



Webinar - Money Laundering Risks Associated with Trustees and Company Service Providers: The Practical Implications



MFSA Q&As



Does the MFSA work with the companies to advise on how to create the custom-tailored documents that would be of highest value to all parties? This is a great discussion, as a company its best to exceed the min standards and work toward continually improving the internal systems.

The MFSA does not provide advice on how to custom-tailor documents as this is an exercise which needs to be undertaken by each licensed entity following an assessment of the size and nature of its business as well as in the light of a thorough business risk assessment which needs to be undertaken by the licensed entity to determine the areas which are of highest risk to it. Licensed entities are encouraged to seek legal advice when in doubt. Having said that licensed entities may reach out to the Authority in case of certain doubts and we will be able to share some best practices with you, which are however not to be construed as legal advice.

What's the best way to work with the MFSA to leverage the experience the organization has to continually better our companies' systems and procedures? As you mentioned the MFSA does have the Bird's Eye advantage.

The MFSA often issues circulars, guidance notes and thematic circulars on specific areas. For example, in the case of trustees a circular relating to a thematic review on reporting of beneficial ownership of trusts was published in 2019 – this is just one of many examples. With respect to CSPs, circulars would be located [here](#) whereas for trustees, circulars would be located [here](#). However, you are encouraged to keep a look out on the MFSA website as other circulars and guidance notes are often issued and may at times be applicable cross-sectorally.

So, in cases of these "red flag" transactions assuming they legitimate there should be clear records and reasoning behind the transactions. I am assuming in most cases there is the lack of supporting information / documents in these transactions which is why they are flagged to begin with.

Your understanding is correct – supporting information and documents should be held on file outlining the rationale of any structure/transaction, and since such 'red flags' are deemed to pose a higher risk, adequate mitigating measures should also be in place and clearly recorded.

Just curious **what's** the percentage of these complex structures that are legitimate based on your historical data?

We are not in a position to provide this data.

Question for Petra Camilleri - How can Trustee X know that there are two more trusts managed by different trustees? Kindly suggest adequate measures to get to know this. Thanks.

A Trustee is expected to carry out an in-depth analysis of the structure being set up as well as anticipated transactions including source and destination of funds of the transactions to be undertaken. Such enquiry could also feature as part of the client questionnaire. Moreover, trusts beneficial ownership registers may also prove useful in this regard.

Question for Petra Camilleri - what does it mean to go beyond EDD measures when dealing with PEPs? Kindly provide practical examples.

What was intended by this statement was that service providers should not restrict themselves to the minimum EDD document collection measures outlined in applicable legislation. Service providers should ensure that they have a clear understanding of why the PEP is setting up a particular structure/carrying out certain transactions, and have a good understanding of the background and activities carried out by the PEP in order to be able understand the rationale for the structure/transaction in question. Ongoing monitoring is also a key measure which should be undertaken with respect to PEPs, irrespective of the level of activity.