



# Review of the 2019 REQs

TCSPs and VFA agents

11<sup>th</sup> February 2020

Financial Intelligence Analysis Unit  
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## Agenda

- Statistics: Review of the REQ 2019 results.
- General Observations
- Common mistakes
- The Imposition of Administrative Penalties and the Enforcement Process

# Statistics: Results of the 2019 REQs

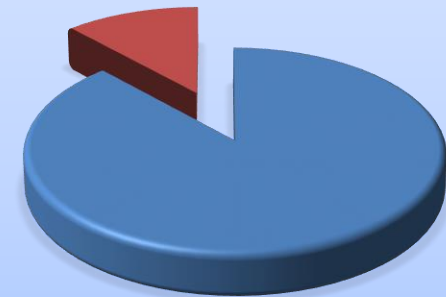
Figure 1. TCSPs Legal Entities

Non-submitters - 1.86% - represents 8 legal entities



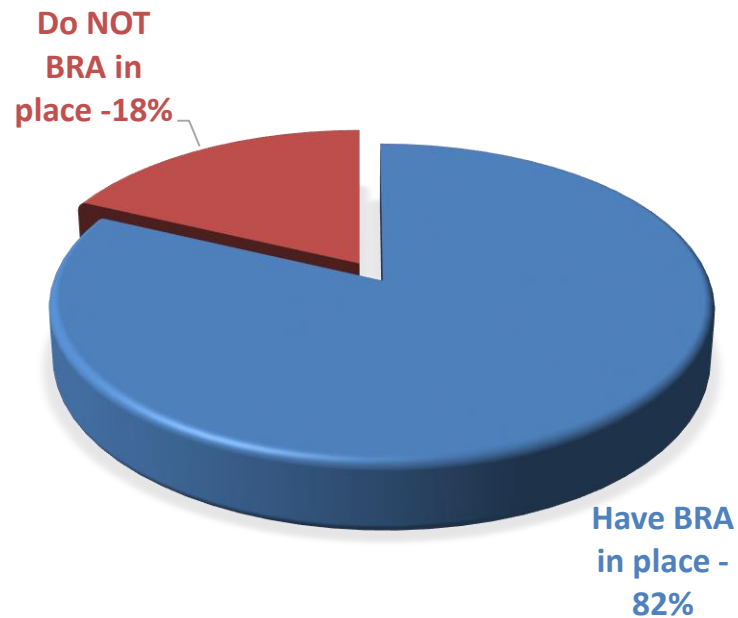
Figure 2. TCSPs Individuals

Non submitters  
- 11.89% -  
represent 30



Submitters - 88.19%

# REQ Statistics: Business Risk Assessment (BRA)



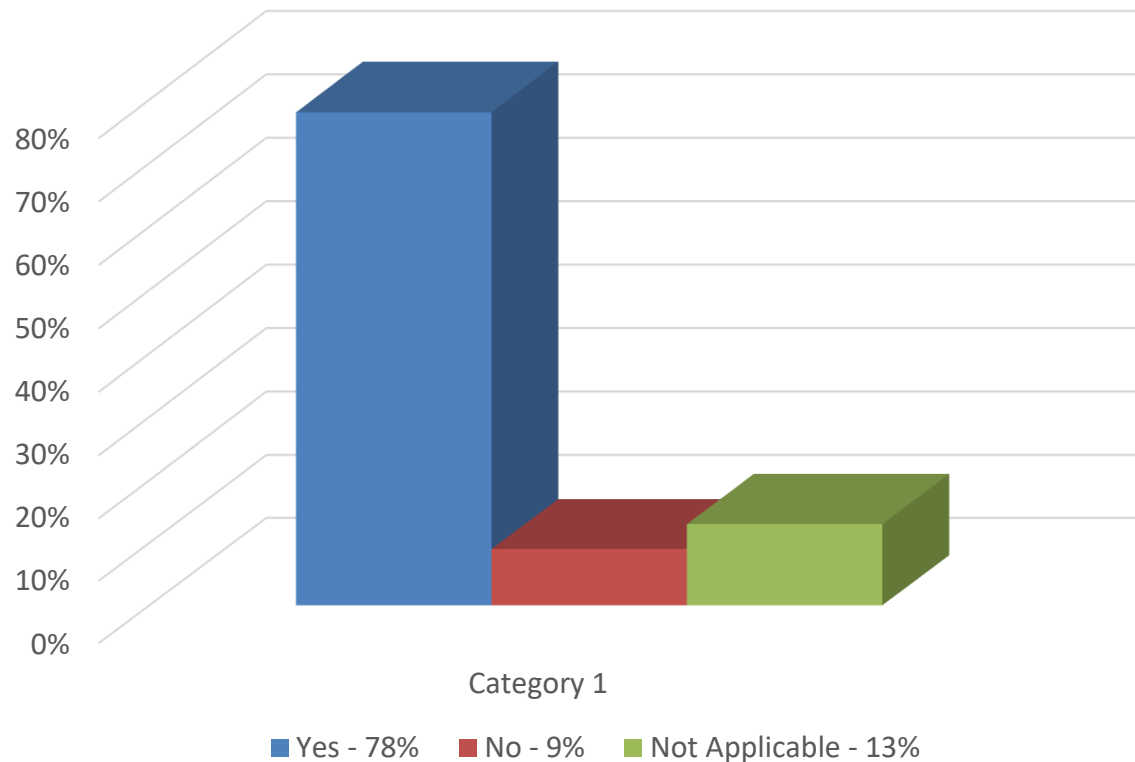
- The Business Risk Assessment is the process whereby the subject person identifies the **threats** and **vulnerabilities** that it is exposed to and assesses the likelihood and impact of the ML/FT risks.
- It is the **foundation** of the **risk- based approach** and the PMLFTR imposes an obligation on the subject person to ‘take appropriate steps proportionate to the nature and size of its business, to identify and assess the risks of money laundering and funding of terrorism that arise of its activities or business’

