



# **The 2020 Risk Evaluation Questionnaire**

## **Trustees, CSPs and VFA Agents**

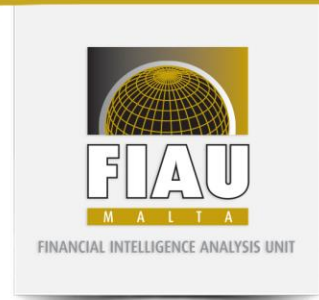
11 February 2020

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Financial Intelligence Analysis Unit



# Agenda

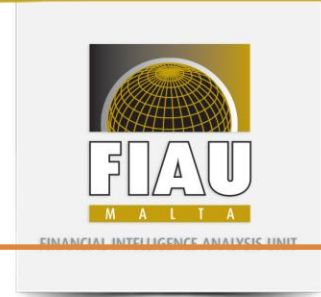
- Structure of the 2020 REQ
- Frequently Asked Questions
- 2020 REQ Submission Timeframes
- 2020 REQ Topic Details



# General Overview of the 2020 REQs

2020 REQ	Type of Questions	Changes from the 2019 to the 2020 REQ
14 Topics	Yes/No Answer	Sentence structuring
5 Topics covering SP's inherent risk	Answers that require 'value' replies	Deletion of questions deemed not relevant
9 Topics covering SP's controls levels	Answers that require % figures	Added questions for areas not covered in 2019
Average of 250 questions	Answers allowing the selection of multiple replies	Added questions to collect data necessary to reply to international and EU questionnaires
	Answers in range/brackets	Included new validations
	Free text answers	

# Frequently Asked Questions



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## **Which REQ Should I Complete?**

The CASPAR System will amalgamate questions covering all the licenses/services offered by the subject person into one REQ. Questions that apply equally will need to be answered ones while questions that are product and customer based will be asked per type of license/service offered

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## **Do I need to fill in a separate REQ for the different entities?**

Yes, each subject person has to complete a separate REQ and provide information that is specific to that subject person. Even if entities form part of the same group and controls may be the same, a separate REQ has to be completed and the inherent risk questions have to be completed to cover for the specific risk exposures of that subject person

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## **Do I need to fill in the REQ if I have just started operations?**

The 2020 REQ covers the operating period January – December 2019, therefore subject persons who obtained their license in 2019 have to complete the 2020 REQ. Subject persons who do not require the be licensed have to complete the REQ depending on the day when they commenced operations.

Registration on CASPAR is compulsory

# Frequently Asked Questions



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## **What is the difference between ticking Not Available against the Not Applicable Option**

The Not Applicable option should only be selected in instances where the question does not apply to the SP answering the REQ for example a product is not offered or the subject person has recently commenced operations

The Not Available option should be selected in instances where the subject person should reply to the question but it does not have sufficient information at its disposal to answer the said question

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## **How to answer questions that require a monetary value?**

All questions requiring the SP to give monetary values have to answer said questions in Euro Equivalent. The rate of conversion that has to be utilised depends on the type of question that is being answered.

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## **When should I provide additional information in the General Remarks?**

The General Remarks section will not have a bearing during the initial subject person risk assessment, however will be considered by the FIAU at a later stage. Therefore, information such as that the subject person has just started operations or has not carried out any operations during the year under review or similar information is extremely important for the FIAU and should be included in the general remarks section

# Frequently Asked Questions



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## **To which Basel Index should Subject Persons refer to**

Subject persons should refer to the Public Edition of the Basel Index and not to the Expert Edition or Expert Edition plus

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## **Can we select more than one option to explain the structure of our company and would it be possible to upload the structure chart for ease of reference**

Yes, you will be able to tick more than one option.

