



## Publication Notice: 2021 Risk Evaluation Questionnaire (REQ)

### **SUPERVISORY ACTION:**

2021 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 2021 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 to 2021 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 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 2021 REQ

In 2021, subject persons submitted over 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	96%
Insurance	98%
VFA Agents	100%
Remote Gaming	88%
Land-Based Casinos	100%
TCSPs (entities)	98%
TCSPs (individuals)	98%
Other DNFBPs (entities)	93%
Other DNFBPs (individuals)	95%

**Table 1: REQ submissions (2021)**

## 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 2021 or submitting the REQ after the stipulated timeframes has led to the issuing of a potential breaches letter to a total of **117** subject persons as illustrated in table 2 below.

Sector	Sector	Number of Subject Persons
Financial Sector	Credit Institutions	0
	Financial Institutions	1
	Insurance	2
	Investments	18
	VFA Agents	1
Gaming Sector	Land-Based Casinos	0
	Remote Gaming	31
Non-Financial Businesses and Professions (DNFBPs)	TCSPs	13
	Accountants, Auditors & Tax Advisors	12
	Advocates	13
	Notaries	11
	Real Estate Agents	15
<b>Grand Total</b>		<b>117</b>

**Table 2: Potential Breaches Issued by Sector (2021)**

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 Unit's Compliance Monitoring Committee (the Committee) for a final decision on the case. During the deliberations on each case and to reach a conclusion 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 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 completed after the FIAU's stipulated deadline.

Finally, the Committee decided to impose an administrative penalty on **thirty-five (35) subject persons** amounting in total to **€93,600** 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 considers the specific information in relation to the case, including the representations submitted by the subject person. Amongst other considerations, the Committee takes into account circumstances wherein the subject person was not carrying out relevant activity, had its licence surrendered, terminated, or cancelled, and had failed to notify 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
	Insurance	1	0	1	€4,800
	Investments	3	0	3	€14,440
	VFA Agents	1	0	1	€2,280
Gaming Sector	Land-Based Casinos	0	0	0	€0
	Remote Gaming	8	0	8	€38,380
Non-Financial Businesses and Professions (DNFBPs)	TCSPs	2	0	2	€4,800
	Accountants, Auditors & Tax Advisors	4	2	6	€ 6,200
	Advocates	3	1	4	€5,080
	Notaries	4	2	6	€8,920
	Real Estate Agents	3	1	4	€8,700
<b>Grand Total</b>		<b>29</b>	<b>6</b>	<b>35</b>	<b>€93,600</b>

**Table 3: Number and Amount 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.

**2 November 2022**