# REQ Statistics: Business Risk Assessment (BRA)

- Do you/your institutions' internal procedures provides for a regular update of the Business Risk Assessment, or for a periodic assessment verifying that the risk assessment is still complete and up to date?

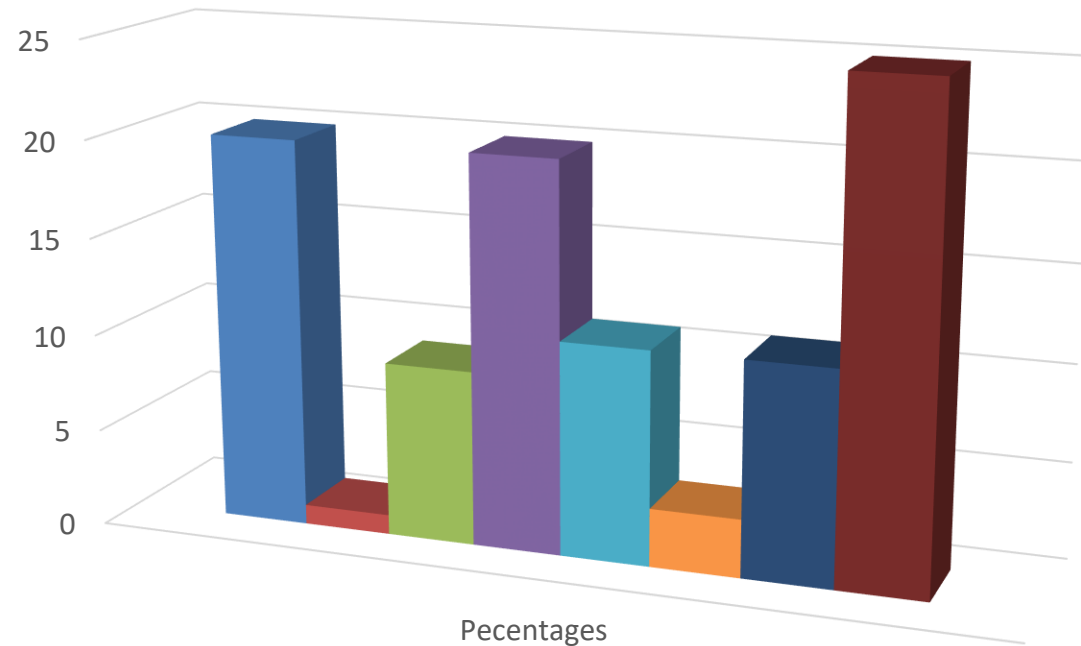
Regulation 5(4) of the PMLFTR lays down that a BRA *is regularly reviewed and kept up to date*. This requirement stems from the **very nature of risk**, which is **not static** but evolves continuously in view of external changes as well as changes in the activities or services of the subject person.

