Administrative Measure Publication Notice

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DATE OF IMPOSITION OF THE ADMINISTRATIVE MEASURE:

2 December 2022

RELEVANT ACTIVITY CARRIED OUT:

Remote Gaming Operator

SUPERVISORY ACTION:

Onsite compliance review carried out in 2018

DETAILS OF THE ADMINISTRATIVE MEASURES IMPOSED:

Administrative Penalty of Euro 23, 468

LEGAL PROVISIONS BREACHED:

- Regulation 5(1) of the PMLFTR.
- Regulation 5(5)(a)(ii) of the PMLFTR and Sections 2.1.1, 2.1.2 and 2.1.3 of the FIAU's Implementing Procedures, Part II.
- Regulation 5(5)(a) of the PMLFTR and Section 2.1.1 of the FIAU's Implementing Procedures, Part II.
- Regulation 7(1)(c) of the PMLFTR and Section 3.2(iii) of the Implementing Procedures, Part II.
- Regulation 11(5) of the PMLFTR and Section 3.4 of the FIAU's Implementing Procedures, Part II.

REASONS LEADING TO THE IMPOSITION OF THE ADMINISTRATIVE MEASURE:

<u>Business Risk Assessment – Regulation 5(1) of the PMLFTR</u>

The Company's Business Risk Assessment (BRA) did not provide a list of the control measures assigned to the identified risk categories and neither did it include an assessment of the controls and how effective these were in mitigating the identified risks. Moreover, the assessment did not provide explanations on how the residual risk was being calculated or whether the risk falls within the Company's risk appetite. The Company informed the Committee that it had updated the BRA on a yearly basis since the time of the compliance examination, and submitted a copy of the latest BRA which follows the guidance issued in the FIAU's Implementing Procedures.

After reviewing the latest BRA, the Committee noted that while the Company started including quantitative data such as the number of players who reach the Euro 2,000 threshold and the percentages of customers according to the payment method being used, this information was not being used when assessing the

risks identified. Moreover, the Committee could not determine whether controls were being assessed and whether these were effective in mitigating the identified risks. The Committee acknowledged the Company's efforts to remedy the deficiencies identified during the compliance examination and considered that since the time of the compliance examination, the Company's knowledge on the BRA has matured and improved.

The Committee determined that even though certain improvements were noted in the Company's BRAs, it could not ignore the fact that at the time of the compliance examination, the Company's BRA was inadequate as highlighted in the preceding paragraphs. Thus, the Committee determined that this finding constitutes a breach of Regulation 5(1) of the PMLFTR.

Customer Risk Assessment - Regulation 5(5)(a)(ii) of the PMLFTR and Sections 2.1.1, 2.1.2 and 2.1.3 of the FIAU's Implementing Procedures, Part II

At the time of the compliance examination, the Company's documented AML/CFT policies and procedures did not reflect the procedures being adopted by the AML tool used for Customer Risk Assessment (CRA). The computation of the point system (indicated in the latter procedure) and how the scoring determines the overall risk score of the players could not be determined. Moreover, the resulting risk score of the CRA was mostly being determined on the playing pattern of the customers, rather than via the four main risk pillars. The risk factors identified in the BRA also held a different risk score in the CRA. For example, whilst the BRA indicated that players with multiple accounts represent a high-risk to the Company, the CRA determined this risk factor as presenting medium risk. The risks assigned to specific players were also not considered as representative of the evident risks noted, as per the below example:

- A player was making use of multiple payment methods including credit cards, bank transfers, prepaid payment cards and another unidentified payment method listed as 'other'. However, it was noted that the deposits were being carried out via the online prepaid payment cards (a riskier payment method due to their anonymity) while the withdrawals were being effected through credit/debit cards. The Company had collected information that this player worked with a mail postal company and that he owned no property and held no investments. The customer was playing casino games and between a period of 10 months had deposited over Euro 13,000. The player was initially risk assessed as representing a high-risk due to the multiple payment methods, however, following the completion of CDD collected, the risk was reduced to low. The Committee determined that in view of the value and velocity of the transactions taking place, the multiple payment methods used throughout the business relationship and the products used (casino games), the player merited a higher-risk score.

