

A Guidance for Money Laundering Reporting Officers in the Financial Services Sector

March 2024

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Revisions Log

VERSION	DATE ISSUED	DETAILS
1.00	14 March 2024	Original Publication

Foreword

The Malta Financial Services Authority ('MFSA') is the single Maltese regulator and licensing authority for the financial services sector. As a part of this remit, the MFSA is also responsible for scrutinising and approving licence holder's key function holders. As such, the MFSA remains steadfast in upholding high standards for both its licence holders and anyone holding prominent roles within licence holder's control frameworks – this includes Money Laundering Reporting Officers ('MLROs'). The MFSA's priority to protect and maintain the safety and integrity of the financial services sector also falls in line with national strategic priorities.

Financial crimes such as money laundering and the funding of terrorism ('ML/FT') present a tangible threat to the stability of the financial services sector. This reality drives the MFSA's prioritisation of ensuring that individuals intending to take on an MLRO position are equipped with the necessary knowledge and expertise. Nevertheless, the MFSA's oversight over MLROs does not cease once an individual is approved. The MFSA, through the implementation of its [2019 AML/CFT Strategy](#), further considers financial crime related matters throughout the supervisory lifecycle of its licence holders. Given their role, MLROs also fall within the remit of the MFSA's supervisory interactions as it has to ensure that anyone appointed to the said role continues to have the necessary knowledge, expertise and resources to contrast ever evolving threats in this area.

It is important to bear in mind that the Prevention of Money Laundering and Funding of Terrorism Regulations ('PMLFTR'), as further elaborated upon by the Implementing Procedures issued by the Financial Intelligence Analysis Unit ('FIAU'), contains detailed binding provisions on the measures and procedures to be maintained and applied by authorised firms. This is also the case with regards to the MLRO, with the work carried out by the MFSA complementing that of the FIAU in ensuring the effectiveness of this key control function.

Licence Holders being unable to control their financial crime related risks via adequate controls (noting that the MLRO is a prominent control in this regard) would leave the financial services industry, its operators, their customers, and the jurisdiction in general vulnerable to the adverse consequences of financial crime. As such, this publication strives to provide guidance to prospective MLROs, incumbent MLROs, and the regulated firms MLROs operate within on governance practices that can facilitate their effective compliance and ultimately complement the financial services sector's efforts towards fighting financial crime and in particular ML/FT.

The guidance provided here is motivated and educated by financial crime compliance-related supervisory interactions conducted across the period 2021 to 2023 across all sectors within the financial industry.

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1. Introduction

1.1. What this Guidance Paper is About

MLROs play a crucial role in aiding companies in identifying, preventing, and discouraging ML/FT. This guidance document aims to offer practical support and insights to firms of varying sizes and operating in all sectors supervised by the MFSA regarding their MLROs. The information provided is largely derived from both the approval processes and supervisory interactions related to MLROs conducted by the MFSA.

License holders have the flexibility to fulfil their regulatory obligations through approaches beyond adhering strictly to the recommended practices outlined in this guidance. Still, the MFSA expects that license holders stay informed about their obligations and consider applicable guidance when establishing, implementing, and sustaining their financial crime compliance frameworks.

The content provided in this guidance paper considers the context provided by the Maltese financial services sector and the practical application of the MLRO function within this said sector, while still appreciating the existence of differences in its application within this same sector. This guidance appreciates the core reporting functions of the MLRO as required by the local regulation. Nevertheless, this document is intended to provide pragmatic guidance to the financial services industry and MLROs operating within it. Hence, the content within this guidance also comments on ancillary responsibilities - most notably AML/CFT compliance management - that are generally also assigned to the same individuals fulfilling the MLRO function.

The MFSA appreciates that MLROs being involved in AML/CFT compliance management is neither an approach required by legislation nor regulation and the content presented here should not be interpreted as an opinion peddling in favour of MLROs being vested with responsibilities other than those required by legislation and regulation. Noting this, the matters discussed here, and the guidance provided may albeit be fruitful for consideration by both MLROs and, where responsibilities for AML/CFT compliance management be vested to other officials, also by the latter.

This guidance does not aim to comprehensively outline all relevant requirements and should be considered in conjunction with existing legislation, regulations, and other guidance documents. In the event of any inconsistency between this guidance paper and other binding instruments, the latter take precedence.

