

10 September 2019

## Enhancements to the online portal for the Trusts Ultimate Beneficial Ownership Register (“TUBOR”)

### Introduction

Reference is made to the online platform for the Trusts Ultimate Beneficial Ownership Register (“TUBOR”) which was launched in 2018 to enable trustees licensed in terms of Article 43 and Article 43B of the Trusts and Trustees to comply with the requirements to report the beneficial ownership of trusts under their administration which generate tax consequences, in terms of the Trusts and Trustees Act (Register of Beneficial Owners) Regulations 2017 (the “Regulations”). These Regulations transpose and implement the relevant provisions on beneficial ownership information, including the register of beneficial owners, emanating from article 31 of Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing (“4th AMLD”), in so far as they are applicable to trusts and trustees. The TUBOR platform also provides specific national competent authorities such as the FIAU, national tax authorities and the Police, with unrestricted access to the beneficial ownership information of trusts, whereas subject persons under the Prevention of Money Laundering and Funding of Terrorism Regulations are also entitled to request access to the beneficial ownership information of a particular trust or trusts for the purpose of conducting customer due diligence work when establishing a business relationship, or carrying out an occasional transaction in relation to such trust.

The MFSA would like to announce that a number of enhancements have been introduced to the TUBOR platform. These enhancements are intended to facilitate the process of inputting declarations of beneficial ownership of trusts through the online portal, particularly in view of the fact that as a result of the transposition of the provisions of Article 31 of the 5<sup>th</sup> AMLD<sup>1</sup>, the beneficial ownership information of all trusts will become reportable from January 2020. The industry will be updated with further details about these changes as soon as the relevant amendments to national legislation in this regard are published.

All enhancements are now available on the TUBOR online platform at the address: <https://tubor.mfsa.com.mt>. The main changes to the online system are being highlighted in this Circular.

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<sup>1</sup> Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU

## 1.0 Additional users for a Trustee Account on TUBOR

A trustee company may register up to three (3) users for the account set up on TUBOR. The details used for each user of the relevant trustee account must pertain to a director of the said trustee, as the user submitting declarations of beneficial ownership will also appear as one of two signatories on each form submitted, as required in terms of the above-cited Regulations. If the trustee has not yet set up an account on TUBOR, the applicant will need to select the option to create a new trustee account. Upon creation of the new trustee account, the applicant will receive a unique ID code by e-mail at the email address used for registration. If an account for the relevant trustee has been set up on TUBOR and an additional user needs to be added, this can be done through this new feature which has been included in the registration page.

**NOTE:**

Choose **Director** if you would like to Submit an online declaration of trust beneficial ownership

Choose **Subject Person** if you would like to request access to beneficial ownership information of trusts

Choose **Competent Authority** if you are a representative of a competent authority and would like to request access to beneficial ownership information of trusts

**Applicant Type**

**Trustee already registered – I have a code**

**I want to create a new trustee account**

**Trustee Id**


**Trustee Name**

For those trustees who already had an account on TUBOR prior to the launching of these features, the unique ID code can now be found in the profile for the existing registered user's account following log-in, which is located in the top right-hand corner of the page. Each user will be able to view the declarations submitted by any of the other users registered on that particular trustee account.

TUBOR Home About Contact Declaration Declaration Logs Online Register

Hello johndoe@testmail.com Log off

Manage



**Submit Declaration**

**Search Trusts**

## 2.0 'Save Draft' Feature

A trustee is required to complete an online declaration of beneficial ownership information for every trust through TUBOR. In this respect the declaration form has now been upgraded to include a feature which allows the user to save a draft of the declaration form being completed prior to submission. This will allow the user to close the declaration form and to continue working on the form at a later stage, without losing any of the data which had been previously inputted. This may be done in one of two ways: (1) the user may select to 'Auto-Save' the draft at the initial stages of inputting the preliminary information relating to the trust (i.e the name of the trust and the date of appointment of the trustee – these are mandatory fields which need to be filled in prior to saving the draft). This will ensure that if the application is closed from any point thereafter prior to submission of the form, the information inputted would not be lost; (2) the user may choose to save the declaration in draft form from the new feature added at the end of the declaration, prior to final submission. If you start filling in data for a particular party, the whole block for that party needs to be completed for the data to be saved. Therefore, for example, if you start filling in the details for a settlor, you need to fill in all the required data for the settlor in order for that data to be saved in draft form.

