

FREQUENTLY ASKED QUESTIONS

REQUESTS FOR INFORMATION



The FIAU's analytical function is key in safeguarding the Jurisdiction's good standing and the integrity of its financial system from the negative and detrimental effect of financial crime. 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, it is paramount for all subject persons to ensure that no circumstance should prevent for a reply to be received by the FIAU within the timeframes stipulated. Failure to reply within the timeframes stipulated has a detrimental impact on the FIAU's analytical function and is also a breach of the subject person's legal obligations in terms of Regulation 15(8) of the PMLFTR.

The purpose of this document is to highlight the importance of Regulation 15(8) of the PMLFTR. This by providing salient points to keep in mind both when adhering to this obligation as well as when found to be in potential breach through failure to reply to requests for information within the timeframes stipulated by law.

Q1: Who can receive a request for information in terms of Regulation 15(8) of the PMLFTR?

Any legal or natural person carrying out either relevant financial business or relevant activity as defined under Regulation 2 of the PMLFTR may receive a request for information and are liable to reply to the same within five (5) working days, unless otherwise stipulated by the FIAU.

Q2: How are requests for information transmitted by the FIAU's Intelligence Analysis Section?

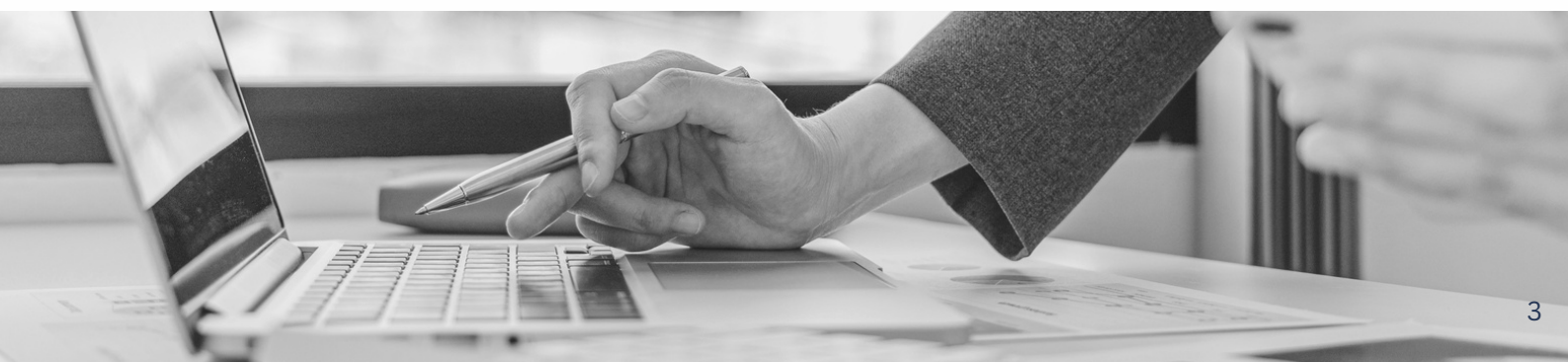
Since the launch of goAML in June 2020, requests for information are no longer transmitted via email but through the subject person's message board on goAML.

Further information on this is available through the following notification:

<https://fiaumalta.org/wp-content/uploads/2020/06/FIAU-goAML-Notification.pdf>

Q3: How am I notified that there is a new message on my goAML message board?

Subject persons are notified through an email notification alert highlighting that there is a new message on the goAML message board. This email notification alert is directed at the organisation's email address listed by the subject person on their respective goAML account. Kindly note, that the system only accepts one email per organisation, however, should the subject person deem it necessary for several officers to receive notifications, there is the facility to include a group email address. The organisation email address may be changed as required, when necessary, by the Reporting Entity Administrator (RE Admin) registered on goAML. However, it is entirely up to the subject person to decide how best to receive email notifications, ensuring that such notifications are duly and effectively acted upon.



Q4: Why were there new Requests for Information on the Message Board, yet I did not receive any email notification alerts about them?

Automated emails may be directed to spam/junk folders. Whitelisting the goAML automated email address can minimise these instances, though this is not foolproof. It is therefore expected that subject persons not only whitelist the system's email address but also regularly review the content within spam/junk folders. Otherwise, subject persons are also encouraged to frequently check their goAML message board to ensure that any request for information requiring action is effectively addressed within the stipulated timeframes.

Q5: Is there a particular procedure to follow if I hold multiple MLRO appointments?

