

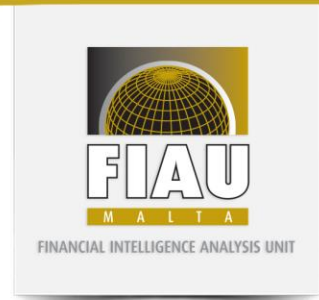


# **The 2020 Risk Evaluation Questionnaire**

## **Credit Institutions, Financial Institutions and the Long-Term Insurance Business Sector**

12 February 2020

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Financial Intelligence Analysis Unit



# Agenda

- General Overview of the 2020 Risk Evaluation Questionnaires (“REQs”)
- Cross-Sectoral Comments on the REQ
- Sector-Specific Considerations
- Pointers to Complete the REQ
- Submission Timeframe
- Q&A Session



# 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	

# Cross-Sectoral Considerations (1)

## Subject Person Information

- A clearer distinction between the legal form a subject person takes and its 'status' in terms of being a subsidiary or stand-alone entity.

Please select the legal formation of your entity.	Public Limited Company / Private Limited Company / Civil Partnership / Commercial Partnership / Self-employed / Branch of a Foreign entity / Association / Other
If "Other", please specify.	[Text] / Not Applicable
Please select the status of your entity.	Subsidiary of a foreign traded company / Subsidiary of a privately held foreign company / Subsidiary of a local traded company / Subsidiary of a privately held local company / Privately held foreign company / Privately held local company / Other
If "Other", please specify.	[Text] / Not Applicable

## Cross-Sectoral Considerations (2)

### Subject Person Information

- ‘latest available audited financial statements and/or tax declaration’
  - Quote figure from the most recent one of the two
  - Financial statements for 2019 not published quote from those for 2018
- ‘Does your entity have any subsidiaries, branches, affiliates, representative offices, agents or distributors in ...’ - To consider only those that carry out an activity equivalent to ‘relevant activity’ or ‘relevant financial business’.
- ‘...changes in ownership structure’ and ‘...changes in its management and control structure’ – To consider those changes that are require prior approval by the MFSA in terms of the applicable legislation.

## Cross-Sectoral Considerations (3)

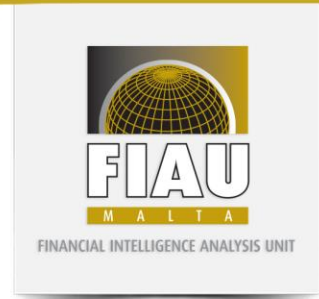
3.08	Please ATTACH latest Business Risk Assessment	[File Upload] / Not Available <b>Not Applicable</b>
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Confirms that the BRA is actually present and that the SP is adhering to its AML obligations  
It is not automatically scored through the FIAU's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



# Cross-Sectoral Considerations (4)

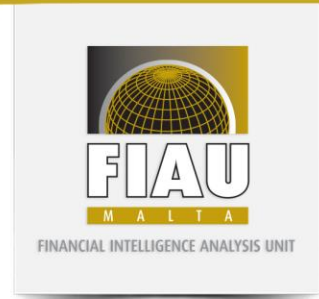
## Business Risk Assessment

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

- Use of a different rating scale – choose the one closest to the rating attributed by the subject person’s system or, in the case of numerical rating scales, recalibrate the score to be in line with the above

E.g.: Numerical risk rating scale from 1 to 10:

1 - low risk      2-4 – low medium risk      5 – medium risk  
6-9 - higher medium risk      10 – high risk



# Cross-Sectoral Considerations (5)

## Business Risk Assessment

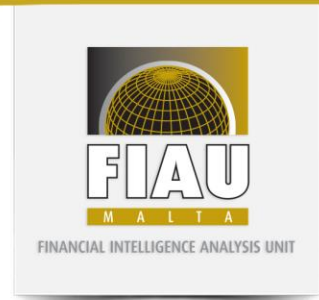
Did the Business Risk Assessment conducted take into account the risks and controls related to:	
a) your / your entity's customers	No / Yes / Not Applicable

- Not Applicable Option – To be removed as the risks have to be considered **even** if the entity has only a **single** kind customer or product or a single market or distribution channel.

Did you / your entity review and / or update the business risk assessment in the prior calendar year?	No / Yes / Not Applicable
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- Not Applicable Option – To be chosen only by subject persons that were not operative **AND** underwent no external or internal changes in 2019.