(1)

Register of Beneficial Owners Form

Declaration Details

To The Malta Financial Services Authority

We the Undersigned being the directors / persons entrusted with the management and administration of:

**Trustee Name** ABC Trustee Limited Transfer

Hereby declare that the above-mentioned Trustee is acting as Trustee of the following express trust which is deemed to generate tax consequences:

**Trust Name** Test Trust

The above-mentioned Trustee was appointed as Trustee of this Trust on:

**Appointment Date** 05/08/2009

As Trustee of the above mentioned Trust, it is hereby declared that the beneficial Owners of this Trust are:

Form Functionalities

Auto-save

(a) The Settlor(s):

In the case where the Settlor is a body corporate, please provide details of the body corporate in Table 1. In the case where the Settlor is an individual please complete Table 2. If there is BOTH a Settlor who is a body corporate and individual(s), please fill in both tables.

Table 1 (Body Corporate Settlor(s))

Add Body Corporate Settlor

Table 2 (Individual Settlor(s))

Add Individual Settlor

(2)

**Declaration Form Upload**

*NOTE: Declaration should be printed and signed by both Directors. Kindly attach a signed copy of the Declaration before submitting.*

\_\_\_\_\_

First Director

\_\_\_\_\_

Second Director

Download the Declaration in PDF Format: Download as PDF

Attach a copy of the Signed Declaration: Select files...

**NOTE:**

*\* The Regulations provide that the definition of 'beneficial owner' shall have the meaning assigned to it under the Prevention of Money Laundering and Funding of Terrorism Regulations ("PMLFTR"), as specifically applicable to trusts, and includes (a) the Settlor, (b) the Trustee(s), (c) the Protector (if any), (d) the beneficiaries/the class of persons in whose main interest the trust is set up or operates and (e) any other person exercising ultimate control over the trust by any means, as defined within the Regulations. Where the Beneficiaries consist in a body corporate, please ensure that you provide details about ANY individual holding direct or indirect ownership of 25% plus one or more of the shares in the body corporate, or more than 25% of the voting rights or other ownership interests, including through bearer shares or through control with other means. Where no individual holds at least 25% direct/indirect ownership, one should provide details of the natural person(s) who hold the position of senior managing official(s).*

Submit
Save Draft
Cancel

Back

Your draft form will be saved in the 'Declaration Logs' section on your account and its status will be indicated as 'Draft' as the data in a draft form is not submitted to the MFSA. You can click on the newly introduced 'Edit' function which you will find in this page in order to continue filling in the declaration form.

### Declaration Logs

Search
Cancel

ID	Ref. ID	Trustee Name	Trust Name	Appointment Date	Status	Primary Director	Secondary Director	
448		ABC Ltd	Rainy Day Trust	09/08/2014	Draft	John Smith	Therese Doe	<span style="font-size: 1.2em;">👁</span> <span style="font-size: 1.2em;">✎</span> <span style="font-size: 1.2em;">↻</span> <span style="font-size: 1.2em; border: 2px solid red; border-radius: 50%; padding: 2px;">✏</span> <span style="font-size: 1.2em;">🗑</span>

Once a declaration of beneficial ownership form has been approved by the MFSA you will receive an email confirming such approval and the status in your declaration logs will change to 'Approved'. As required by law, any changes to reported beneficial ownership information are to be notified to the MFSA within fourteen (14) days from when the trustee becomes aware of the said changes. In this respect you may now make use of the 'Edit Function' to make any necessary changes to an approved declaration of beneficial ownership form. The amended form also needs to be signed by two directors as required by law, which in turn needs to be uploaded and resubmitted to the MFSA for approval.

