



Administrative Measure Publication Notice

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The Notice provides select information from the FIAU's decision imposing the respective administrative measure and is not a reproduction of the actual decision.

DATE OF IMPOSITION OF THE ADMINISTRATIVE MEASURE:

23 June 2025

SUBJECT PERSON:

C2D Payment Solutions Limited

RELEVANT ACTIVITY CARRIED OUT:

Financial Institution

SUPERVISORY ACTION:

Compliance review carried out in 2023

DETAILS OF THE ADMINISTRATIVE MEASURE IMPOSED:

An administrative penalty of €243,537 and a Follow-Up Directive in terms of Regulation 21 of the Prevention of Money Laundering and Funding of Terrorism Regulations (PMLFTR).

LEGAL PROVISIONS BREACHED:

- Regulation 5(5)(a)(ii) of the PMLFTR and Section 3.5.2 of the Implementing Procedures (IPs) Part I;
- Regulation 7(1)(c) of the PMLFTR and Sections 4.4 and 4.6.1 of the IPs Part I;
- Regulations 7(1)(d) and 7(2)(a) of the PMLFTR and Section 4.5.1(a) of the IPs Part I.



REASONS LEADING TO THE IMPOSITION OF THE ADMINISTRATIVE MEASURE:

Customer Risk Assessment (CRA) - Regulation 5(5)(a)(ii) of the PMLFTR and Section 3.5.2 of the IPs

The Company did have a CRA methodology in place, however it failed to consider a crucial factor that greatly, seriously and systemically impacted the Company's ability to understand its actual risk exposures. The Company has exponential exposure to cash both from deposits undertaken by customers as well as withdrawals. Yet, such exposure was not considered in any manner when risk assessing all of its customer base. As a result, the absolute majority of the customers it was servicing were rated as presenting a low risk of ML/FT despite the significant exposure to deposits and withdrawals in cash and despite the fact that Section 3.2.1 of the IPs clearly and explicitly stipulates that the exposure to cash is one of the higher risk factors that customers may present. By way of example, some customers had deposited over €100,000 in cash, yet such exposure was never accounted for in understanding risks.

The Company also did not consider the customer's expected source of funds (SoF) and source of wealth (SoW) but rather only considered whether this was provided or otherwise. While the non-provision of such information is indeed a red flag, the information about the customers sources, if obtained, also shed light into the extent of risks the SP could be exposed to. The Company should have therefore included factors that assess the customers' sources such as through an understanding of the economic activity generating the funds and income brackets to understand the extent of the expected activity.

Additionally, it was also noted that the Company was only considering its customers' country of residence when conducting its CRAs and was failing to consider the customers' nationality, jurisdiction(s) from where the activity generating their funding was being carried out or any other jurisdiction(s) to which they have strong trading or financial connections. In fact, ties to higher risk jurisdictions were overlooked for circa 48% of the files reviewed. While the connection was mostly through nationality, the Company did not ensure that there were no other material links to that jurisdiction that should be considered in the risks the customer presents.

While the above breaches have been observed as at the time of the examination, the Committee positively noted that the Company initiated a remediation plan to enhance its CRA methodology ensuring it caters for, amongst others, the deficiencies identified relating to its CRA during the compliance review and as summarised above.

Customer Profiling - Regulation 7(1)(c) of the PMLFTR and Sections 4.4 and 4.6.1 of the IPs

The Company failed to collect any information to establish its customers' employment, SoW, SoF and anticipated level of activity, this up until December 2022, when a revised procedure started being implemented and such information started being requested through a SoW questionnaire. The Committee positively noted that following December 2022 the Company embarked on a risk sensitive review so as to collect this information from active customers. Subsequently, the Company indeed collected sufficient information establishing the customer profile for 44% of the files reviewed.

The Committee also considered the specificities of the Company's business model, which enabled it to access certain information as to how the customer was utilising the deposits and to what extent such use could have generated additional funds. However, through this same business model customers were allowed to withdraw funds making it difficult for the Company to ascertain whether future deposits could be linked with the additional funds generated through prior deposits.

Therefore, while the Company could have some indication of the sources funding the customer's activities, obtaining sufficient information and when necessary, documentation to build a comprehensive customer profile was indispensable to:

- Understand the customer including the source funding the initial deposit; and
- Effectively monitor future deposits and not rely exclusively on what could have been earned from the initial deposit.

Since the Company only started distributing the SoW form as of December 2022 and not all active customers had been remediated, this resulted in serious deficiencies in circa 48% of the files reviewed. This since certain customers either failed to provide the necessary information or else, customers provided generic information which gave little if any value to truly understand the customer. Some examples illustrating these shortcomings are delineated hereunder:

- Customer A: This customer deposited over €200,000 in cash between 2021 and 2023. Despite this, the Company failed to collect any information regarding the customer's SoW, occupation nor income brackets.
- Customer B: The Company had screenshots on file indicating that the customer is a salesperson within the property sector, however these screenshots fail to indicate the expected income. Moreover, these screenshots were not dated thus the date when these were taken could not be determined. Furthermore, while noting that a copy of a bank statement was also provided, which statement showed a balance of over €100,000, this still did not portray the customer's income. Notwithstanding this, the customer was allowed to deposit over €240,000 in cash.
- Customer C: Whilst noting that the Company had proof that the customer owns a car dealership, it failed to collect any information pertaining to the customer's earnings. This despite the customer's cash deposits exceeded €240,000 in around six months.

Positively, for the majority of these files, the Company proactively blocked the account of such customers up until such additional information and/or documentation was/is provided. Notwithstanding this, the delay in initiating the request for necessary information, coupled with further delays in updating customer records and taking additional action when no information was provided, resulted in finding the Company to have failed to establish a comprehensive customer profile in a timely manner in 92% of the cases examined.