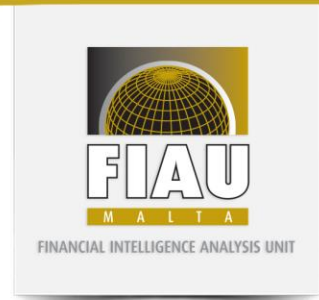




## Cross-Sectoral Considerations (6)

### On-Going Monitoring/Transaction Screening

- Relevant even outside the context of a business relationships with customers:
  - Occasional Transaction Thresholds – ‘in a single operation or in several operations which appear to be linked’ – and coming into being of a business relationship.
  - Detection of unusual or suspicious activity that may be indicative of ML/TF (e.g.: destination of funds being remitted, payee involved, location of payer, activity comparison etc.).
- A monitoring system need not be an automated system but may include a degree of human intervention to cover aspects that are not catered for by the IT components.



## Cross-Sectoral Considerations (7)

### Policies and Procedures

- New question on whether the subject person has internal whistleblowing procedures.
- Not a requirement arising from domestic AML/CFT legislation but equally important:
  - i. Directive (EU) 2015/849 requires Member States to provide for reporting procedures other than the traditional MLRO channel;
  - ii. The Protection of Whistleblowing Act makes reference to ML/FT; and
  - iii. Provide an alternative avenue to report ML/FT-related issues where the MLRO does not take action or is otherwise suspected to be involved in the wrongdoing.

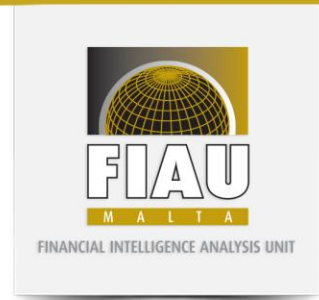


## Cross-Sectoral Considerations (8)

### Products and Services

- Revised significantly the questions in this section and made use of terms found within the Maltese legislative and regulatory framework - ease of interpretation.
- Virtual IBANs – Question on virtual IBANs issued to customers for third parties refers to virtual IBANs allocated to another institution for use by that other institution’s customers.
- ‘Negotiable Instrument’ – Cheques, bank drafts etc.

Interface/Distribution Channel - Clearer distinction between reliance arrangements and outsourcing.

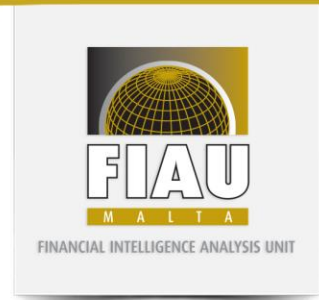


## Cross-Sectoral Considerations (9)

### Customers

- Customers at year end – active business relationships at year end + any customer on whose behalf one or more occasional transactions were carried out during the year under review.
- When requested to provide the number of customers that are legal persons, this is to also include the customers that are then reported as having particular features in their ownership structure.
- ‘high risk industries’ – These would include arms manufacturing, chemical and pharmaceutical industries, mining and extraction industries etc.

Geography - Replaced reference to the BO’s domicile with reference to the BO’s residence.



# Credit Institutions REQ (1)

## Products and Services

- Retail vs Non-Retail Deposits – A retail deposit is understood to be a deposit held by an individual for personal use (e.g. receiving one’s salary, payment of expenses, saving etc.) while a non-retail deposit is understood to be one used for commercial purposes including when this is held by an individual who happens to be self-employed.
- Deposit – Please refer to the definition provided in the Banking Act. Excluded from the said definition would be funds represented by electronic money and own funds.
- Retail deposits collected through platforms or other means, but held in the name of a financial institution, are to also be included as retail deposits.



## Credit Institutions REQ (2)

### Products and Services

- ‘withdrawals in cash’ – These are not to include situations where some one cashes out a cheque issued by one of the credit institution’s customers on an account held with the said credit institution.
- ‘incoming transactions relating to loans’ – This is to be interpreted as a reference to the number and value of repayments made on loans during the previous year.
- ‘incoming transactions relating to prepaid cards’ – Any amounts stored on the card, including any funds placed by the customer when acquiring the card or at a later stage as a top-up.

### Customers

- When replying to questions focusing on customers having business relationships the focus is to be on active customers.



## Financial Institutions REQ (1)

- Does not cover all the activities that are subject to licensing in terms of the Financial Institutions Act.
  - Supranational Risk Assessment (ML/FT threats and vulnerabilities)
  - Most common type of services for which licences were issued under the Financial Institutions Act
- REQ still to be completed and submitted even if questions relative to 'Products and Services' and/or on 'Transactions' cannot be completed:
  - Utility for information/statistical purposes;
  - 'Not Applicable' option available.

## Financial Institutions REQ (2)

- New questions introduced to address compliance with Regulation (EU) 2015/847.