You will note that if you save a draft of the declaration form to which you are making changes, this will be indicated in your declaration logs as a new form with a new Reference ID which is linked to the previous declaration form. This will also be the case once the updated form is submitted for MFSA approval. Once the new declaration form has been approved by the MFSA you will still be able to see the previous form in your logs for historical purposes, however its status will change to 'Superseded', and the current and updated beneficial ownership information will be deemed to be that of the last approved form.

ID	Ref. ID	Trustee Name	Trust Name	Appointment Date	Status	Primary Director	Secondary Director	
449		ABC Ltd	Rainy Day Trust	09/08/2014	Draft	John Smith	Therese Doe	
448	449	ABC Ltd	Rainy Day Trust	09/08/2014	Approved	John Smith	Therese Doe	

### 3.0 Change of Trustee – The 'Transfer' Feature

Changes in beneficial ownership information as defined in the Regulations include a change of trustee, whereby a trust is taken over by a new trustee. In such case the new trustee also needs to take responsibility of the beneficial ownership information on TUBOR for the trust which has been taken over.

For this reason we have introduced a 'Transfer' functionality on TUBOR whereby a trustee who has submitted the beneficial ownership information of a particular trust on TUBOR can transfer the relevant approved declaration of beneficial ownership to the new trustee.

When clicking on the 'Edit Function' you will note that in the introductory part of the form, there is a drop-down facility in the field for the Trustee Name. By clicking on the drop-down menu you will be able to view the names of all the trustees who have an account set up on TUBOR. You will need to

select the name of the trustee which has taken over the trust, and then click the 'Transfer' button which is located next to the 'Trustee name' field.

**Trusts and Trustees Act (Register of Beneficial Owners) Regulations, 2017**  
**Declaration of Beneficial Ownership\* in terms of Regulation 3 and Regulation 8**

**Register of Beneficial Owners Form**

**Declaration Details**

To The Malta Financial Services Authority

We the Undersigned being the directors / persons entrusted with the management and administration of:

**Trustee Name**

Hereby declare that the above-mentioned Trustee is acting as Trustee of the following Express trust which is deemed to generate tax consequences:

**Trust Name**

The above-mentioned Trustee was appointed as Trustee of this Trust on:

**Appointment Date**

As Trustee of the above mentioned Trust, it is hereby declared that the beneficial Owners of this Trust are:

The system will prompt you to confirm that you want to transfer the declaration of trust to the indicated trustee, and the form is not received or viewable by the new trustee until the MFSA has approved the said transfer. You are advised to inform the MFSA prior to making submitting the request to transfer the form. Once the transfer has been approved by the MFSA, the new trustee will be notified that they have a declaration form which is awaiting their acceptance of transfer. Upon acceptance, the declaration form will appear in the new trustee's declaration logs in draft form for in order to make any changes to the beneficial ownership information as may be necessary, as well as to enable the new trustee to download and sign the form prior to submission. The status of the previous declaration form pertaining to the previous trustee will automatically change to 'Transferred'. The outgoing trustee will remain responsible for the declaration of beneficial ownership and its contents until the transfer is approved by the MFSA and accepted by the new trustee.

#### 4.0 Upcoming developments

In addition to the enhancements outlined above, the MFSA is also currently working on an additional development to TUBOR. The Regulations set out that any trustee who reports beneficial ownership information for trusts is required to submit annually thereafter, by not later than 31 January of each year, a declaration confirming that there have been no changes to the reported beneficial ownership information during the previous calendar year, other than any changes which would have been duly notified as required by law. In this respect, an additional feature will shortly

be introduced on TUBOR to enable the submission of this annual declaration through the online portal. This should be implemented in time for the next due annual declaration in January 2020, for trustees who submitted beneficial ownership information of trusts throughout 2018 and 2019.

### **Contacts**

Any queries or requests for clarifications on the contents of this Circular should be sent to [trustsboregister@mfsa.com.mt](mailto:trustsboregister@mfsa.com.mt).