower than the number of potential breaches that was initially issued. The reason for this difference is because, based on the specific information in relation to the case (including the representations submitted by the subject person) the Committee concluded that a number of subject persons were not in breach of their obligations.

Sector	Category	Number of Subject Persons	Administrative Measures Imposed	
			Value of Administrative Penalties (€)	Number of Reprimands
Financial Sector	Credit Institutions	1	€750	1
	Financial Institutions	7	€15,500	6
	Insurance Licensees	0	€0	0
	Investment Service Providers	3	€2,000	2
Virtual Financial Assets Sector	Virtual Financial Assets Service Providers	1	€2,000	0
	Virtual Financial Assets Agents	1	€0	1
Gaming Sector	Remote Gaming Companies	40	€90,600	14
	Casino Licensees	0	€0	0
	Land-Based Operators (other than Casinos)	0	€0	0
Non-Financial Businesses and Professions (DNFBPs)	Corporate Service Providers	5	€4,500	2
	Trustees and Fiduciaries	0	€0	0
	Real Estate Agents	0	€0	0
	Independent Professionals (Accountants, Notaries and Lawyers)	13	€8,450	3
<b>Grand Total</b>		<b>71</b>	<b>€123,800</b>	<b>29</b>

**Table 3:** Number and Value of Administrative Penalties Issued



## CONCLUSION

One invaluable tool utilised by the Intelligence Analysis Section in the carrying out of its duties is its power to request information from subject persons. The requests are aimed at locating business relationships or transactions carried out by specific subjects and to request all information relevant to the analysis being undertaken. The effectiveness of such a tool is dependent on the subject person's responsiveness to such requests. Therefore, no circumstance should prevent a subject person from replying to these requests within the timeframes required. This also applies in cases of NIL return. Failure to reply or replying late to requests for information made by the FIAU, not only results in a subject person failing to satisfy the requirements of Regulation 15(8) of the PMLFTR, but this failure also has a detrimental impact on the FIAU's analytical function.

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. It is also to ensure that subject persons appreciate the importance of these requests and the serious repercussions for breaching Regulation 15(8) of the PMLFTR.

Further guidance to subject persons in relation to the Late/No Replies to Requests for Information exercise can be found on <https://fiaumalta.org/news/faqs-requests-for-information/>

**1 September 2023**