Optional upload of the corporate structure chart shall also be included

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## **The questions related to subsidiaries should include all companies with common ownership?**

The definition of subsidiary shall be construed to mean the same as explain in the Companies Act. However, subject person shall only consider those subsidiaries/agents/affiliates that carry out relevant activity or relevant financial business

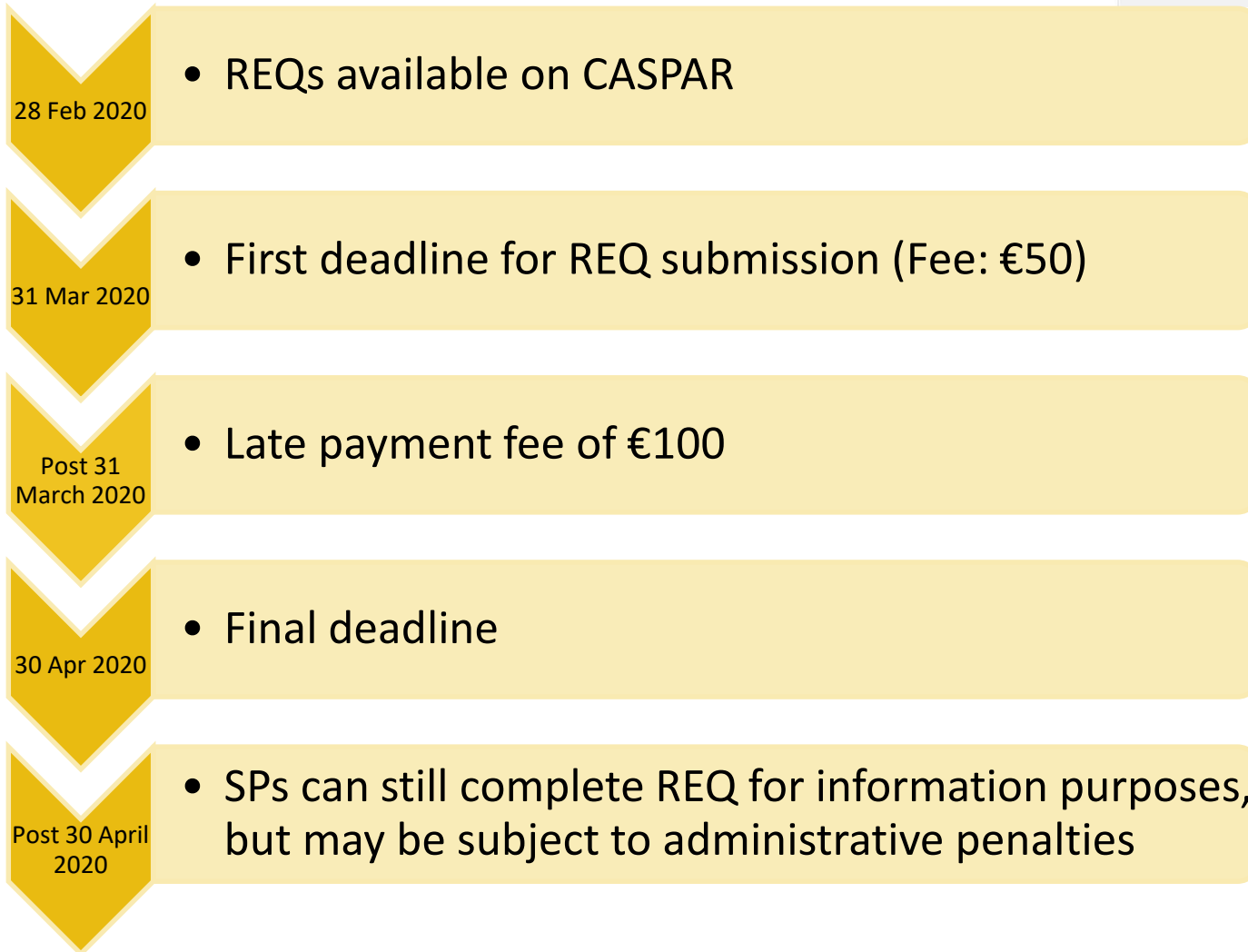
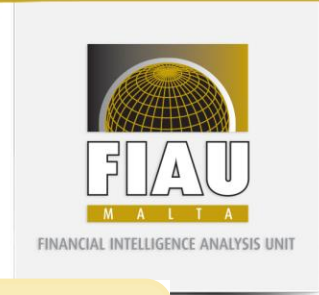
Companies that have the same ownership and share a common parent shall be included. Otherwise, simply having common ownership does not make a company a subsidiary, there has to be a common parent.