Yes. Since the goAML system does not accept the same email address to be registered to more than one entity, when an individual holds multiple MLRO appointments, he/she should ensure that the 'delegation to parent' procedure is carried out to ensure emails, are directed to an existent email address.

You can do so by registering yourself as an organization but specifying that you are a Professional. Once all your entities are separately registered with their unique email address, you can log in on each entity and delegate control to your MLRO organizational ID. When you log in with your MLRO account, you will see a drop down with your entities delegated to you for your control.

If the new organisation is not yet registered on goAML, a New Delegating Organisation may be created through the 'main' organisation's profile. The new organisation is created through the delegation itself, therefore, the same email address may be used, and no new user is created.



Q6: How often should I access the goAML Message Board?

While frequent access to the goAML message board is highly encouraged, subject persons may decide to implement other measures they deem appropriate as long as the obligations emanating from Regulation 15(8) of the PMLFTR are honoured. Subject persons are encouraged to access their entity's message board as frequently as possible irrespective of receipt of any email notifications. Furthermore, while the majority of requests for information are to be responded to within 5 working days, in more urgent cases, the FIAU may invoke its powers at law to request information in a lesser timeframe. In such cases the stipulated timeframe is communicated in the request but is not evident in the automated email notification.

Q7: What do I do if as the MLRO, I will be indisposed/absent/unavailable for a period of time?

Section 5.1.1 of the Implementing Procedures (IPs) stipulates that in terms of Regulation 15 of the PMLFTR, the MLRO is required to respond promptly to any request for information. However, the MLRO may delegate and/or be assisted by other employees falling under his/her supervision. Additionally, Section 5.2 of the IPs outlines that considering the desired functions by the MLRO, it is imperative that he/she is available at all times, yet it is understandable that this may not always be possible.

Hence, subject persons are to consider whether to register more than one user to assist and, whenever necessary, temporarily replace the MLRO when absent. It is however imperative for subject persons to understand that the email notification alert that there is a new message on the goAML message board will only be sent to the persons included in the recipients list.



Q8: Should subject persons inform the FIAU of any changes?

Yes. Subject persons should ensure the information/data on their respective registration, is duly amended, and maintained correct and up to date. Relevant changes requiring updates may include a change in MLRO, other registered users of the subject person, email address/es, company name changes, any upcoming surrender of licence etc. The person with Admin Rights can affect the necessary changes him/herself and approve or change the rights of any new/existing users as well as assign/revoke Admin Rights. Further information on this is available through the following notification:

<https://fiaumalta.org/wp-content/uploads/2021/09/goAML-Web-Forms-and-Registration-User-Interface.pdf>

goAML and CASPAR are two separate systems with different functions altogether and are administered by two separate sections within the FIAU. The systems are not affiliated or connected to each other and neither of them has visibility of the data either holds. Therefore, it is important to contact/inform both sections separately of any changes occurring within the SP's set up.

Q9: What if I am already aware of not being able to meet the deadline within which the information is required?

In case of early indication that the subject person may justifiably be unable to seek, gather, format, and submit, all the information being requested within the given timeframe, as stipulated by Regulation 15(8) of the PMLFTR, it may request an extension from the FIAU's Intelligence Analysis Section, prior to the lapse of the stipulated deadline. It is important that such requests are made in writing through the goAML Message Board, and that the requests provide a justification for the request.

Q10: Why am I receiving multiple requests for information bearing the same case reference number, on the same day, at times, also on successive and/or different days?

The subject person's attention is drawn to the fact that it may receive multiple requests for information bearing the same case reference number and that some, may also be transmitted on the same date within mere hours of each other. Despite this, each request for information should be considered as a separate, individual request since the content of the attached 'Standard Enquiry to.....' document and the information sought, invariably differ. Consequently, all should be considered as separate requests that require being replied to.

Q11: Am I obliged to reply to each Request for Information separately?

Yes. Subject persons are required to respond to each request separately, by replying to the same message received through goAML's message board. Similarly, in cases where affiliated companies all providing relevant activity, receive requests for information about the same subjects, responses to such requests are to be made on behalf of every company. This even in the case of multiple MLRO appointments.

Q12: What if the subject person has no relationship with the person/entity about whom/which the information is being requested?

In the case of a NIL reply, as stated in the request for information, subject persons are still required to reply back accordingly on the Message Board. Failure to submit such a response, will constitute a failure to reply.

Q13: What if a Request for Information is received by a subject person during a period of licence suspension and/or while in the process of licence surrender?