In its representations, the Company conceded to the findings reported and informed the Committee that changes to the CRA methodology have since been carried out.

Notwithstanding, the Committee concluded that the CRA reviewed at the time of the compliance examination was inadequate, in that it was not calibrated to capture the risks presented by the players in line with the stipulated AML/CFT regulations. This was further exacerbated by the divergences between the risk scores in the BRA and CRA. The Committee therefore determined that at the time of the compliance examination, the Company was in breach of the Regulation 5(5)(a)(ii) of the PMLFTR and Sections 2.1.1, 2.1.2 and 2.1.3 of the FIAU's Implementing Procedures, Part II.

AML/CFT Policies and Procedures - Regulation 5(5)(a) of the PMLFTR and Section 2.1.1 of the FIAU's Implementing Procedures, Part II

The contents of the policy documents including the AML/CFT policies and procedures, the customer acceptance policy and the BRA diverged from each other. This divergence was mainly observed with

regards to the jurisdictions which the Company entertained business with. In fact, the Company had 3 different jurisdiction lists, with the BRA having a list of 137 jurisdictions from where customers would not be accepted, while the AML/CFT policies and procedures included a list of another 49 countries from where customers would be banned. The Committee expressed that this created confusion as to which countries the Company should be carrying business with, and which list is to be followed. In fact, the Company had two separate lists that were distinct from one another, which led the Company to servicing customers from countries that were banned (the Company had players from 29 countries that were supposedly restricted). In its representations the Company stated that it could not understand the reported findings, nonetheless, it submitted an updated annex with the restricted countries.

In view of this the Committee determined that this finding constitutes a breach of Regulation 5(5)(a) of the PMLFTR and Section 2.1.1 of the FIAU's Implementing Procedures, Part II.

Purpose and intended nature of the business relationship - Regulation 7(1)(c) of the PMLFTR and Section 3.2(iii) of the Implementing Procedures, Part II

Shortcomings in relation to the obligation to obtain information on the purpose and intended nature of the business relationship were identified. The Committee noted how only one player profile contained some information relating to the purpose and intended nature since it included the employment of the player. In its representations, the Company referred to the fact that at the time when the compliance examination was taking place, the FIAU's Implementing Procedures for the gaming industry had just been issued (July 2018) and thus, its internal policies and procedures had been prepared in a limited time. Notwithstanding, the Company informed the Committee that since the compliance examination took place, improvements were made.

The Committee noted that no supporting evidence was submitted with the representations to substantiate the Company's arguments. Moreover, the Company was considered as a subject person as of January 2018, and although the Gaming IPs were issued in July 2018, the Company was expected to abide (especially considering that the examination was conducted towards the end of 2018) with the legal obligations emanating from the PMLFTR and to the extent applicable, with the requirements of the IPs Part I which had been in circulation since 2011. Thus, clarifications on how to understand and collect information relating to the purpose and intended nature of the business relationship was available.

The Committee therefore concluded that the Company breached Regulation 7(1)(c) of the PMLFTR and Section 3.2(iii) of the Implementing Procedures Part II.

Politically exposed person's - Regulation 11(5) of the PMLFTR and Section 3.4 of the FIAU's Implementing Procedures, Part II

The compliance examination revealed that none of the players reviewed contained any evidence of PEP screening, despite the Company indicating that PEP checks were being carried out. Whilst it is understood that the Company did not accept players considered as PEPs, and that it was indicated that no PEPs were onboarded by the Company, this claim could not be corroborated with any documented evidence, since no records of searches were retained. Moreover, although during the compliance examination, the Company stated that it was going to set up a commercial database to carry out real time screening, no details as to when this system was going to be up and running were provided.