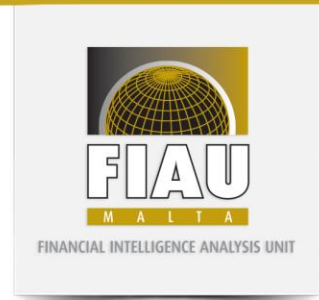
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## **How do we know if customers includes BOs?**

Unless the question makes specific reference to Beneficial owners, take reference to customers as the person or entity to whom you are providing the service (ie: excluding BOs of corporate customers)

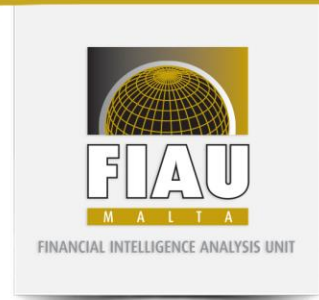
# 2020 REQ Submission Timeframes





# 2020 REQ Topic Details





# Subject Person Information

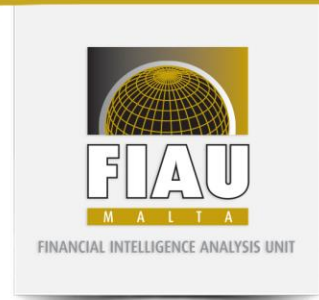
Subject Person Information covers the subject person's:

- legal formation,
- ownership and control structure,
- shareholder information (if applicable),
- organizational structure, and
- basic financial and operational statistics.

If the financial year end in December of every year and the 2019 financial statement have not yet been published, please use the latest available published financial statement

1.05	Please indicate total annual turnover according to the latest available audited financial statements and / or tax declaration.	[€] / Not Applicable
1.06	Please provide the year end reference date for the financial statements or / tax declaration as indicated above.	[Date] / Not Applicable
1.07	Please indicate the total number of employees (including partners, executive directors, associates and staff), expressed in full time equivalents ("FTEs"), working for you / your entity as at the end of the prior calendar year.	[Number] / Not Applicable
1.08	How many years experience in this industry do you / does the principal(s) and / or partners and / or director(s) and / or senior management of your entity have?	10 or more years / Between 5-9 years / Between 3-5 years / Between 1-3 years / Less than 1 year

Consider the average of all individuals



## Governance/Organisation

The assessment of the subject person's governance and compliance culture information includes:

- the experience level and the responsibilities of its Money Laundering Reporting Officer (“MLRO”),
- employee screenings, and
- how much of its compliance tasks are outsourced to external parties.

Outsourcing means the engagement of a third party to carry out an activity, process or service that would normally be carried out by the subject person itself.

2.08	Have you / your entity outsourced the carrying out of any applicable AML / CFT obligations (within or outside the group)?	No / Yes (within Group) / Yes (outside Group) / Yes (within and outside Group)
2.09	If "Yes", please specify the obligations that are being outsourced.	Business Risk Assessment / Customer Acceptance Policies / Customer Risk Assessment procedures / Internal controls / Employee screening procedures / CDD procedures / On-going monitoring / Record keeping obligations / Two of the above / Three of the above / All of the above / Not Applicable
2.10	How many times has the Board or equivalent body, received a presentation on AML / CFT issues in the prior calendar year?	Monthly / Quarterly / Half yearly / Annually / None / Not Applicable

This will be changed so that subject person will be able to select more than one option

- Specific AML/CFT Agenda
- Providing updates on AML/CFT matters
- Discussions that focus on the AML/CFT policies, procedures and measures of the Company



## Business Risk Assessment

- The assessment of how well the subject person evaluates its AML/CFT risk profile.
- A BRA is a process whereby the subject person identifies the threats and vulnerabilities that it is exposed to and assesses the likelihood and impact of ML/FT risks
- Business Risk assessment is considered a fundamental element of a sound AML/CFT compliance program, as it provides a basis to identify and mitigate gaps in the AML/CFT controls.
- Similar to the 2019 REQ, the 2020 REQ asks for an attachment of the BRA.



