



# Publication of AML/CFT penalties

## Policies and Procedures

- 27 May 2015 -

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**FINANCIAL INTELLIGENCE ANALYSIS UNIT**

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## **Introduction & scope**

1. Article 13A of the Prevention of Money Laundering Act (PMLA), introduced by virtue of Act III of 2015, requires that the Financial Intelligence Analysis Unit (FIAU) publishes the administrative penalties it imposes in terms of the Prevention of Money Laundering and Funding of Terrorism Regulations (PMLFTR), where the amount of the penalty is equivalent to or exceeds €1,500.
2. Article 13A requires the Board of Governors to establish policies and procedures that will govern the publication of such penalties. This document, endorsed by the Board of Governors of the FIAU during its 136<sup>th</sup> meeting held on Wednesday, 27<sup>th</sup> May 2015, establishes the applicable policies and sets out the procedures to be followed by the FIAU.

## **Administrative penalties subject to publication**

3. The FIAU is empowered to impose administrative penalties for failure by any person to comply with the lawful requirements, orders or directives issued by the FIAU and for contraventions by subject persons of any provision of the PMLFTR.
4. Any administrative penalty imposed by the FIAU the value of which is equivalent to or exceeds €1,500 shall be published by the FIAU in accordance with the policies and procedures established herein. An administrative penalty imposed by the FIAU in respect of multiple breaches, where the total value amounts to or exceeds €1,500 shall also be subject to publication.
5. All administrative penalties amounting to or exceeding €1,500 imposed by the FIAU shall be published in the medium referred to in paragraph 6 of these policies and procedures where the breaches in respect of which the administrative penalty has been imposed were identified by the FIAU after the coming into force of Article 13A of the PMLA.

## **Medium of publication**

6. Penalties subject to publication shall be published on the FIAU website in such a manner that they are clearly visible and easily accessed by website users.

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### **Information to be published**

7. In addition to the value of the administrative penalty imposed, the information published shall also include:
  - i. The identity details of the natural or legal person subject to the administrative penalty (i.e. name, identification document number or registration number of the legal person or legal arrangement);
  - ii. Date of imposition of the administrative penalty;
  - iii. A summary of the reasons leading to the imposition of the administrative penalty; and
  - iv. A reference to the legal provision/s that was breached.
  
8. Administrative penalties imposed by the FIAU are subject to review in terms of Maltese law. Where the FIAU publishes an administrative penalty which has been subjected to a review process before the Courts of Malta or an administrative tribunal, it shall include a statement indicating that the administrative decision in respect of which the administrative penalty was imposed is subject to review. Moreover, the FIAU shall take all the necessary measures to communicate the outcome of the review process and to remove the publication notice should the challenge of the FIAU decision be successful.

### **Timing of publication**

9. Publication by the FIAU of administrative penalties in terms of Article 13A of the Prevention of Money Laundering Act and in accordance with these policies and procedures shall take place within not less than two and not more than six working days from the date of issue of the imposition of the administrative penalty.

### **Period of publication**

10. Published administrative penalties shall remain posted on the FIAU website for a period of five years from publication. Upon expiration of the five year publication period the publication notice shall be removed from the FIAU website unless the Board of Governors is of the view that circumstances exist that warrant a longer period of publication.

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## **Exemptions**

11. Where the FIAU is of the view that the publication of an administrative penalty and related information mentioned in these policies and procedures may prejudice an ongoing FIAU analysis or Police investigation, the FIAU may exercise discretion in the interest of safeguarding the integrity of that information. For this purpose and in order to ensure that the ongoing analysis or investigation is not unduly prejudiced, the Board of Governors may, upon receipt of a recommendation of the Director, authorise:
- i. the postponement of the publication for as long as this possibility subsists; or
  - ii. the publication of that information that is not deemed to constitute any prejudice to the ongoing analysis or investigation.