- (a) Whenever **new threats** and **vulnerabilities** are identified
- (b) Whenever there are **changes to its business model/structures/activities**.
- (c) Whenever there are **changes to the external environment** within which the subject person is operating.



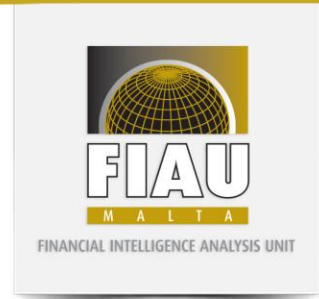
# REQ Statistics: Internal Audit & Independent Testing

- What is the schedule/frequency for performing audits with regard to proper compliance with the Maltese AML/CFT regulations?



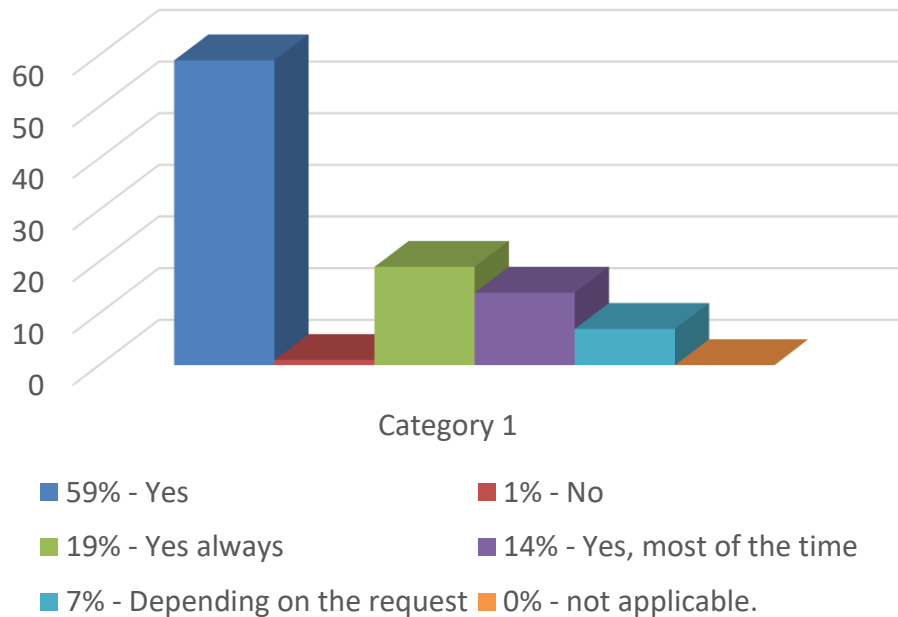
■ 20% - As needed  
 ■ 9% - Quarterly  
 ■ 11% - Between 1-3 Years  
 ■ 11% - No Audit performed

■ 1% - Monthly  
 ■ 20% - Annually  
 ■ 3% - Every 3 or more years  
 ■ 25% - Not Applicable



# REQ Statistics: Recordkeeping

- If the FIAU requests specific customer or alert investigations records, are you/ is your institution in a position or retrieve such records immediately? \*If you/ your institution have received reminders or else requested extensions for deadlines imposed by the FIAU.



**Note:** Subject persons should bear in mind that, in the case of a **request for information from the FIAU**, the information is to be furnished by the subject person within five (5) working days from the request, or such other shorter period of time that may be indicated in the request for information, regardless of whether the CDD measures were carried out by an entity being relied on. This **has to** be factored into any reliance agreement to ensure that the subject person remains in a position to fulfil its obligations at all times. (For more information refer to Cap 4. of the IPs).

# Risk assessment: the Risk Factors

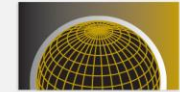
The key risk factors to be considered when formulating a risk-based approach include:



## Risk mitigation

Once these risk factors have been assessed, controls should be designed and implemented to mitigate these risks. Although it is not possible to totally remove any risk, the **aim** is to mitigate the risks as far as possible.