3.08	Please ATTACH latest Business Risk Assessment	[File Upload] / Not Available <b>Not Applicable</b>
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Confirms that the BRA is actually present and that the SP is adhering to its AML obligations  
It is not automatically scored through the FIAU's RASM, however:

- We consider the quality of the BRA in implementing the Supervisory Plan
- We may instigate a focussed review on the SP's BRA and its implementation
- Utilised by supervision associates during the preliminary stages of a compliance review

This option shall be removed since:

- It is always an obligation to have a BRA,
- The BRA must always be documented
- Must be kept up to date

3.02	What is your / your entity's most recent Business Risk Assessment <b>inherent risk scoring / rating</b> for ML / FT risk?	High / Medium High / Medium / Low Medium / Low / Not Applicable
3.03	What is your / your entity's most recent Business Risk Assessment <b>residual risk scoring / rating</b> for ML / FT risk?	High / Medium High / Medium / Low Medium / Low / Not Applicable

Combining together the **likelihood** of scenarios materialising, and the possible **impact** thereof.

First determine the level and effectiveness of the **controls** in place for the **inherent** risks identified

*Inherent Risks – Control effectiveness = Residual Risk*

Select the option that is closer to the subject person's rating mechanism

If the rating is numerical carry out an exercise to recalibrate the score to be in line with the above

For example if you score 1-10:

- 1 may be low risk
- 10 is high risk
- 5 is medium risk
- 2-4 is low medium risk,
- 6-9 higher medium risk

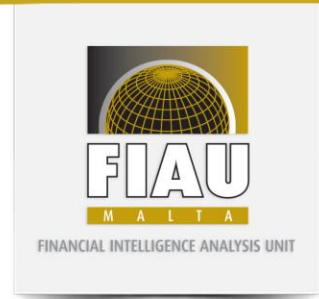
3.04	Did the Business Risk Assessment conducted take into account the risks and controls related to:	
	a) your / your entity's customers	No / Yes / Not Applicable
	b) the products and services offered by you / your entity and the transaction risk exposure through same	No / Yes / Not Applicable
	c) specific countries or geographical areas	No / Yes / Not Applicable
	d) the distribution channels	No / Yes / Not Applicable

The not applicable option is a mistake and will be removed

Even if you:

- Have one type of product
- Have only face to face relationships
- Have only local customers





3.05	Did the Business Risk Assessment conducted take into account the results of the SNRA and NRA?	No / Yes / Not Applicable
3.06	Has the Business Risk Assessment been approved by senior management (including directors and partners) of your entity?	No / Yes / Not Applicable
3.07	Did you / your entity review and / or update the business risk assessment in the prior calendar year?	No / Yes / <b>Not Applicable</b>

Only to be selected by those who during the year under review were not operative and therefore there was no rationale for a review of the BRA to be carried out



## Customer Risk Assessment

- The assessment of the subject person's identification and verification of customers and related parties (including beneficial owners). This including information related to the operations of the customer, purpose of relationship and transaction patterns
- Customer Acceptance and Risk Assessment is considered an important factor because it relates to the quality of its customer due diligence program.
- This primary control ensures that the subject person knows its customers.

4.01	Do you / does your entity perform a customer risk assessment ("CRA") prior to the acceptance and approval of customers?	No / Yes sometimes / Yes most of the times / Yes always / <b>Not Applicable</b>
4.02	Please indicate, for all your customers where a business relationship is formed or, depending on the risk, only for a specific part of your customers, whether you / your entity collects the following:	
	a) Identification and verification information (for both natural and legal persons and BOs of legal persons) including: name, nationality/ country of incorporation or registration, country of residence, registered office or main place of business	No / Yes when risk is not low / Yes only when risk is high / Yes, always / Not Applicable
	b) Information on the overall wealth of the customer (nature of activities conducted and corresponding level of income or turnover, other income streams)	No / Yes for all business relationships / Yes, always / <b>Not Applicable</b>
	c) Information on the expected source and origin of the funds and / or assets transacted by the customer / on behalf of the customer	No / Yes for all business relationships / Yes, always / <b>Not Applicable</b>
	d) Information on the PEP status of the customer and, where applicable of the beneficial owner	No / Yes when risk is not low / Yes only when risk is high / Yes / <b>Not Applicable</b>

4.12	Are the following verification measures used during the onboarding of non-face-to-face customers?	
	a) Verification on the basis of documents	No / Yes
	b) Use of video conferencing tools	No / Yes
	c) Use of identity verification software	No / Yes
	d) Verification through the use of commercial electronic data providers	No / Yes
	e) Use of e-IDs	No / Yes
	f) Verification of Identity Platforms	No / Yes

