

## Directive 3 of 2020

### Directive on the Key Function of the Prevention of Money laundering and the Financing of Terrorism

In exercise of the power conferred to it by article 7(2) of the Gaming Act, 2018 (Cap. 583 of the Laws of Malta), the Malta Gaming Authority is hereby issuing the following directive in relation to the Money Laundering Reporting Officer, and the Key Function of prevention of money laundering and the financing of terrorism in terms of the Gaming Authorisations and Compliance Directive.

#### Part I – Short Title and Definitions

1. The short title of this directive is the Directive on the Key Function of the Prevention of Money Laundering and the Financing of Terrorism 2020.
2. This directive shall come into force on 20 July 2020.
3. (1) In this directive, save as provided in sub-article (2) of this article, all words and phrases shall have the same meaning as prescribed in the Gaming Definitions Regulations, the Gaming Authorisations Regulations and the Gaming Authorisations and Compliance Directive.

(2) In this directive, unless the context otherwise requires:

“Authorisations and Compliance Directive” shall mean the Gaming Authorisations and Compliance Directive – Directive 3 of 2018;

“B2C Licence Applicant” shall mean an applicant for a B2C licence which would lead to the applicant being considered as a subject person in terms of the Prevention of Money Laundering and Funding of Terrorism Regulations (PMLFTR), (S.L. 373.01) of the Laws of Malta;

“B2C Licensee” shall mean an authorised person holding a B2C licence by the Authority and considered a subject person in terms of the PMLFTR;

“Compliance and Enforcement Regulations” shall mean the Gaming Compliance and Enforcement Regulations (S.L. 583.06);

“Directive” means this Directive on the Key Function of the Prevention of Money Laundering and the Financing of Terrorism;

“FIAU” shall mean the Financial Intelligence Analysis Unit as set up by the Prevention of Money Laundering Act (Cap. 373 of the Laws of Malta);

“Key Function” or “Key Function Holder” shall for the purpose of this directive, mean the Key Function or Key Function Holder responsible for the prevention of money laundering and the financing of terrorism;

“MLRO” means the officer appointed under Regulation 15(1)(a) of PMLFTR;

“Primary Key Function Holder” shall mean a Key Function Holder who is together with several other Key Function Holders authorised to perform the Key Function simultaneously, but is regarded as the licensee’s point of contact with the Authority in relation to the Key Function;

“Prospective MLRO” shall mean a natural person who has requested to register as an MLRO with the FIAU but is yet to be approved as a Sole or Primary Function Holder by the Authority; and,

“Sole Key Function Holder” shall mean a Key Function Holder who is the only authorised person to perform the Key Function in respect of the B2C Licensee.

### **Part II – Applicability**

4. Pursuant to and in accordance with article 6 of Part II of the Gaming Authorisations and Compliance Directive, this directive shall be applicable to B2C licensees.
5. This directive shall be without prejudice to the supervisory powers of the FIAU and shall also be without prejudice to the obligations set out by the applicable AML/CFT legislation on B2C licensees referred to in the preceding article.

### **Part III – B2C Licensees**

6. B2C licensees which were awarded a licence before the coming into force of this directive, shall, by virtue of this directive, be obliged to ensure that at least one of the Key Function Holders, as authorised to hold such position by the Authority is designated and registered with the FIAU as an MLRO.
7. Following the coming into force of this directive, existing B2C Licensees which seek the Authority’s approval to appoint a Sole or Primary Key Function Holder shall ensure that the appointed person is duly registered as the licensee’s prospective MLRO with the FIAU before submitting an application for the Authority’s approval for that person to perform the key function.
8. B2C licensees shall ensure that the status of the MLRO is updated with the FIAU within 10 days following the issuance of the Authority’s approval to perform the Sole or Primary Key Function Holder.
9. (1) The application for the appointment of a new Sole or Primary Key Function Holder where the Key Function Holder referred to in the preceding articles has resigned shall be processed in accordance with article 11 of this directive.

Provided that article 4(2) of the Authorisations and Compliance Directive shall be applicable for the purposes of this directive where the authorised Key Function Holder has resigned.

(2) The temporary exercise of such functions by the person not holding the certificate following the resignation of the authorised Key Function Holder shall be undertaken in accordance with article 4(2) of the Authorisations and Compliance Directive.

Provided that where in accordance with the third proviso to article 4(2) of the Authorisations and Compliance Directive, the Authority is requested to approve of the renewal of the temporary exercise by the person not holding the certificate further than the first calendar month, may issue such approval where, in its sole discretion, it is satisfied that the licensee is actively making the necessary arrangements to appoint the person who is temporarily vested with exercising this function or any other person as the Key Function Holder in accordance with this directive.

Provided further that in utilising its discretion, the Authority may request for supporting documentation which shows that the licensee is actively undertaking to resolve the resignation of its Sole or Primary Key Function Holder.

#### **Part IV – B2C Licence Applicants**

- 10.** Following the coming into force of this directive, a B2C Licence applicant shall ensure that the person who desires to obtain the Authority's approval to perform the key function in accordance with article 8 of the Authorisations and Compliance Directive in relation thereto, is duly registered as the licensee's Prospective MLRO with the FIAU forthwith and not later than 10 days following the issuance of the B2C licence, notwithstanding that the application for the Key Function is still being processed.

Provided that this requirement shall only be applicable in relation to a Sole Key Function Holder or the Primary Key Function Holder if there is more than one Key Function Holder undertaking the same Key Function, as the case may be.

- 11.** An applicant seeking to become the Sole Key Function Holder or the Primary Key Function Holder, shall satisfy the requirements set out in article 8 of the Authorisations and Compliance Directive, the PMLFTR and the Implementing Procedures issued thereunder relative to the MLRO.

#### **Part V – Enforcement Action**

- 12.** This directive shall in no way preclude the Authority from taking any action that it deems fit, both in relation to the Key Function Holder and, or the B2C licensee.

Provided further and in accordance with article 4 of this directive, any enforcement action taken by the Authority in terms of the above shall be without prejudice to any further action or actions which may be taken by any regulatory supervisory entity, including the FIAU.

#### **Part VI – Transitory**

- 13.** B2C licensees referred in Part III of this directive have until 20 September 2020 to implement what is set out in article 6 of Part III of this directive.