**FIAU**  
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## Risk assessment: the Risk Factors

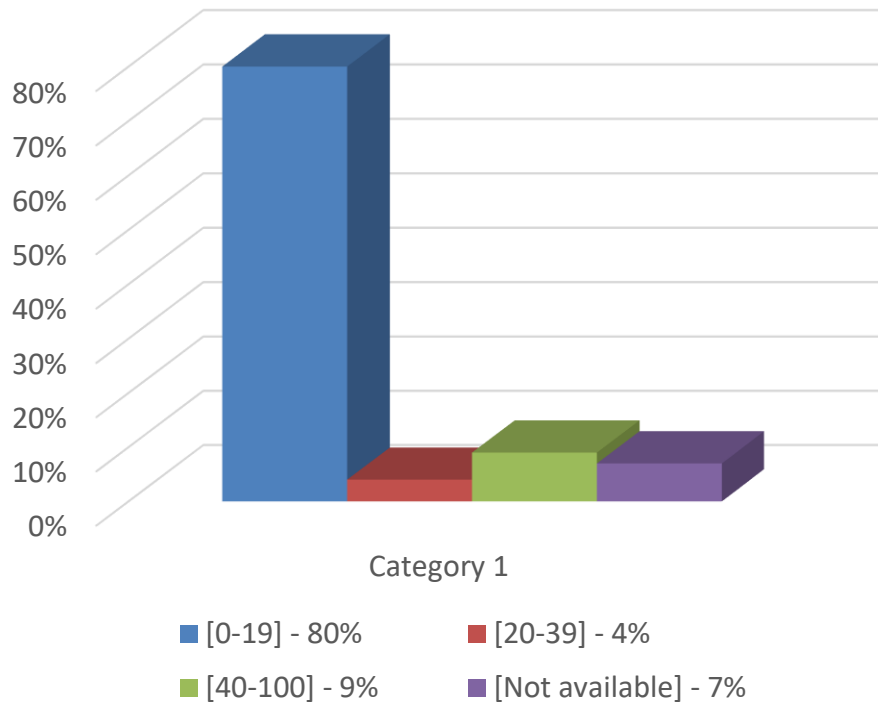


**Figure 1** Risk is the probability that something bad or unpleasant will happen. Intuitively, it seems like a very simple concept. However, there is strong evidence that both doctors' and patients' comprehension of RISK is poor.

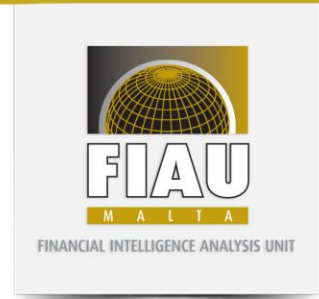
# REQ Statistics: Customers



Breakdown of total customers identified: please list % of “high risk” customers.