We shall be including a not applicable option to cover those subject persons who only offer services on a face-to-face basis

4.13	What kind of measures do you / your entity make use of to determine the PEP status of a customer (beneficial owner/s)?	
	a) Rely on publicly available information	No / Yes
	b) Obtain information directly from the customer or BO	No / Yes
	c) Use commercial databases	No / Yes

We have not included a not applicable option since the PEP status has to be verified at all times and by all subject persons both in the context of an occasional transaction and in the context of a business relationship

4.14	Does your entity accept (prospective) issuers and/or prospective licensees which allow their customers to:	
	(a) Make use of privacy coins	No / Yes
	(b) Transfer VFAs from non-custodial wallets	No / Yes
	(c) Transfer VFAs which have passed through mixers, tumblers etc	No / Yes
	(d) Make use of unverifiable IP addresses or otherwise obscure their location	No / Yes

4.15	Does your entity accept service issuers who do not impose any capping on the amounts invested by acquirers of their VFA?	No / Yes
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# Ongoing Monitoring / Scrutiny of Transactions



The assessment of the subject person's systems and tools to monitor the activities taking place within an established relationship to:

- determine activities and/or transactions that do not conform to the available information on the client and

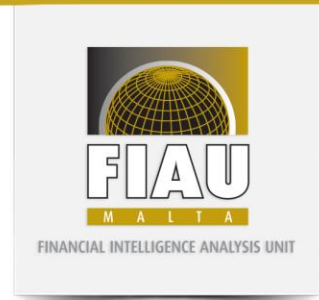
- Determine where investigation of such activity and/or transactions is necessary.

It includes the extent to which the subject person conforms to certain minimum standards, which include:

- a risk-based approach,
- testing and
- validation
- of the tools used in monitoring activity.

It also includes the requirement to scrutinize transactions occurring in the context of an occasional transaction, on a risk sensitive basis

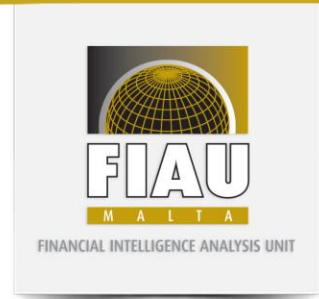
For VFA Agents, the obligation is limited to keeping documents, data and information up to date



## Not Applicable Option

- Only included for those subject persons who do not have business relationships but only occasional transactions.
- For example CSPs that only form companies but do not provide other services do not have a business relationship with their customers.
- The same goes for VFA Agents, that only assists the VFA service provider to apply for a license with the MFSA and once this process is complete the transactions is said to be finalised, there is therefore no business relationship that is formed in such circumstances.
- Transaction scrutiny for occasional transactions is being handled through specific questions

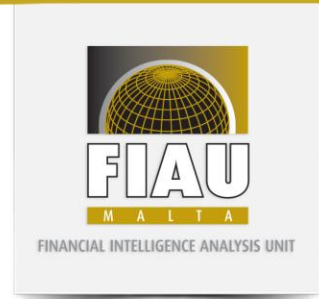




# Occasional Transactions

5.07	Do you / your entity, when carrying out an occasional transaction, have measures in place to scrutinize transactions that are not consistent with the available information on the customer?	No / Yes / Not Applicable
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For subject persons  
who only carry out  
business  
relationships

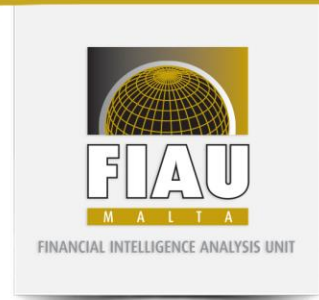


## Policies and Procedures

The FIAU considers that the cornerstone of a compliance program is the subject person's policies and procedures.

The assessment of the subject person's policies and procedures and the extent subject persons:

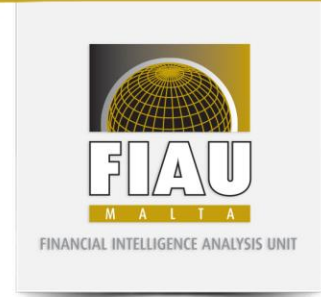
- incorporate specific, significant areas
- the review cycle, testing, and existence of policy breaches.