Ongoing Monitoring: Scrutiny of Transactions - Regulations 7(1)(d) and 7(2)(a) of the PMLFTR and Section 4.5.1(a) of the IPs

The failures identified in relation to the scrutiny of transactions emanated from the Company's failure in establishing comprehensive customer profiles as aforementioned. As part of its ongoing monitoring, the Company was to probe further and flag that information required to establish the business and risk profile was missing. This should have led the Company to not only obtain the same but also corroborate it with further evidence where necessary.

ADMINISTRATIVE MEASURES TAKEN BY THE FIAU'S COMPLIANCE MONITORING COMMITTEE (CMC):

After taking into consideration the above-mentioned findings, the Committee decided to impose an administrative penalty of €243,537 for the breaches identified in relation to:

- Regulation 5(5)(a)(ii) of the PMLFTR and Section 3.5.2 of the IPs Part I;
- Regulation 7(1)(c) of the PMLFTR and Sections 4.4 and 4.6.1 of the IPs Part I.

In arriving at its decision regarding the administrative measure(s) to impose, the Committee took into consideration all the information made available by the Subject Person, both during the compliance examination, as well as in the representations submitted. The Committee also considered the importance of the obligations breached, together with the overall seriousness of the findings identified and their material impact. The Committee further noted that the Company did not have the measures in place to build comprehensive business and risk profiles prior to December 2022, which failure could have led to the unintentional facilitation of ML/FT, thus exposing the Company and the jurisdiction at large to unmanaged risks. As part of reaching its final decision, the Committee also considered the nature, the size and operations of the Company. Positively, the Committee factored in the good level of cooperation exhibited by the Company throughout the entire process and the regard to its AML/CFT obligations. Indeed, the Committee also noted that the Company is updating the FIAU of the reviews it is undertaking to ensure that it has adequate customer profiles and of other enhancements it is undertaking to increase the robustness of its AML/CFT control framework, and this out of its own volition. Lastly, the Committee ensured that the penalty imposed is effective, dissuasive and proportionate to the failures identified and the ML/FT risks that were perceived during the compliance examination.

In addition to the imposition of an administrative penalty, the Committee served the Company with a Follow-Up Directive in terms of the FIAU's powers under Regulation 21(4)(c) of the PMLFTR. The purpose of this Directive is for the FIAU to ensure that the Company enhances its AML/CFT safeguards and performs all the necessary remedial actions to attain compliance with its AML/CFT legal obligations emanating from the PMLFTR and the IPs. By virtue of this Directive, the Company is being directed to remediate the identified breaches through the following remedial actions:

- Provide a detailed explanation of the enhancements undertaken by the Company to cater for the breaches identified in relation to the Company's CRA methodology;
- Provide updated policies and procedures relating to customer profiling;
- Provide a detailed explanation of the information and supporting documentation currently being collected by the Company at onboarding and subsequently during the course of the business relationship to formulate a business and risk profile for its customers;
- Provide updated policies and procedures relating to transaction monitoring, including enhancements undertaken by the Company to ensure information and/or documentation collected are being assessed, how the Company shall adopt additional risk-based measures in collecting additional documentation and the trigger events or measures the Company will be adopting to ensure that the transactional activity is considered to determine whether the customer profile is sufficiently robust and understood.

The Follow-Up action shall also include the carrying out of a number of meetings to discuss the implementation of the above-mentioned action items, as well as the sampling of a number of customer relationships and the review of new measures/systems implemented by the Company.

Finally, the Committee stipulates that in the eventuality that the Company fails to make the abovementioned documentation and information available with the specified deadline, the Company's default shall be communicated to the Committee for its eventual actions, including the possibility of the imposition of an administrative penalty in terms of the FIAU's powers under Regulation 21 of the PMLFTR.

The administrative penalty imposed is not yet final and may be appealed before the Court of Appeal (Inferior Jurisdiction) within the period as prescribed by the applicable law. It shall become final upon the lapse of the appeal period or upon final determination by the Court.



Key Takeaways

- Some businesses or professional activities from which the customers are deriving their wealth or the funds to be used in the course of a business relationship are to be considered as presenting a high risk of ML/FT, this including when the activity pursued is in cash. Similarly, a product or service that is cash intensive is to be considered as presenting a higher risk than other products that cannot be so funded.
- The CRA is one of the pillars of a sound AML/CFT compliance program where all the risk criteria are exhaustively considered, and an understanding of risk is obtained. Section 3.1 of the IPs makes reference to the notion of risk, specifically that the CRA should account for the customer's 'inherent risk,' meaning the risk one is exposed to prior to adopting and applying any measures, policies, controls and procedures to mitigate the same. Therefore, subject persons are to ensure that the risk factors identified as part of their customer risk understanding are being considered for the purpose of understanding the level of controls necessary and the measures which are better suited to effectively manage the risks identified.
- When assessing the jurisdiction risk within the CRA, subject persons are to ensure that they consider material factors and do not solely rely on residence. Therefore, other connections such as the customers' nationality, jurisdiction(s) from where the activity generating their funding was being carried out or any other jurisdiction(s) to which they have strong trading or financial connections are to also be considered. While the customer's nationality may be less material, it is still an important consideration to take in determining whether other material ties to the respective jurisdiction, including potential funding, exist.
- While one's modus operandi may provide additional information on the customers' activities that assists in understanding the sources funding the same, this should never replace obtaining sufficient information from the customer to understand their risk profile. This, together with all the other information available, is crucial to eventually scrutinise transactions and assess their economic and lawful rationale and the legitimacy of the funding streams.

23 June 2025