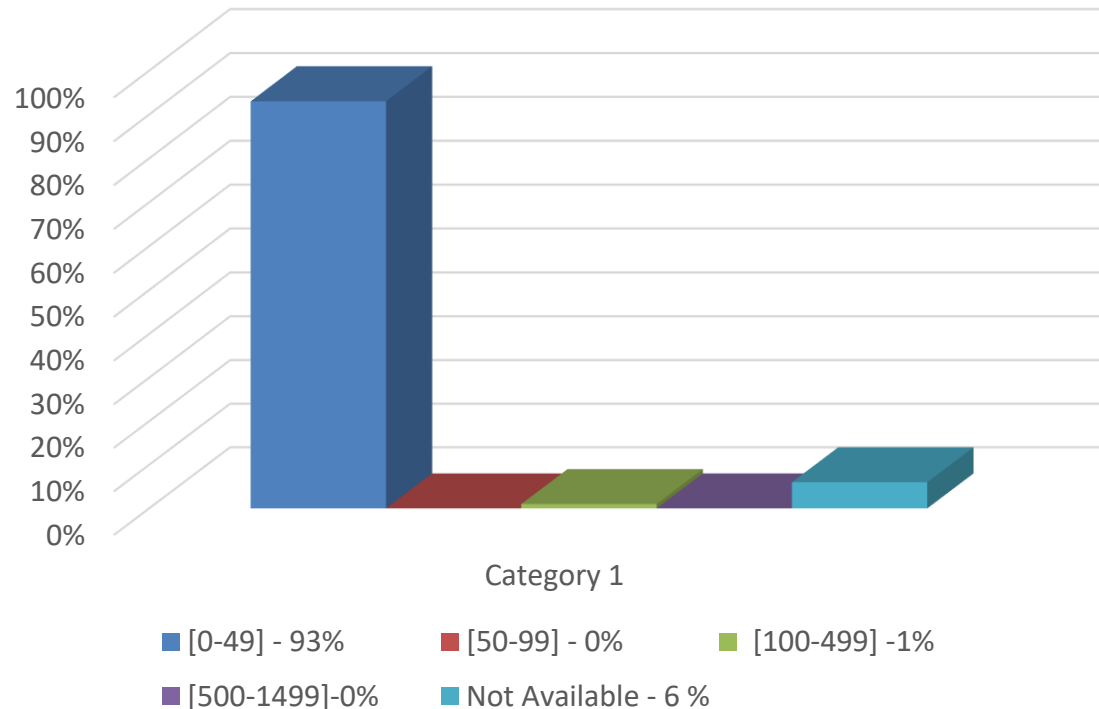


- Example: **Politically Exposed Persons (PEPS)** pose a **high risk** of ML/FT due to the **position** they occupy and the **influence** they exercise.
- PEPs may abuse of their prominent public functions for private gain, such as by being involved in corrupt practices, accepting of bribes or abusing or misappropriating public funds.
- These crimes generate proceeds that would need to be laundered. Certain PEPs in certain position may also be exposed to the possibility of being involved in FT. The **application of EDD measures is therefore necessary to mitigate the potential risks of ML/FT that arise when a subject deals with PEPS.**
- For more information refer to Cap 4 of the Ips.



## REQ Statistics: Customers

- Of the total number of customers, how many PEPs and/or close associates and family members (collectively referred to as PEPs) are in your institution's customer bases (including Bos).



Similarly, family members or persons known to be close associates of PEPs may, as a result of this connection, also benefit from, or be used to facilitate, abuse by the PEP of his/her position and influence.

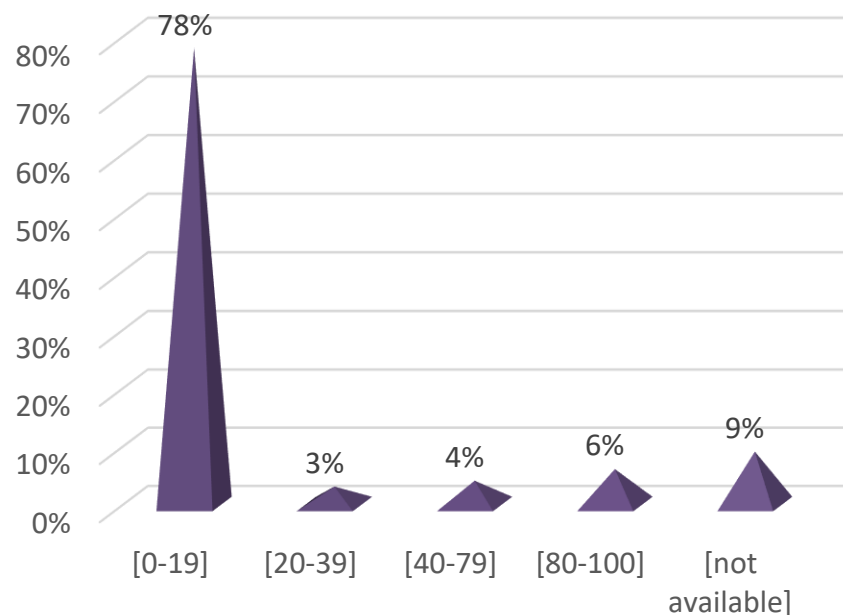
Therefore, EDD measures are required also with regard to family members or persons known to be close associates of PEPs.

Regulation 11(5) of the PMLFTR requires that subject persons have appropriate AML/CFT risk management procedures in place that enable them to determine whether a customer or a beneficial owner (current or prospective) is a PEP and, subsequently, to carry out EDD measures both when establishing or continuing business relationships with or undertaking occasional transactions for a PEP.

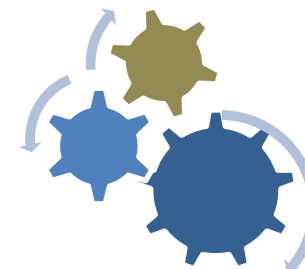
# REQ Statistics: Politically Exposed Persons (PEPs)



- Of the total number of PEPs (if applicable), what is the % of foreign (non-EU or non-EEA) PEPs in your / your institution's customer base as at 31/12/2018 (including BOs)?



■ Percentages of PEPs





## REQ Statistics: Observations on the Products and Services

### **Question:**

*'For the period of 2018: For how many customers do you/does someone at your institution hold directorship positions?'*

The subject persons who offer directorship positions, some have from 2 to 38 positions, 70% replied positively to the Question on Ongoing Monitoring.