## Internal Audit/ Independent Testing

- The assessment of AML/CFT internal audit effectiveness.
- This includes independent testing and remediation of audit findings.

# Reporting



The assessment of :

- internal management reporting,
- submissions of STRs, and
- timing of the STR reporting.

8.02	Please list the number of alerts / transactions you / your entity investigated as a result of suspicious activity or transactions during the prior calendar year?	[Number] / Not Available
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Subject persons should not include false positives but rather actual alerts or transactions that required the carrying out of a review to discover and examine the facts of the alert or transaction so as to establish whether there is suspicion or reasonable grounds to suspect that money laundering took place

In cases wherein the subject person did not have such investigations, they are required to mark 0 – there will be no ‘not applicable’ option since subject persons should have the mechanism and policies in place for investigations in place independently whether they have ever investigated or otherwise an alert or transaction



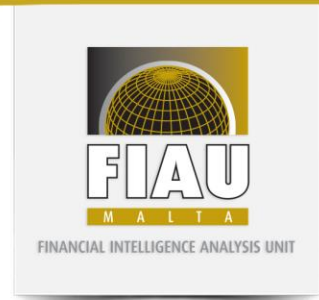
## AML/CFT Training

The assessment of the AML/CFT training program centers on:

- the content,
- frequency, and
- delivery of training provided

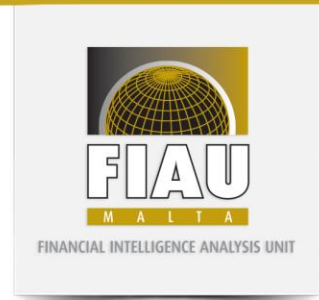
To the subject persons'

- employees,
- Senior Management and
- Board of Directors.



## Record Keeping

- The assessment of recordkeeping controls and compliance with Maltese laws that specify retention periods.
- It also evaluates the accessibility of these records if the FIAU requests them.
- Recordkeeping demonstrates that the policies and procedures are followed, and therefore, it is considered an important control factor.



## Products and Services

Products/Services can introduce ML/FT risks by facilitating the concealment of a customer's source of wealth or funds in order to make them appear legitimate. Or they can expose the subject person to customers who may seek to launder money through the subject person.

Certain products and services present higher ML/FT risk than others. For example, high risk products/services include products that favor anonymity, facilitate the use of cash, are highly liquid or facilitate layering.

There is a direct correlation between the type of products/Services offered and the subject person's risk exposure.



# Products and Services: Trustees & Fiduciaries



a) And c) do not necessarily match

We will add another customer asking specifically for number if customers for which the entity provided trustee services

Please answer the following questions in relation to the activities that have been performed by you / your entity during the prior calendar year. Multiple activities are possible.

Please provide the following:

11.01

a) How many trusts did your entity act as trustee / fiduciary for during the period calendar year?

[Number] / Not Available / Not Applicable

b) List the total value (€) of the assets held under trust as of end of prior calendar year

[€] / Not Available / Not Applicable

c) List the number of customers for which your entity provided fiduciary services

[Number] / Not Available / Not Applicable

d) List the number of foundations for which your entity acted as an administrator

[Number] / Not Available / Not Applicable

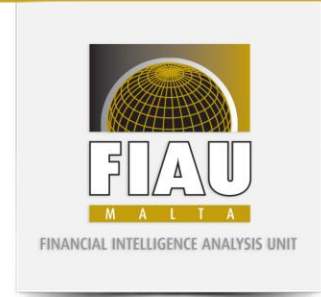
What number of customers were these services provided to during the prior calendar year?

