



NOTICE

Legal Notice 372 of 2017 – Prevention of Money Laundering and Funding of Terrorism Regulations, 2017

The Financial Intelligence Analysis Unit (“FIAU”) would like to bring to the attention of subject persons and any other interested third party that on 20 December 2017 Legal Notice 372 of 2017 was published in the Government Gazette. This Legal Notice introduces the Prevention of Money Laundering and Funding of Terrorism Regulations, 2017 (“PMLFTR 2017”) which are to repeal and replace the Prevention of Money Laundering and Funding of Terrorism Regulations, 2008 currently in force, with effect from 1 January 2018. The PMLFTR 2017 form part of the various changes to laws intended to transpose Directive (EU) 2015/849 into Maltese law. A copy of this Legal Notice is available on the Laws of Malta website - <http://www.justiceservices.gov.mt/> - as well as on the FIAU’s own website - <http://www.fiumalta.org/>.

The main development that these new regulations introduce is the greater emphasis on adopting a risk based approach to fulfilling anti-money laundering and combatting the funding of terrorism (“AML/CFT”) obligations and in particular customer due diligence requirements. Under the current regime subject persons could already apply customer due diligence requirements on a risk-sensitive basis, i.e. vary the extent and timing of the said requirements on the basis of the money laundering and funding of terrorism (“ML/FT”) risks present in a given business relationship or occasional transaction. Chapter 4 of Part I of the current Implementing Procedures already explains and provides guidance on how this could be done.

However, with the eventual coming into force of the PMLFTR 2017, the risk-based approach will no longer be an alternative available to subject persons but the main manner in which subject persons are expected to apply AML/CFT requirements. Thus, with the exception of specifically provided for situations, such as when transacting business with Politically Exposed Persons or entering into correspondent relationships, subject persons will be allowed greater discretion in determining how to meet their AML/CFT obligations and will have the necessary flexibility in terms of extent and timing to address effectively the ML/FT risks they are exposed to.

The FIAU is currently working on a revision of the Implementing Procedures Part I which are intended to be issued for consultation in early 2018. The FIAU is aware that with the coming into force of the PMLFTR 2017, situations will arise where the AML/CFT requirements as set out in the PMLFTR 2017 will contrast with how these same requirements are spelled out in the current Part I and Part II of the Implementing Procedures as these were based on the PMLFTR 2008, which transposed the 3rd EU Anti-

Money Laundering Directive, and were written with a more prescriptive and rules-based system in mind.

Throughout this interim period and until the publication of the revised Implementing Procedures Part I, the FIAU will not insist on a strict application of the rules contained in the Implementing Procedures Part I and will consider their application on a risk-sensitive basis as being in line with the PMLFTR 2017. Moreover where conflicts arise between the provisions of the PMLFTR 2017 and the Implementing Procedures the PMLFTR 2017 shall prevail. Subject persons shall at all times operate in compliance with the AML/CFT requirements envisaged under the PMLFTR 2017.

Email: legal@fiumalta.org

Tel: +356 21 231 333

21 December 2017