



Publication Notice: 2020 Risk Evaluation Questionnaire (REQ)

SUPERVISORY ACTION:

2020 Risk Evaluation Questionnaire

DETAILS OF THE ADMINISTRATIVE MEASURES IMPOSED

Administrative Penalties in terms of Regulation 21 of the Prevention of Money Laundering and Funding of Terrorism Regulations (PMLFTR).

Data is being published in an aggregate form covering all the administrative penalties imposed by the FIAU following an assessment of late or non-submissions of the 2020 REQs.

LEGAL PROVISION BREACHED:

Failure to satisfy the requirements under Regulation 19 of the PMLFTR and Section 5.12 of the Implementing Procedures Part 1.

INTRODUCTION

In line with the requirements imposed by the European Union and other international bodies, the FIAU implements a risk-based supervisory strategy. This aimed at effectively monitoring and supervising all Subject Persons in accordance with the level of Money Laundering/Financial Terrorism (ML/FT) risks which they pose. In identifying these ML/FT risks, the FIAU considered various sources, including information provided by subject persons through the submission of the annual REQ; information provided by prudential regulators; information provided by the intelligence function of the FIAU; any material adverse information obtained through open sources; results from compliance examinations carried out; and results of the National Risk Assessment (NRA) and Supra National Risk Assessment (SNRA).

The information collected directly from subject persons through the REQ is invaluable for the FIAU to be able to effectively carry out risk-based supervision. This since it allows the FIAU to create a thorough subject person risk profile and aids in ensuring its resources are utilised in an effective manner allowing for the carrying out of supervisory actions that are addressing the type of risks perceived.



SUCCESSFUL SUBMISSION OF THE 2020 REQ

Table 1 outlines the 2020 REQ submission rate across sectors.

Sector	% of population that responded
Credit Institutions	100%
Remote Gaming	95%
Land-Based Casinos	100%
Other Financial Institutions	100%
TCSPs (entities)	98%
TCSPs (individuals)	95%
Investment Service Providers	93%
Other DNFBPs (entities)	95%
Other DNFBPs (individuals)	90%
VFA Agents	100%
Insurance Providers	96%

Table 1: REQ submission rate (2020)

ADMINISTRATIVE PENALTIES

As per Regulation 19 of the PMLFTR, in fulfilment of its supervisory functions, the FIAU may require subject persons to submit periodical reports in relation to the measures and procedures they maintain and apply pursuant to Regulation 5 of the PMLFTR and any other information or documents as the FIAU may consider necessary.

Failure to submit the REQ 2020 or submitting the REQ after the stipulated timeframes has led to the issuance of a potential breaches letter to a total of **104** subject persons as illustrated in table 2 below.

Sector	Category	Number of Subject Persons
Financial Sector	Credit Institutions	0
	Financial Institutions	1
	Life/Long-term Insurance	6
	Investment Service Providers	18
	VFA Agents	0
Gaming Sector	Land-Based Casinos	0
	Remote Gaming	21
Non-Financial Businesses and Professions (DNFBPs)	TCSPs	18
	Accountants, Auditors & Tax Advisors	11
	Advocates	5
	Notaries	8
	Real Estate Agents	16
Grand Total		104

Table 2: Potential Breaches Issued by Category (2020)

Subject persons in receipt of the potential breaches letter were invited to submit representations (supported with any evidence as necessary) in relation to their failure to submit the REQ or submitting it after the stipulated deadline. Representations received by the FIAU were presented to the FIAU's Compliance Monitoring Committee (the "Committee") for a final determination of the case. In its deliberations on each case and in reaching a determination on the amount of the administrative penalty to impose (where applicable), the Committee took into consideration: the representations made by the subject person, the nature and seriousness of the breach, and the nature and size of each subject person. The Committee also took into consideration whether ultimately the subject person provided a completed version of the REQ, even if this was after the issuance of the potential breaches letter.

Finally, the Committee decided to impose an administrative penalty on **sixty (60) subject persons** amounting to **€136,420** for failing to adhere to Regulation 19 of the PMLFTR. Table 3 illustrates the total number and value of administrative penalties imposed per Sector. As can be noted the total count of administrative penalties imposed by the FIAU is lower than the number of potential breaches that had initially been issued. The reason for this difference is due to the process wherein the Committee would consider the specific information in relation to the case, including the representations submitted by the subject person. Amongst other considerations, the Committee would take into considerations circumstances wherein the subject person would not be carrying out relevant activity, had its licence surrendered, terminated, or cancelled however failed to notify this to the FIAU.

Sector	Category	Number of Administrative Penalties Imposed			Amount of Administrative Penalties (€)
		Non-Submitters	Late Submitters	Total	
Financial Sector	Credit Institutions	0	0	0	€ 0
	Financial Institutions	0	1	1	€ 800
	Life/Long-term Insurance	2	1	3	€ 9120
	Investment Service Providers	6	0	6	€ 24,320
Gaming Sector	Land-Based Casinos	0	0	0	€ 0
	Remote Gaming	12	4	16	€ 52,040 ¹
Non-Financial Businesses and Professions (DNFBPs)	TCSPs	4	6	10	€ 13,680
	Accountants, Auditors & Tax Advisors	4	1	5	€ 5,020
	Advocates	1	0	1	€ 720
	Notaries	6	0	6	€ 7,560
	Real Estate Agents	7	5	12	€ 23,160
Grand Total		42	18	60	€ 136,420

Table 3: Number and Amount of Administrative Penalties Issued

¹ 1 of the 16 administrative measures imposed has been appealed by the subject person in front of the court of appeal (inferior jurisdictions). On 15 September 2021, the Court decided the appeal in favour of the subject person by revoking the administrative measure.

CONCLUSION

The FIAU will continue to carry out this exercise on a yearly basis and take administrative action against subject persons who fail to satisfy the Requirements of Regulation 19 of the PMLFTR, which are further detailed in Section 5.12 of the Implementing Procedures Part I. The Committee will also take into consideration the repetitive failure by Subject Persons to submit the REQ across the years for which the FIAU has requested this submission to be carried out.

Finally, the FIAU emphasises the importance of such data collection exercises. These are a critical source of information that is required by the FIAU to adequately implement its supervisory strategy for each subject person and for the sector as a whole. Hence, failure by subject persons to satisfy the requirements of Regulation 19 of the PMLFTR and Section 5.12 of the implementing Procedures Part I has a detrimental impact on the FIAU's ability to conduct a thorough and comprehensive risk assessment.

28 July 2021