5.29	Does the monitoring system detect incoming fund transfers which have missing or incomplete information on the payer and / or payee?	No / Yes
5.30	How many fund transfers with missing or incomplete information did your entity detect in the prior calendar year?	[Number] / Not Available
5.31	How many of these transfer of funds did your entity suspend or refuse to execute?	[Number] / Not Available
5.32	Did your entity terminate any relationship with a payment service provider in the prior calendar year, due to the provider repeatedly failing to provide the necessary information on the payer and / or payee?	No / Yes
6.13	Do you / does your entity have policies and procedures in place to assess the AML / CFT compliance framework of your intermediaries / brokers / agents / respondents / introducers?	No / Yes / Not Applicable

- An aspect that is often ignored and which has been receiving renewed attention from the EU Commission.
- Eventually to be included also in the 2020 REQ for Credit Institutions.



# Financial Institutions REQ (3)



## Products and Services

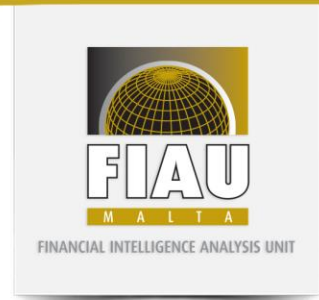
- ‘geographical distribution of the money remittance service’ – the jurisdictions from which funds can be received or to which funds can be sent.
- The figures to be reported under ‘Execution of Payment Transactions’ are to include both incoming and outgoing transactions **BUT** are not to include the values reported under ‘Money Remittance’.

## Funding Methods and Transactions/Payments

- The data required is similar but different:

Funding Methods – how where the funds for payment transactions provided

Transactions/Payments – from where did the funds for payment transactions originate



## Financial Institutions REQ (4)

- Questions received through the Consultation Exercise:

**Q5.03** It does not relate to situations where a service or product is used to acquire third party goods/services online but to the use of the internet to provide the service to the customer.

**Q5.04** The question relates to the subject person's own systems.

**Q7.13** The reference here is not to the customer's agents but to the agents or distributors appointed by financial institutions licensed to provide payment services/electronic money.



# Insurance Undertakings and Insurance Intermediaries REQs (1)

- From a single REQ covering all insurance activities deemed as relevant financial business to two distinct REQs catering for principals and intermediaries.
- For intermediaries it is important to note that:
  - i. Tied Insurance Intermediaries will this year not be required to complete an REQ but will instead be required to submit information on Key Risk Indicators;
  - ii. Additional questions are to be included to better cover the activities of insurance managers;
  - iii. Insurance brokers who by way of policy do not broker long-term insurance business are to inform the FIAU and need not submit the REQ.

# Insurance Undertakings and Insurance Intermediaries REQs (2)

- Introduction of a dedicated REQ for Retirement Scheme Administrators.
- Some of the questions may come across as somewhat unusual in the context of retirement schemes:
  - Limitations, caps and restrictions
    - Limitations on the amount of contributions?*
    - Increases in contributions which do not tally with one's profile?*
    - Payouts even in cases where there is adverse information?*
  - Tight or unusual timeframes for transactions
    - Early redemptions within a shorter time period?*
    - Payouts quicker than is dictated by corporate policy?*



## General Pointers (1)

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### **Which REQ should one complete?**

The CASPAR System will amalgamate questions covering all the licences/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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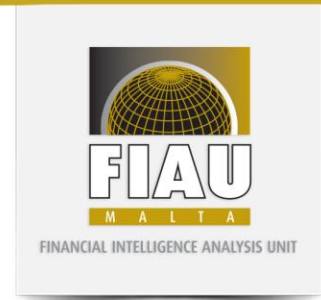
### **Is a separate REQ required for different entities?**

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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### **Does an REQ need to be completed even if operations have just started?**

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



## General Pointers (2)

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**Is it possible to select more than one option to explain the structure of one's company?  
Would 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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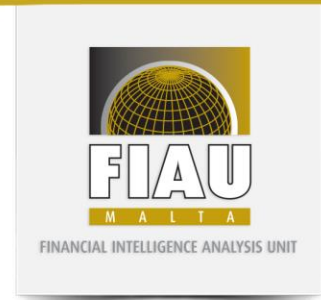
**The questions related to subsidiaries should include all companies with common ownership?**

The definition of subsidiary shall be construed to mean the same as explain in the Companies Act. 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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**Do all questions involving customers cover also beneficial owners?**

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 (i.e.: excluding BOs of corporate customers)



## General Pointers (3)

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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 Applicable option can also be availed of where the main question upon which all subsequent questions depend was answered in the negative.

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 require an answer in Euro. The rate of conversion that has to be utilised depends on the type of question that is being answered. If the value requested is the value at year end, then one is to use the last official exchange rate available for the year under review. On the other hand, where the value represents the sum total of a number of transactions which took place during the year, one is to use the average spot rate.

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## General Pointers (4)

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### **Why is there a reference to the Basel Index?**

The 2019 REQ allowed subject persons to make use of their own determination in identifying high risk jurisdictions when answering given questions. This introduced an element of subjectivity that undermined the ability of the FIAU to compare data.

