

## ANSWERS FROM NEXIA BT TO THE PANA COMMITTEE - 20 February 2017

**From:** WETS Benoit

**Sent:** 20 February 2017 15:27

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**Subject:** Re: Matthew Vella | MaltaToday PANA 20170220.docx

Replies from nexia bt.

I will send press statement received from nexia bt in separate emails

Dear Mr Wets,

We set out our replies to your questions below. You will see that we are unable to reply to a number of your questions because, were we to do so, we would clearly be in breach of our obligations at law, both from a client confidentiality perspective as well as in terms of the anti-money laundering regime applicable to us as subject persons. We would have thought that this would have been considered in advance.

We would also note that (i) selective parts of the content of our prior exchanges found their way to the press and (ii) that the questions put to us reached us only after the press was able to report on what we were to be asked. While we understand that the Committee has a political role and that, as such, it must also communicate with the public, the manner of it seemed to us to be somewhat unorthodox.

## GENERAL

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### **Are you under investigation? If yes for which reasons?**

We are precluded, under the Prevention of Money Laundering Act and the Prevention of Money Laundering and Funding of Terrorism Regulations, from divulging any information relating to the existence or otherwise of any investigation. Were we to answer your question, we could be guilty of a tipping-off offence.

### **Are you aware that any of your clients are under investigation?**

Our response to the previous question refers.

### **What is the relationship between Nexia BT or Brian Tonna and Mossack Fonseca Malta? Does Brian Tonna, own Mossack Fonseca Malta? Does Mr Tonna's licensed fiduciary company hold shares in Mossack Fonseca Malta in a fiduciary capacity and/or on behalf of which ultimate beneficiaries?**

See the answer to the next question.

### **Can you confirm that BT International Ltd, owned by Mr Tonna, is the only shareholder of Mossack Fonseca Malta Ltd?**

BT international Ltd ( "BT" ) held all of the shares in Mossack Fonseca & Co (Malta) Ltd in its capacity as a fiduciary services company, licensed by the Malta Financial Services Authority under the Trusts and Trustees Act. Our confidentiality obligations towards clients preclude us from divulging the identity of the clients on whose behalf shares are held.

All of BT's shares in Mossack Fonseca & Co (Malta) Ltd were transferred in April 2016.

**How many suspicious transaction reportings has your company filed since 2000 until 2016. Please, specify for each individual year.**

Our reply to the first question above refers.

**What is the involvement of your company in the gaming industry? Could you explain your business model in this field and give key figures of your potential involvement? If you are acting as a consultant/service provider in the gaming industry, are you aware of any issue with money laundering and if yes, please specify.**

Our wide spectrum of clients also includes gaming clients, which form a small percentage of our total client portfolio and to which we provide licensable services. In line with our obligations as subject persons, if we become aware of suspicious activity / transactions we would report them to the relevant authorities.

**Can you confirm that Brian Tonna has a desk in the office of the prime minister? If yes, don't you think there is a possible conflict of interest given that Mr Tonna has been in business with Mr Schembri, chief of staff of the Maltese Prime Minister?**

Brian Tonna does not have a desk in the Office of the Prime Minister. We fail to see the relevance of these questions to the mandate of the PANA Committee.

Neither has he been in business with Mr Schembri, the Prime Minister's Chief of Staff.

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#### ABOUT EGRANT

**Why did you share the information on beneficial ownership of EGRANT by Skype while you were sharing the beneficial ownership information on the entities created for Mizzi and Schembri by e-mail? What was the precise reason for this difference in procedure?**

We did not share such information by Skype or indeed any other means of communication. See our reply to the next question.

**Who is the beneficial owner of EGRANT? Is the beneficial owner of EGRANT a politically exposed person?**

As we have stated publicly on a number of occasions,, Egrant Inc., which was purchased by Nexia BT in July 2013, is a shelf company, that is to say a ready-made company that is available for a client to acquire. It has never had, and does not currently have, any client as ultimate beneficial owner, and it has never been active.

We have communicated this repeatedly in responding to press enquiries on the matter, including in the following instances (please see attached copies):

1. our reply to Malta Today which was reproduced in the article written by Matthew Vella appearing on the 11 April 2016, entitled ‘Panama Papers | Nexia says third offshore company Egrant is still shelf company’ ;
2. an email sent by Rachel Attard from the Malta Independent on the 4<sup>th</sup> May 2016 to which we clearly replied that *‘Egrant Inc. is a company that was incorporated for our firm as a shelf company, and the shares are still beneficially ours. No other person is interested, either legally or beneficially, in Egrant Inc.’* ; and
3. another similar statement to questions put forward by the editor of the Malta Today, Saviour Balzan, as reproduced in the article of 19 February 2017 entitled ‘Nexia boss: ‘I own Egrant’ . We have also attached to our replies in this instance a document signed by the director of Egrant Inc. which clearly confirms that the ownership of Egrant Inc is as we are stating above.

As can be concluded from the above, we have always disclosed openly the facts surrounding the ownership of Egrant Inc. and, contrary to certain allegations being made in the press, we have never claimed professional secrecy in connection with Egrant Inc. Our replies to this same question have been, and remain, consistent and factual.

**Have you shared the information on beneficial ownership of the company EGRANT with the police or any other relevant authority in Malta?**

Our clarifications above in relation to Egrant as well as any interaction with the competent authorities, refer.

**ABOUT MIZZI & SCHEMBRI**

As a general reply to the questions below, we are precluded by law from answering any questions which relate to particular clients. Should we disclose the information being requested below to the PANA Committee, we would be in breach of our client confidentiality obligations as well as our obligations under the Prevention of Money Laundering Act and the Prevention of Money Laundering and Funding of Terrorism Regulations.

With respect to your last question on comfort letters below, as professionals and warrant holders, we are approached from time to time by our clients to provide character and professional references. We provide for clients we know well and hence have an in-depth understanding on which to base the content of these letters. We cannot divulge any specific information in this respect which relates to particular clients, for the reasons given above.

**Did the structure created for Mizzi and respectively for Schembri raise any suspicion? Please, explain for each case your reasoning why it did raise or not raise your suspicion.**

**What was the economic rationale for the set up arranged for Mizzi and Schembri respectively?**

**What was the rationale not to create the trusts in Malta?**

**Have you conducted enhanced customer due diligence when dealing with Mizzi, Schembri and the beneficial owner of EGRANT? Please, answer on each case separately.**

**Have you filed a suspicious transaction report when dealing with Mizzi, Schembri or in the case of EGRANT? Please, answer to each case separately and specify the reason in each case separately why such a suspicious transaction report was made or not made.**

**Were you asked by any foreign demands, such as a mutual legal assistance request, to provide beneficial ownership information in the context of the companies created for Mizzi or Schembri or the case of EGRANT? If yes, please specify in which case and for which foreign actor.**

**Was Mr. Brian Tonna aware that the prime minister, Mizzi and Schembri travelled to Baku/Azerbaijan before this fact was published? If yes, was this a reason for suspicion for a risk of illegal activities or of money laundering?**

**Have you ever backdated any document related to the set-up of offshore structures for Mr Mizzi or Mr Schembri?**

**Mr Mizzi's trust in New Zealand has for objective 'recycling and remote gaming'. Has this ever raised suspicion to Nexia BT given Mr Mizzi's role as Minister for Energy?**

**Is it a usual practice of Nexia BT to provide comfort letters for their clients to certify they are trusted person? Have you done so with Mr Mizzi and Mr Schembri? If yes, isn't it contrary to your code of conduct to certify yourself one of your clients?**