



Publication Notice: 2019 Risk Evaluation Questionnaire (“REQ”)

SUPERVISORY ACTION:

2019 Risk Evaluation Questionnaire

DETAILS OF THE ADMINISTRATIVE MEASURES IMPOSED

Administrative Penalties in terms of Regulation 21 of the PMLFTR for failure to satisfy the requirements of Regulation 19 of the 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 2019 Risk Evaluation Questionnaires.

INTRODUCTION

In 2017, the Financial Intelligence Analysis Unit (“FIAU”) repealed the annual compliance report (ACR) that had been in place since 2012, to replace it with comprehensive, sector-specific questionnaires. This was achieved with the launch of the Risk Evaluation Questionnaires (REQ) in 2019, which questionnaire is more comprehensive and which has enabled the FIAU to assess the inherent risks and control levels of subject persons and thus achieve a more accurate risk assessment result, capturing also sector-specific risks.

The information collected and collated from the REQ is invaluable for the FIAU to be able to create a subject person risk profile and to be able to carry out risk based supervision, ensuring that resources are targeted to where the risks are perceived to be the greatest. This also enables the FIAU to ensure that the supervisory action planned to be taken, which can vary from an intrusive compliance review, to a targeted one, be it onsite or off-site, or otherwise to request the completion of additional questionnaires, is proportionate to the money laundering/funding of terrorism risk posed by the subject persons. The REQ also ensures that the FIAU’s risk based supervision model satisfies the requirements imposed by the European Union and other international bodies.

Table 1 outlines the number of REQs submitted per sector.

Sector	Category	Number of REQs Submitted
Financial Sector	Credit Institutions	23
	Financial Institutions	50
	Life/Long-term Insurance	126
	Investment Service Providers	413
Gaming Sector	Land-Based Casinos	4
	Remote Gaming	177
Non-Financial Businesses and Professions (DNFBPs)	TCSPs	645
	Accountants, Auditors & Tax Advisors	175
	Advocates	72
	Notaries	280
	Real Estate Agents	95

Table 1: Number of REQs submitted per sector (2019)

ADMINISTRATIVE PENALTIES

As per Regulation 19 of the Prevention of Money Laundering and Financing of Terrorism (the “PMLFTR”)¹, in fulfilment of its supervisory functions under the Act, 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 2019 or submitting the REQ after the stipulated timeframes has led to the issuance of a potential breaches letter to a total of **207** subject persons as illustrated in table 2.

¹ The obligation to submit the REQ has been further expanded upon in Section 5.12 of the Implementing Procedures Part 1, as last amended on 17 July 2020

Sector	Category	Number of Subject Persons
Financial Sector	Credit Institutions	0
	Financial Institutions	3
	Life/Long-term Insurance	2
	Investment Service Providers	16
Gaming Sector	Land-Based Casinos	0
	Remote Gaming	78
Non-Financial Businesses and Professions (DNFBPs)	TCSPs	41
	Accountants, Auditors & Tax Advisors	17
	Advocates	17
	Notaries	10
	Real Estate Agents	23
Grand Total		207

Table 2: Potential Breaches Issued by Category (2019)

Subject persons who received the potential breaches letter as aforementioned were invited to submit representations (supported with any evidence as necessary) in relation to their failure to submit the REQ or submitting same after the stipulated deadline. All representations received by the FIAU were presented to the FIAU Compliance Monitoring Committee (the “Committee”) for a final determination of the case. The Committee decided to issue an **administrative penalty to 115 subject persons.**²

The total administrative penalties imposed for the 115 breaches determined by the Committee in relation to Regulation 19 of the PMLFTR **amounted to € 529,950.** Table 3 illustrates the total number and value of administrative penalties imposed per Subject Person Sector. In reaching a determination on the amount of the administrative penalty, 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.

² As can be noticed the total administrative penalties imposed by the FIAU is lower than the number of potential breaches that had initially been issued. The reason for such a difference is owed 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 or that otherwise had its licence surrendered/ terminated/ cancelled but 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	0	0	€ 0
	Life/Long-term Insurance	2	0	2	€ 10,400
	Investment Service Providers	5	1	6	€ 30,450
Gaming Sector	Land-Based Casinos	0	0	0	€ 0
	Remote Gaming	44	8	52	€ 301,050
Non-Financial Businesses and Professions (DNFBPs)	TCSPs	14 ³	6	20	€ 88,900
	Accountants, Auditors & Tax Advisors	7 ⁴	3	10	€ 25,950
	Advocates	5	0	5	€ 18,900
	Notaries	4	1	5	€ 16,750
	Real Estate Agents	9	6	15	€ 37,550
Grand Total		90	25	115	€ 529,950

Table 3: Number and Amount of Administrative Penalties Issued

CONCLUSION

The FIAU shall be carrying out this exercise on a yearly basis in order to take administrative action against subject persons who fail to satisfy the Requirements of Regulation 19 of the PMLFTR, which is now also being detailed in Section 5.12 of the Implementing Procedures Part I (this following the amendments to the Implementing Procedures of 17 July 2019).

The FIAU emphasises on the importance for Subject Persons to ensure that the Risk Evaluation Questionnaire is completed and submitted through the Compliance and Supervision Platform for Assessing Risk (CASPAR) in a timely manner and that the data provided is accurate and complete. The data extracted from the REQ is a highly important source of information that is required by the FIAU to adequately develop a supervisory strategy for each subject person and for the sector as a whole. Hence failure to submit the REQ, does not only result in a subject person failing to satisfy the requirements of Regulation 19 of the PMLFTR and Section 5.12 of the implementing Procedures Part I but also has a detrimental impact on the FIAU's ability to conduct a thorough and comprehensive risk assessment.

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³ One of the 14 administrative measures imposed has been appealed in front of the court of appeal, (inferior jurisdictions) by the subject person.

⁴ One of the 7 administrative measures imposed has been appealed, in front of the court of appeal, (inferior jurisdictions) by the subject person. On 3 February 2021, the Court decided the appeal in favour of the SP by revoking the administrative measure.