



**EUROPEAN COMMISSION**  
DIRECTORATE-GENERAL JUSTICE and CONSUMERS

The Director General

Brussels,  
JUST B3/DV/sk

Mr Andrea ENRIA  
Chairman  
European Banking Authority  
One Canada Square, Canary Wharf  
London E14 5AA  
United Kingdom

**Subject: Request to investigate a possible breach of Union law under Article 17 of Regulation (EU) No 1093/2010**

Dear Chairman,

I would like to inform you that the Commission has been notified that in the exercise of its functions the Maltese Financial Intelligence Analysis Unit (FIAU) and the Malta Financial Services Authority carried out an on-site examination at Pilatus Bank Limited between 15th March 2016 and 22 March 2016 in order to assess the extent of the Bank's compliance with the provisions of the Prevention of Money Laundering and Funding of Terrorism Regulations that transpose into Maltese law the provisions of the Union legal framework for the prevention of money laundering and terrorist financing.

From a review of the Bank's ongoing processes and the information maintained in relation to the purpose and intended nature of the business relationship, it was determined that the Bank did not have sound anti-money laundering (AML) policies, in particular for clients who classify as politically exposed persons. It appeared that the Bank is lax in its adoption of AML measures and paid very little regard to the Bank's ML/FT risk exposure. Rather, a lot of attention was given to ensuring that the Banks' high net worth clients, including those who are qualify as high-risk jurisdictions are given assurances that their banking operations are treated with utmost secrecy.

Furthermore, it was established that these failures highlight systematic issues of grave concern that also reveal that the business model of the Bank concentrates on accommodating clients who value their secrecy above everything else. Such concerning revelations also question the soundness of the governance structures of the institutions and whether the checks and balances that are necessary to ensure that the Bank does not lend itself to being misused by criminals conforms with internationally accepted standards and European Union legislation.

Under these conditions, the FIAU decided to require the bank to review its internal procedures, its client records and notify the FIAU of actions taken.

Given that no further supervisory action seems to have been taken against Pilatus Bank in the meantime, a serious doubt arises as to the effectiveness of the sanction applied in this case by the FIAU. We consider there appears a clear discrepancy between the seriousness of the deficiencies found and the nature of the sanction applied by the FIAU. Those deficiencies are among the most critical issues that plague the activity of a private bank and, if proven, constitute a threat to the integrity of the financial system.

While the leniency demonstrated by the FIAU may have legitimate grounds, we have come to the conclusion that further analysis is required. The need to apply effective, proportionate and dissuasive sanctions is a requirement that stems directly from Union legal framework.

The European Banking Authority is called to play an important role in promoting convergence of supervisory practices to ensure a harmonised application of prudential rules. In this context, Art. 17 of Regulation (EU) No 1093/2010 mandates it investigating alleged incorrect or insufficient application of EU law by national authorities on issues that, amongst others, pertain to the AML/CFT legislation.

The Commission therefore calls on the European Banking Authority to make full use of its power to ensure that the above-mentioned financial institution satisfies the requirements laid down in the acts referred to in Article 1(2) of Regulation (EU) No 1093/2010 and investigate this possible breach or non-application of Union law.

We remain at your disposal to provide further elements that may guide your analysis into this matter.

Yours sincerely,

[e-signed]  
Tiina Astola