In its representations, the Company informed the Committee that additional policies and processes were implemented following the compliance examination and that PEP screening is now being carried out daily. Screenshots of such screening were provided as evidence. The Committee acknowledged that the Company has since remediated this shortcoming but reiterated that at the time of the compliance examination it could not be confirmed that PEP screening was being carried out. Therefore, it determined

that this finding constitutes a breach of Regulation 11(5) of the PMLFTR and Section 3.4 of the FIAU's Implementing Procedures, Part II.

ADMINISTRATIVE 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, (v) the fact that when the compliance examination took place, the Company had only been considered as a Subject Person for around 10 months, the Committee decided to impose an administrative penalty of Euro 23,468 with regards to the breaches identified in relation to:

- Regulation 5(5)(a)(ii) of the PMLFTR and Sections 2.1.1, 2.1.2 and 2.1.3 of the FIAU's Implementing Procedures, Part II.
- Regulation 7(1)(c) of the PMLFTR and Section 3.2(iii) of the Implementing Procedures, Part II.
- Regulation 11(5) of the PMLFTR and Section 3.4 of the FIAU's Implementing Procedures, Part II.

In addition to the above, in terms of its powers under Regulation 21(4)(c) of the PMLFTR, the FIAU also served the Company with a Follow-up Directive (Directive). The Directive is intended to assess the Company's remediation for the abovementioned breaches as well as the identified breaches of:

- Regulation 5(1) of the PMLFTR
- Regulation 5(5)(a) of the PMLFTR and Section 2.1.1 of the FIAU's Implementing Procedures, Part II

The aim of the Follow-up Directive is for the FIAU to make sure that the Company enhances its AML/CFT safeguards and becomes compliant with the obligations imposed in terms of the PMLFTR and the FIAU's IPs. In addition, it serves to ensure that any required follow-up measures in relation to the Company's adherence to its AML/CFT legal obligations are done. In virtue of this Directive, the Company is required to make available an Action Plan. The latter must detail the remedial actions that it has carried out and implemented since the compliance examination, together with remedial actions which are expected to be carried out to ensure compliance following the identified breaches, this including but not limited to:

- The latest BRA and a copy of the methodology including the weightings of the risks and an assessment/audit of the controls in place.
- The latest CRA methodology.
- The latest AML/CFT policies and procedures which must include clarifications on how the Company is adopting the risk-based approach especially with regards to the EDD measures being applied.
- Updates on the PEP screening tool.
- Copy of the latest jurisdiction risk assessment including the methodology adopted.

In the eventuality that the requested information and/or documentation is not made available within the stipulated timeframes, the Committee will be informed of this default. This resulting in the possibility of eventual action being taken, including the potential imposition of an administrative penalty in terms of the FIAU's powers under Regulation 21 of the PMLFTR.

<u>Key take-aways</u>

- The methodology of the BRA must also factor in the assessment of the controls in place to mitigate the identified risks. Control measures, such as carrying out enhanced due diligence on high-risk players need to be assessed to ensure that the measures being adopted are mitigating the identified high-risk.
- The CRA is one of the pillars of a sound AML/CFT compliance program. An adequate CRA is required both to determine the level of due diligence necessary to build comprehensive player profiles and

to ascertain the degree of on-going monitoring necessary. Having a CRA that focuses mostly on the profitability of customers is not considered as adequate.

- Information on the player's source of wealth and source of funds is essential to build a comprehensive customer risk profile. It is only with this information that any changes in the customer's behaviour can be identified and assessed. This information is also essential to carry out proper transaction monitoring checks to determine how much a player can afford to deposit.
- Subject Persons are legally obliged to carry out PEP checks and to retain evidence of the checks. These checks should not only be carried out at registration, but also throughout the business relationship as part of the ongoing monitoring obligations.

5 December 2022