Subject persons who are still licensed by a relevant authority, irrespective of whether they are servicing customers or not and irrespective of whether operations have ceased, must reply to any requests for information and within the required timeframes. Hence, requests for information transmitted during a period of licence suspension and/or prior the effective termination of a subject person's licence, must be duly replied to.



Q14: Who do I contact if I should require assistance?

The Unit has two teams offering generic and technical assistance, to better support subject persons with any issues encountered. You may contact goamlsupport@fiaumalta.org for general support and goAMLTechnical@fiaumalta.org for your technical queries. Further information is available through the following notification:

<https://fiaumalta.org/wp-content/uploads/2020/06/FIAU-goAML-Notification.pdf>

Q15: What is the enforcement process for late and/or failure to reply to requests for information?

The enforcement section carries out a periodic exercise to monitor subject person compliance to the requirement to reply to requests for information within the stipulated deadlines. Information about no and/or late replies is provided by the Intelligence Analysis Section, which information leads to the issuance of potential breaches letters to each subject person who either did not reply or otherwise replied following the stipulated deadlines. Subject Persons are given a 30-day time period to provide representations. The Committee considers the subject person representations and determines whether there was an actual breach of Regulation 15(8) of the PMLFTR and if so determine the administrative measures to impose for such breaches.

Q16: What actions should I take when receiving the potential breaches letter?

Subject Persons are required to ensure adherence to Regulation 15(8) of the PMLFTR, albeit after the stipulated timeframes. Moreover, subject persons are required to ensure that representations are submitted within the timeframes stipulated in the potential breaches letter.

Q17: What is important to include in the representations?

If there is a justified reason for late and/or failure to reply to requests for information this should be clearly explained. This will assist the Compliance Monitoring Committee in determining the appropriate administrative action to impose. One should keep in mind that there are a number of unjustified reasons including:

- Reference to workload. Subject persons are given reasonable time to reply to requests for information and this is a legal obligation that should be given equally importance to any other workload. The FIAU acknowledges the effort required to respond to such requests, however, subject persons that are not in a position to honour such obligation for justifiable reasons should immediately inform the FIAU's Intelligence Analysis Section and request an extension.
- The resignation of MLROs, changes in management or other key officials. In the absence of the responsible person handling the requests from the FIAU, subject persons ought to have a designated employee or a competent team member to handle such requests for the intervening time, said member should have unrestricted access to any relevant information held by the subject person that would allow them to answer to requests made by the FIAU in a timely manner.
- Not knowing of the obligation to submit a NIL reply. As stated in the request for information, subject persons are still required to reply back accordingly on the Message Board. In the absence of a reply, the FIAU will not know whether the subject person held any important information for the FIAU's Analysis Section to be able to fulfil its function and analyse the information received.
- Not knowing of the request for information. Instructions and reminders regarding the FIAU's utilisation of the goAML platform to request information had been communicated to all Subject Persons by the FIAU through various electronic means on numerous occasions.
- Technical difficulties. Since the outset of the launch of goAML, the Unit had setup two teams including a technical one, this to ensure sufficient resources are in place to support subject persons with any issues encountered at the time. These support channels for goAML related issues, are still actively assisting subject persons to this day and one need only reach out for the related assistance to be provided.

Q18: How does the FIAU determine the administrative measure to impose for failing to reply to requests for information within the stipulated timeframes?

All potential breaches of the AML/CFT legislative provisions are brought before the Compliance Monitoring Committee, being the internal Committee set up to determine breaches of the law and determine the most appropriate administrative measure to impose in line with its internal policies and procedures.

The Committee must ensure that the administrative measures it imposes are always proportionate, effective and dissuasive. In determining the administrative measure, the Committee considers:

- Subject Person Representations. Refer to the previous question as to how to provide representations and what should be included.
- The seriousness of the breach committed. In such circumstance, the Committee considers whether it is a complete no-reply or otherwise a late reply, and in the latter instance the days within which the request was replied to late. The relevant activity or relevant financial business undertaken by the subject person is also factored in.
- The importance of the obligation being breached, particularly the risks of hindering the FIAU's Analytical Function
- In determining the seriousness of the breach committed, incorrect replies that may jeopardise the ability of the FIAU's Intelligence Analysis Section to carry out its functions appropriately and effectively are also considered as aggravating the subject person's breaches at law.
- Repeated non-compliance. Subject Persons who repeatedly fail to reply to request for information within the stipulated timeframes are given heftier penalties in view of their repeated lack of regard towards their obligation at law. Repeated non-compliance may also lead to the taking of other administrative measures the FIAU is empowered to take including the imposition of a Directive to take corrective actions.



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