### **Question:**

*'If you/your institution provides directorship services, do you/does your institution have any oversight into transactions?'*



## 2019 REQ: General observations and common mistakes

Case Study: Corporate service provider

Customer Type (Questions) (4)

**Question:** Breakdown of total customers identified: Please list % of "high risk" customers.  
[Relates to Company Services Providers - FIRMS/COMPANIES only]

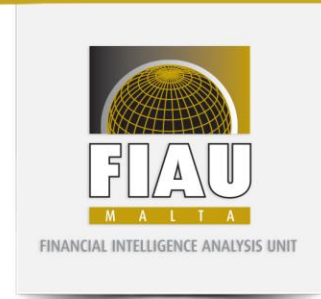
**Answer:** 0

Customer Type (Questions) (20)

**Question:** Please list the % of customers that are high net worth individuals.

**Answer:** 100

# 2019 REQ: Common mistakes



## Case Study: Fiduciary service provider

Customer Type (Questions) (4)

**Question:** Breakdown of total customers identified: Please list % of "high risk" customers. [Relates to Trustees & Fiduciaries only]

**Answer:** 3

Customer Type (Questions) (5)

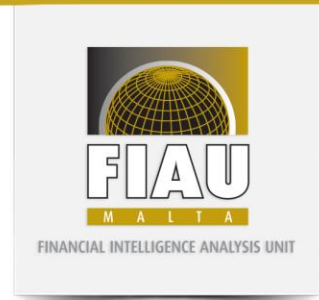
**Question:** Breakdown of total customers identified: Please list % of "medium risk" customers. [Relates to Trustees & Fiduciaries only]

**Answer:** 12

Customer Type (Questions) (6)

**Question:** Breakdown of total customers identified: Please list % of "low risk" customers. [Relates to Trustees & Fiduciaries only]

**Answer:** 83



## 2019 REQ: Common mistakes

### Case study: Corporate service provider

**1. Question:** Breakdown of total customers identified: Please list % of "high risk" customers.

**Answer:** 4

**2. Question:** Breakdown of total customers identified: Please list % of "medium risk" customers.

**Answer:** 6

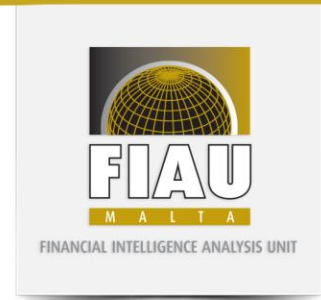
**3. Question:** Breakdown of total customers identified: Please list % of "low risk" customers.

**Answer:** 83

**4. Question:** Does a percentage of your customer base have a risk rating outside of the "high", "medium" and "low" categories?

**Answer:** No





## 2019 REQ: Common mistakes

Case study: Subject person **X** is a Fiduciary Service provider, company service provider, offers Trustee Services, Administrators of Private Foundations.

### **Domicile of Bos (1)**

Please provide the following information regarding the BOs of your institution's customers as of 31/12/2018:

**Question:** Please list the % of foreign BOs domiciled in a non-EU or non-EEA member state jurisdiction.

**Answer:** 40

**Question:** Breakdown of total customers identified: Please list % of "high risk" customers. [Relates to Company Services Providers - FIRMS/COMPANIES only]

**Answer:** 0



## 2019 REQ: Common mistakes

Case study: Subject person **X** is a company service provider.

