

Chairman,
Malta Financial Services Authority

Minister of Finance, the Economy and
Investment

L.N. ___ of 2013

**Trusts and Trustees Act
(Cap. 331)**

**Trusts and Trustees Act (Registration of Notaries to act as Qualified Persons)
Regulations**

IN exercise of the powers conferred by article 57 of the Trusts and Trustees Act, the Minister of Finance, the Economy and Investment, acting on the advice of the Malta Financial Services Authority, has made the following regulations:

Citation and Scope.

1. (1) The title of these regulations is the Trusts and Trustees Act (Registration of Notaries to act as Qualified Persons) Regulations, 2013.

(2) The purpose of these regulations is to establish a registration framework with the Authority for notaries intending to act as a qualified person in terms of article 43(9) of the Act.

Interpretation.

2. (1) In these regulations, unless the context otherwise requires -

“the Act” means the Trusts and Trustees Act;

Cap. 330.

“the Authority” means the Malta Financial Services Authority established in terms of the Malta Financial Services Authority Act;

“depository notary” refers to the person as defined in article 43A of the Act.

(2) Words and expressions used in these regulations which are also used in the Act but which are not defined herein shall have the same meaning as in the Act.

Application for
registration.

3. (1) Any person acting as a depository notary in terms of article 43A of the Act may also act as a qualified person in terms of article 43(9) of the Act, provided that such notary is so registered in terms of

these regulations.

(2) Whenever a notary intends to act as a qualified person, such notary shall apply in writing to the Authority for registration to act as such qualified person in terms of article 43(9) of the Act, and for this purpose shall provide the Authority with:

- (a) a duly completed application form for registration to act as a qualified person in the form and manner determined by the Authority; and
- (b) a duly completed personal questionnaire in the form and manner determined by the Authority.

(3) An application for registration to act as a qualified person shall be accompanied by such fee as may be prescribed by the Authority from time to time.

(4) The Authority may require a notary applying for registration in terms of these regulations to provide any additional information it deems appropriate for the purposes of determining whether the said notary may be registered to act as a qualified person.

Power to refuse or grant registration.

4. (1) Registration to act as a qualified person shall not be automatically operative but shall be subject to a determination in writing by the Authority on whether to grant or refuse such registration under these regulations.

(2) The Authority may grant registration subject to such conditions as it may deem appropriate.

(3) Furthermore, the Authority may vary or revoke any condition so imposed or impose new conditions from time to time.

(4) The Authority shall not proceed to register a notary to act as a qualified person unless it is satisfied that:

- (a) the notary is in possession of a warrant in terms of the Notarial Profession and Notarial Archives Act;
- (b) the notary is fit and proper to carry out the duties of a qualified person; and
- (c) the notary shall comply with and observe the provisions of the Act and any rules and regulations issued thereunder.

(5) Upon being satisfied that the conditions prescribed in sub-regulation (4) have been complied with, the Authority shall proceed to register such notary in a register kept for the purpose of these regulations and the notary shall thereafter comply with the provisions

of article 43(9) and (10) of the Act.

Notification to the
Authority.

5. (1) Where the Authority registers a notary in the register referred to in regulation 4(5), such notary shall thereafter notify the Authority every time he is appointed to act as a qualified person in terms of article 43(9) of the Act in respect of relevant property settled on trust in terms of article 43A of the Act.

(2) The notification referred to in sub-regulation (1) shall be accompanied by such information as may be required by the Authority from time to time.

(3) A notary registered to act as a qualified person in terms of these regulations shall notify the Authority of any change or circumstance which would have a bearing upon his registration as a qualified person.