



Publication Notice: 2023 Risk Evaluation Questionnaire (REQ)

SUPERVISORY ACTION:

2023 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) for failure to satisfy the requirements in terms of Regulation 19 of the PMLFTR and Section 5.12 of the Implementing Procedures Part I (IPs).

Data is being published in a combined form following an assessment of the administrative penalties imposed by the FIAU's Compliance Monitoring Committee (CMC or the Committee) on subject persons who failed to submit or otherwise submitted late, the 2023 REQ.

INTRODUCTION to 2023 REQ

In line with the requirements imposed by the European Union and other international bodies, the FIAU implements a risk-based supervisory strategy. This aims to effectively monitor and supervise 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 annual REQ; information provided by prudential regulators; information provided by the FIAU's intelligence function; 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).

A key tool to conduct effective risk-based supervision is the information the FIAU collects on each subject person it supervises. Through Regulation 19 of the PMLFTR, the FIAU is empowered to request periodical reports from subject persons and ensure that the FIAU's resources are utilized in an effective manner and focused on supervisory actions that address the type of risks perceived. Thus, as explained in Section 1.6.1 of the Implementing Procedures Part I (IPs), through the completion of the yearly risk evaluation questionnaire, subject persons assist the FIAU in carrying out its supervisory function in an effective risk-based manner.



SUCCESSFUL SUBMISSION OF THE 2023 REQ

In 2023, subject persons submitted circa 2,000 REQs through the FIAU’s Compliance and Supervision Platform for Assessing Risk (CASPAR) portal. Even though not all submissions were provided within the FIAU’s stipulated deadline, the submission rates by sector are outlined in Table 1 hereunder.

Sector	% of population that responded
Credit Institutions	100%
Financial Institutions	96%
Investments	100%
Insurance	100%
VFA Agents (VFASPs)	100%
Remote Gaming	98%
Land-Based Casinos	100%
TCSPs (entities)	99.60%
TCSPs (individuals)	98%
Other DNFBPs (entities)	98%
Other DNFBPs (individuals)	97%

Table 1: REQ submissions (2023)

ADMINISTRATIVE PENALTIES

Ensuring that subject persons comply with their AML/CFT obligations is a core function of the FIAU, in terms of Article 16(1)(c) of the Prevention of Money Laundering Act (PMLA). To this effect, the FIAU carries out a periodic exercise to monitor subject persons compliance with their requirement to submit the REQ. Failure to adhere to this requirement leads to the issuing of a potential breaches letter to each subject person who either did not submit the REQ or submitted the questionnaire late.

Failure to submit the 2023 REQ or submitting the REQ after the stipulated timeframes has led to **67** potential breaches being issued to subject persons as illustrated in Table 2 below.

Sector	Sector	Number of Subject Persons
Financial Sector	Credit Institutions	0
	Financial Institutions	1
	Insurance	0
	Investments	1
	VFA Agents	0
	VFA Service Providers	0
Gaming Sector	Land-Based Casinos	0
	Remote Gaming	7
Non-Financial Businesses and Professions (DNFBPs)	TCSPs	3
	Accountants, Auditors & Tax Advisors	23
	Advocates	9
	Notaries	8
	Real Estate Agents	15
Grand Total		67

Table 2: Potential Breaches Issued by Sector (2023)

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. In line with the FIAU's policies and procedures, when deciding on the amount of the administrative penalty to impose (where applicable), the Committee considered:

- the representations made by the subject person;
- the nature and seriousness of the breach;
- the size of each subject person;
- whether this is the first time the subject persons failed to submit the REQ within the stipulated timeframe (repetitive element) and the extent of the delay in eventually submitting the REQ (where applicable); and
- circumstances wherein the subject person was not carrying out relevant activity, had its licence surrendered, terminated, or cancelled.

Following the evaluation of all cases and corresponding representations, the Committee decided to impose an administrative penalty on **thirty-five (35) subject persons** amounting to **€89,450** for failing to adhere to Regulation 19 of the PMLFTR and Section 5.12 of the IPs. 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 because, based on the specific information in relation to the case (including the representations submitted by the subject person) the Committee concluded that a number of subject persons were not in breach of their obligations.

Sector	Category	Number of Administrative Penalties Imposed			Value of Administrative Penalties (€)
		Non-Submitters	Late Submitters	Total	
Financial Sector	Credit Institutions	0	0	0	€0
	Financial Institutions	1	0	1	€2,850
	Insurance	0	0	0	€0
	Investments	0	0	0	€0
	VFA Agents	0	0	0	€0
	VFA Service Providers	0	0	0	€0
Gaming Sector	Land-Based Casinos	0	0	0	€0
	Remote Gaming	5	0	5	€23,750
Non-Financial Businesses and Professions (DNFBPs)	TCSPs	3	0	3	€8,800
	Accountants, Auditors & Tax Advisors	8	6	14	€24,550
	Advocates	1	0	1	€900
	Notaries	3	1	4	€11,000
	Real Estate Agents	6	1	7	€17,600
Grand Total		27	8	35	€89,450

Table 3: Number and Value of Administrative Penalties Issued

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. 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.

Further guidance to subject persons in relation to the yearly REQ exercise can be found on: <https://fiaumalta.org/news/faq-risk-evaluation-questionnaire/>

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