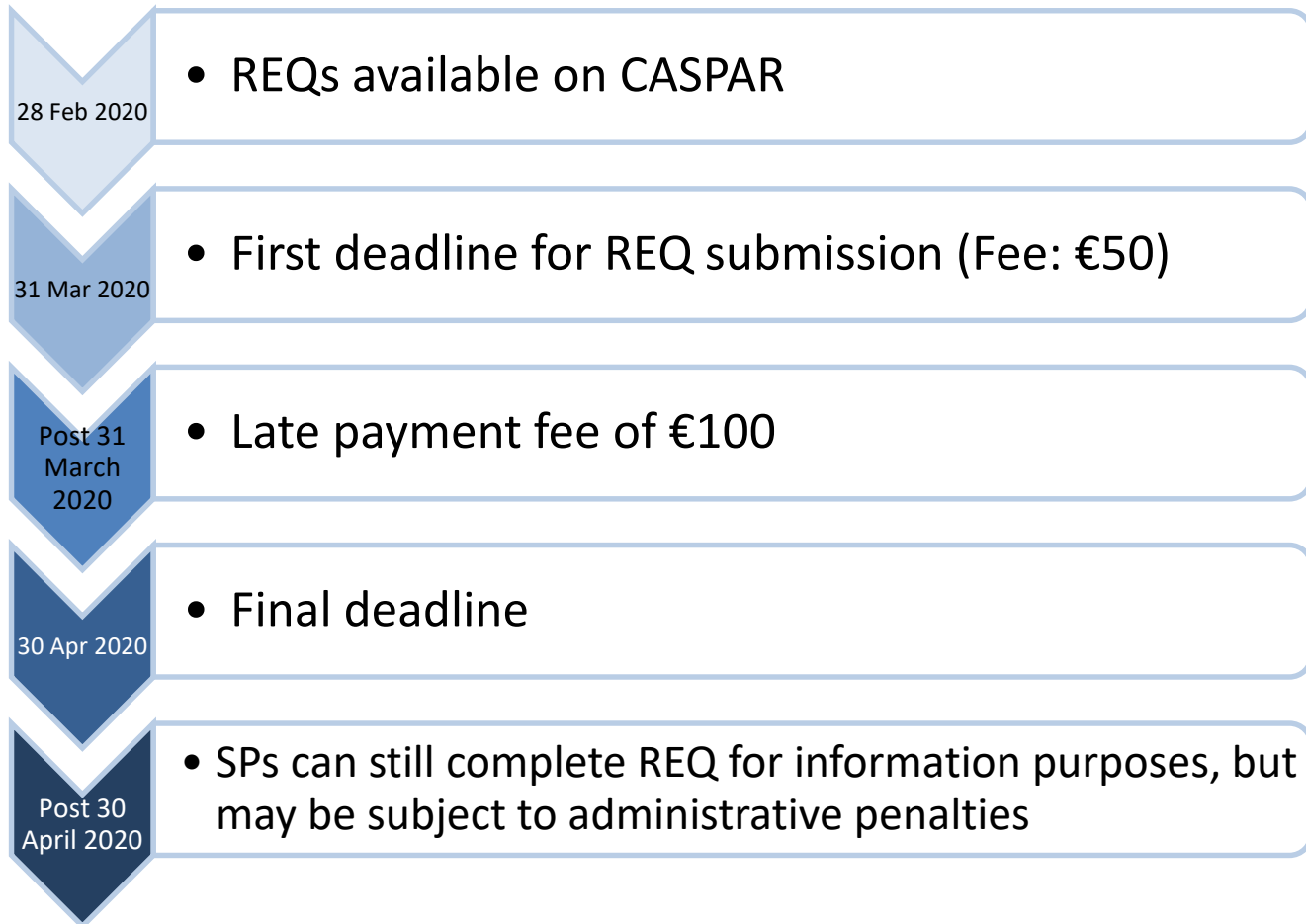
The FIAU included the reference to the Basel Index, together with other lists, to reduce this element of subjectivity. However, subject persons are to note that the Basel Index is being used only for the purposes of this exercise and is not to be considered as having any form of official endorsement by the FIAU. Subject persons are still to make their own informed and autonomous decision as to which jurisdictions represent a given level of risk. While they can make use of the Basel Index to inform their judgement, they are not to automatically rely thereon.

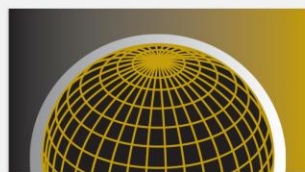
Subject persons are expected to make use of the public version of the Basel Index.

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# REQ Submission Timeline





**FIAU**

**M A L T A**

FINANCIAL INTELLIGENCE ANALYSIS UNIT

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