

FINANCIAL INTELLIGENCE UNIT

Republic of Palau

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FIU RULEBOOK

Procedures for Administrative Violations of the Money Laundering and Proceeds of Crime Act (“MLPCA”) and Designated Non-Financial Businesses and Professionals (“DNFBP”) Regulations

Designated Non-Financial Businesses and Professions (“DNFBPs”) are required to comply with the provisions of the Money Laundering and Proceeds of Crime Act (“MLPCA”), 17 PNCA Chapter 33. DNFBPs are defined under MLPCA §3301(j) and are further defined in Part II(2) of the Designated Non-Financial Businesses and Professions (“DFNBP”) Regulations. Reference in this Rulebook to DNFBPs not only includes the DFNBP, but also its directors, senior managers, officers, or employees in accordance with DFNBP Regulation Part V.

The FIU is authorized to issue administrative enforcement and sanctions measures for violations by a DNFBP of the MLPCA or DFNBP Regulations. The authority for the FIU to issue administrative enforcement and sanctions measures is located in MLPCA §§ 3327(c), 3328, and 3329; and in DFNBP Regulation Part V. Below is the process for the issuance of enforcement and sanction measures for administrative violations.

This process is separate from criminal liability as outlined in the MLPCA and does not limit any other duty or power the FIU has.

1. Notice of Non-Compliance

If the FIU finds that a DNFBP is non-compliant with the MLPCA or the DFNBP Regulations, the FIU will issue a notice of non-compliance. This notice will contain a statement of the basis for the finding of non-compliance; will provide instructions for curing the non-compliance; and will be delivered via e-mail, hand-delivery, or post to the DNFBP’s place of business, or, in the case of lawyers who maintain a filing box at the office of the Clerk of Court, by leaving it with the Clerk of Courts for delivery to said box. The notice will also provide a timeframe of not less than 3 days and not more than 90 days to either cure the non-compliance or to show that the DNFBP is in compliance.

2. Finding of Intentional Non-Compliance

In the event that the non-compliance is not cured adequately or appropriately in the specified timeframe or the DNFBP does not respond within the specified timeframe, the FIU can find the DNFBP to be intentionally non-compliant. If the FIU finds the DNFBP is intentionally non-compliant, the FIU may take further enforcement and sanctions measures against the DNFBP.

3. Notice of Finding of Intentional Non-Compliance

The FIU will issue a formal finding of non-compliance to the DNFBP in writing. The notice will be delivered via e-mail, hand-delivery, or post to the DNFBP's place of business, or, in the case of lawyers who maintain a filing box at the office of the Clerk of Court, by leaving it with the Clerk of Courts for delivery to said box. The DNFBP can then be subject to enforcement and sanctions measures including, but not limited to, the following:

- a) Written warnings;
- b) Order to comply with specific instructions;
- c) Order to submit regular reports on the measures the DNFBP is taking to remedy the violation;
- d) Fines, which can both be one-time or continuous, to be calculated based on the scope of the offense, likelihood it will engender compliance, and likelihood it will deter future non-compliance both by the DNFBP and within the community;
- e) Replacement or restriction of the power of managers, directors or controlling owners and appoint an ad hoc administrator, where applicable and appropriate;
- f) Publication of information on the measures taken pursuant to sections a - e, which can include, but is not limited to, publication to the FIU website, the newspaper, to financial or other institutions, or other written fora;
- g) Notification to the DNFBP's professional organization of the finding of intentional non-compliance with the MLPCA, including provision to the professional organization of the legal requirements for compliance with the MLPCA;
- h) Referral of the violation for criminal investigation, where applicable and appropriate.

The FIU may undertake one or more enforcement or sanctions measures.

4. Appeal to Finding of Intentional Non-Compliance and Enforcement Measure

A DNFBP may appeal any finding of intentional non-compliance and the issuance of enforcement measures and sanctions directly to the Director of the FIU in writing within 10 calendar days of the decision. The Director of the FIU will review the appeal and issue a decision in writing within 10 calendar days from the date of receipt of the appeal by the Director. The Director's decision is final.

An appeal under this section will not automatically stay, suspend, or toll any enforcement actions taken pursuant to MLPCA or regulations promulgated thereunder.