11.01	Forming companies or other legal persons including trusts	[Number] / Not Available / Not Applicable
11.02	Acting as or arranging for another person to act as a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons	[Number] / Not Available / Not Applicable
11.03	Providing a registered office, business address, correspondence address and other related services for a company, a partnership or any other legal person or arrangement	[Number] / Not Available / Not Applicable
11.04	Assistance in opening bank accounts or providing signatories on bank accounts	[Number] / Not Available / Not Applicable
11.05	Managing customer's money, securities, or other assets, including trust administration services	[Number] / Not Available / Not Applicable
11.06	Organisation of the contributions/funding for the creation, operation, or management of companies	[Number] / Not Available / Not Applicable
11.07	Residence / citizenship by investment scheme (IIP)	[Number] / Not Available / Not Applicable
11.08	Setting up or providing services to entities in countries listed in the EU list of Non-Cooperative Jurisdictions for Tax Purposes	[Number] / Not Available / Not Applicable
11.09	If your answer to the above question was "YES", please identify 3 jurisdictions from the list.	Select from drop down list / Not Available / Not Applicable

To be selected only if the service is not offered

New Questions introduced in 2020

# Customers



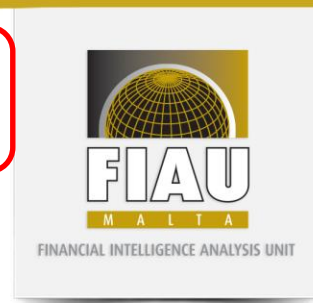
FIAU considers Customers as one of the most important indicators of ML/FT risk.

Customers can introduce ML/FT risk by disguising or concealing the illicit nature of their or their customers' sources of wealth or funds in order to make them appear legitimate; or by aiding, abetting, or conspiring in the commission of such an offense.

Certain customers present higher ML/FT risk than others which require more robust controls to cater for such risks.

For example, high risk customers may include customers in high risk industries, politically exposed persons (“PEPs”), high net worth individuals, cash businesses.

Subject persons should, as part of their customer risk assessment consider customers who applied or benefitted from residence or citizenship scheme



12.04	Please list the number of customers (natural persons) and / or BOs that have benefited from residence or citizenship by investment schemes, or are applicants / prospective applicants for such schemes.	[Number] / Not Available
12.05	Breakdown of total customer identified: Please list	
	a) % of customers scored / rated as "High Risk"	[%] / Not Available
	b) % of customers scored / rated as "Medium Risk"	[%] / Not Available
	c) % of customers scored / rates as "Low Risk"	[%] / Not Available

Select the option that is closer to the subject person's rating mechanism  
 If the rating is numerical carry out an exercise to recalibrate the score to be in line with the above

For example if you score 1-10:

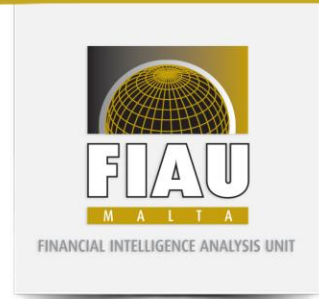
- 1 may be low risk
- 10 is high risk
- 5 is medium risk
- 2-4 low medium risk,
- 6-9 higher medium risk.

12.09	Do you / does your entity have customers (including BO's, directors) who have been convicted of a criminal offence that generated proceeds?	No / Yes / Not Available
12.10	Do you / does your entity hold funds on trust, or in another fiduciary capacity for customers through a client account?	No / Yes / Not Available

We shall be rewording this to make reference to criminal offences that could have potentially generated proceeds

12.14	Do you / does your entity have customers who raised capital through Initial Coin Offerings (ICOs), Securitised Coin Offerings (SCOs) and / or crowdfunding?	No / Yes / Not Available
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An Initial Coin Offering (ICO) is the cryptocurrency industry's equivalent to an Initial Public Offering (IPO)



12.26	Please list the number of customers who are operating in high-risk industries or trading in high risk or dual use products (as designated by your policies and procedures), or separately as per SL 365.12.	[Number] / Not Available
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Dual Use Items (Export Control) Regulations: *Dual use item means any used or unused items, including software and technology, which can be used for both civil and military purposes, and including all goods which can be used for both non-explosive uses and for assisting in any way in the manufacture of nuclear weapons or other nuclear explosive devices*

High risk industries include chemical and pharmaceuticals industries, arms manufacturing, and mining and extraction industries etc.