### **Domicile of Bos (1)**

**Question:** Please list the % of foreign BOs domiciled in an non-EU or non-EEA member state jurisdiction.

**Answer:** 29

### **Customer Type (Questions) (20)**

**Question:** Please list the % of customers that are high net worth individuals.

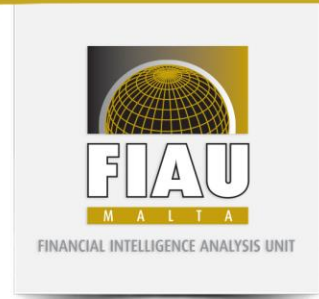
**Answer:** 9

### **Customer Type (Questions) (4)**

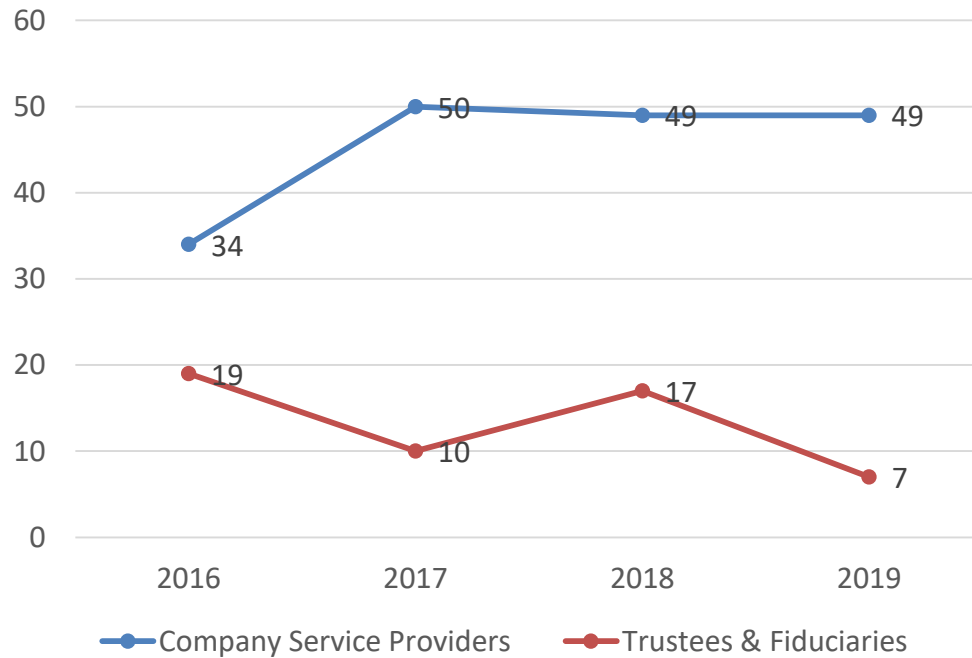
**Question:** Breakdown of total customers identified: Please list % of "high risk" customers. [Relates to Company Services Providers - FIRMS/COMPANIES only]

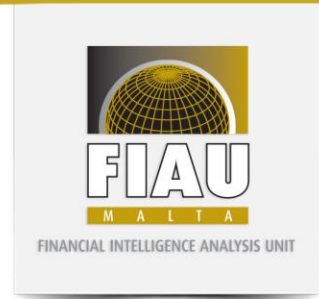
**Answer:** 0

# General observations

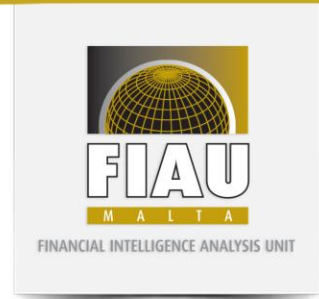


The importance of STRs is essential. **It is important to keep in mind that subject persons must file STRs only with the FIAU and with no other supervisory authority.**





# **The imposition of Administrative Penalties & the Enforcement Process**



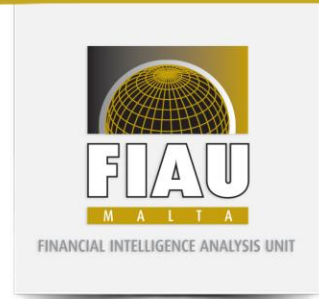
# 2019 REQ: The Imposition of Administrative penalties and the Enforcement process.

- **Periodical Reporting**

In terms of Reg 19 of the PMLFTR:

*“In fulfilment of its supervisory functions under the Act, the Financial Intelligence Analysis Unit may require subject persons to submit periodical reports on the measures and procedures they maintain and apply pursuant to regulation 5 and any other information or documents as the Financial Intelligence Analysis Unit may consider necessary.”*

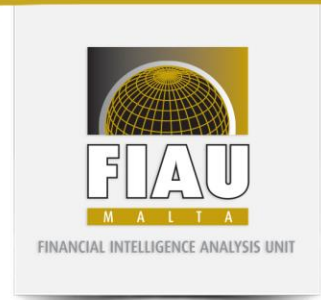




# 019 REQ: The Imposition of Administrative penalties and the Enforcement process

## To Recap

- ❑ Potential breaches letters issued: **207**
- ❑ Failure to submit the REQ 2019 or not submit the REQ in a timely manner has led to the issuance of a potential breaches letter on a total of **207** subject persons.
- ❑ Currently: Ongoing process of receiving representations, presentation to the CMC and issuance of letters reflecting the administrative measure to be taken.



**Thank you.**



**Thank you.**

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