11.05	How many prospective licensees are you servicing?	[Number] / Not Available / Not Applicable
	Of the total number of clients, how many offer the following services:	
	a) Reception and transmission of orders	[Number] / Not Available / Not Applicable
	b) Execution of orders on behalf of other persons	[Number] / Not Available / Not Applicable
11.06	c) Dealing on own account	[Number] / Not Available / Not Applicable
	d) Portfolio management	[Number] / Not Available / Not Applicable
	e) Custodian or nominee Services	[Number] / Not Available / Not Applicable
	f) Investment advice	[Number] / Not Available / Not Applicable
	g) Placing of virtual financial assets	[Number] / Not Available / Not Applicable
	h) The operation of a VFA exchange	[Number] / Not Available / Not Applicable

11.14	Please list the number of customers who presented any one or more of the following characteristics:	
	a) Carried out VFA offerings with no capping per user	[Number] / Not Available / Not Applicable
	b) Allow their customers to transact or make use of privacy coins	[Number] / Not Available / Not Applicable
	c) Allow customers to transfer VFAs from non-custodian wallets	[Number] / Not Available / Not Applicable
	d) Allow customers to transfer VFAs which have passed through mixers, tumblers, etc	[Number] / Not Available / Not Applicable
	e) Allow customers to make use of unverifiable IP Addresses or otherwise obscure their location	[Number] / Not Available / Not Applicable



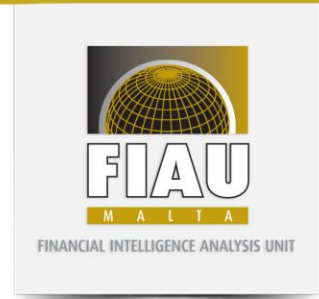
11.15	Do any of your customers accept payments through the following funding methods:	
	a) Prepaid cards	No / Yes / Not Available
	b) Crypto-backed credit cards	No / Yes / Not Available
	c) Funds transferred from institutions that are located in non-EU / EEA jurisdictions	No / Yes / Not Available



## Geography

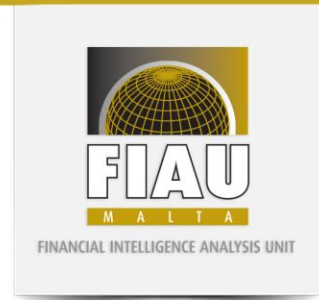
Geographic risk is defined as the ML/FT risk associated with the residence or principal place of business of the subject person's customers, beneficial owners of customers, and the business they conduct.

Foreign customers, particularly those that conduct business transactions with high risk jurisdictions or from high risk jurisdictions, are considered higher risk than locally domiciled customers.



### Foundations

13.20	Where your entity holds shares in a fiduciary capacity in a foundation, please indicate the % shares held:	[%] / Not Available / Not Applicable
	a) shares held in a fiduciary capacity are located in Malta?	[%] / Not Available / Not Applicable
	b) shares held in a fiduciary capacity are located in EU / EEA jurisdictions?	[%] / Not Available / Not Applicable
	c) shares held in a fiduciary capacity are located in non-EU / EEA jurisdictions?	[%] / Not Available / Not Applicable
	d) shares held in a fiduciary capacity are located in jurisdictions listed in the FATF lists and / or the EU list identifying high risk 3rd countries with strategic deficiencies and / or the jurisdictions featuring in the top 20 countries of the Basel Index?	[%] / Not Available / Not Applicable
13.21	If assets held on trust are located in a jurisdiction as noted in the last question, please identify the top 3 highest risk jurisdictions from the list.	Select from drop down list / Not Available / Not Applicable



## Interface/ Distribution Channel

Interface/Distribution Channels between the subject person and its customers may pose heightened risk if they involve non-face-to-face on-boarding or on-boarding through intermediaries.

Also, if the subject person does not on-board, communicate with, or serve the customers on a face-to-face basis and/or directly, it has less visibility over the customer and the customer's use of its products/services.

This factor assesses the subject person's reliance on higher-risk channels (i.e., non-face-to-face, or through intermediaries) to on-board customers or deliver products/services

14.04	Did you / your entity on-board or service new clients introduced by agents or <b>regulated intermediaries</b> in the prior calendar year?	No / Yes / Not Available
14.05	What % of customers were onboarded during the prior calendar year where a <b>third party</b> was engaged to assist / undertake the onboarding process?	[%] / Not Available

shall be rewarded to cover all forms of intermediaries  
We are referring to agents or `intermediaries of customers and not of the subject person

This questions is referring to CDD measures carried out by another subject person or third party as part of a reliance agreement



Sli.do event code: J782

**Wifi**

User: IC Meeting

Password: meeting247

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