1.2. How to Use this Guidance Paper

- **Who should read this guidance paper?** This guidance paper applies to all licence holders that carry out *relevant financial business* or conduct *relevant activity* and fall within the definition of *Subject Persons* in accordance with the provisions in the Prevention of Money Laundering Act, the PMLFTR, and the FIAU's Implementing Procedures Part 1 and Part 2.
- This guidance paper is to be read in conjunction with the Guidelines on the AML/CFT Compliance Officer issued by the European Banking Authority in so far as they are applicable to the reporting function and with any Implementing Procedures or Guidance Notes issued by the FIAU touching upon the MLRO function.
- Licence Holders should apply this guidance in a proportionate and risk-based approach by considering factors such as their size and complexity.
- This guidance looks at key themes related to proposed individuals for MLRO positions and approved MLROs as a prominent control for mitigating specific forms of financial crime risks. As such, this guidance provides context for each theme according to the MFSA's expectations and self-assessment questions intended to help you consider the appropriateness of your approach. These are coupled with examples of both good and bad practices. The examples provided are in no manner intended to be exhaustive or prescriptive.
- The examples referred to above have been derived from observations encountered throughout the MFSA's approval of proposed individuals as MLROs and supervision of approved MLROs.
- The preparation of this guidance paper has also considered a number of European and local publications as listed in Section 6.

- When considering an applicant's or an existent license holder's systems and controls against financial crime, the MFSA will consider whether the firm/individual has followed the relevant provisions in the FIAU's, the MFSA's, and the ESA's guidance.
- Since this guidance relates directly to MLROs, the content this document provides is naturally applicable to those MFSA licence holders that also fall within the definition of '*Subject Persons*' as provided by the PMLFTR and the FIAU Implementing Procedures Part 1. For its intended purpose, this guidance uses the terms '*licence holders*' and '*Subject Persons*' interchangeably.

2. The Money Laundering Reporting Officer

Under the PMLFTR, all Subject Persons, including those within the regulated financial services sector, are required to appoint an MLRO. This requirement is further elaborated upon in the Implementing Procedures issued by the FIAU, which contain detailed provisions on the measures and procedures to be maintained and applied by authorised firms. The Implementing Procedures assist Subject Persons to understand and fulfil their obligations under the PMLFTR using a degree of flexibility and proportionality.

Regulation 15 of the PMLFTR requires a Subject Person to appoint one of its officers as the MLRO, whose core functions are to:

- 1) *Receive reports from the Subject Person's employees, or through software solutions used to analyse transactions, on information or matters that may give rise to knowledge or suspicion of ML/FT, or that a person may have been, is or may be connected with ML/FT;*
- 2) *Consider these reports to determine whether knowledge or suspicion of ML/FT subsists or whether a person may have been, is or may be connected with ML/FT;*
- 3) *Report knowledge or suspicion of ML/FT or of a person's connection with ML/FT to the FIAU; and*
- 4) *Respond promptly to any request for information made by the FIAU.*

The role of the MLRO should not be underestimated as it is an extremely important position within a business, and anyone considering undertaking this position needs to fully understand the responsibilities associated with it and be aware of the

consequences potentially resulting from not meeting those responsibilities. In situations where an MLRO causes or contributes to a Subject Person being in breach of its AML/CFT obligations either intentionally or through gross negligence, the individual in question may be subject to administrative measures.

The MLRO evaluates internal ML/FT reports and determines whether grounds exist to submit a Suspicious Transaction Report (STR), or equivalent as referred to through the FIAU's Guidance Document on Reporting through goAML, to the FIAU. The MLRO is required to have the requisite experience and knowledge on ML/FT-related matters as well as hold sufficient seniority and be free from conflicts of interest, enabling independent action when necessary. Whilst a sound level of knowledge of ML/FT is undoubtedly necessary, a well-rounded MLRO would also be knowledgeable on those predicate offences that may be most relevant to the sector they operate within.

The MFSA emphasises that the individuals appointed as MLRO must possess adequate authority to effectively fulfil their responsibilities, having full and unlimited purpose of fulfilling their responsibilities. It is crucial that no internal or external attempts are made to exert pressure on the MLRO, or influence decisions related to reporting and handling suspicions of ML/FT. It is also necessary for the MLRO to have a comprehensive understanding of the day-to-day operations of the Subject Person in order to effectively understand how the Subject Person may be exploited for ML/FT and the kind of internal reports that may eventually be escalated for consideration.

Furthermore, the MLRO should have the ability, when deemed necessary, to communicate directly with the Board of Directors. Given the diverse range of tasks MLROs must undertake, Subject Persons are obliged to ensure that their MLRO has adequate time and is provided with the necessary human and technological resources to carry out these duties effectively. Additionally, it is important to note that when an individual serves as the MLRO for two or more Subject Persons, careful attention must be given to ensure that these multiple appointments enable the MLRO to effectively fulfil their function. The time commitment becomes a critical factor in this regard. Furthermore, the person undertaking MLRO duties should remain vigilant about potential conflicts of interest and confidentiality obligations that may arise in the context of managing responsibilities across multiple entities. This dual role requires a balanced and conscientious approach to maintain the integrity and effectiveness of the MLRO's functions.

The individual within the role should embody the core values of honesty and integrity which the MFSA seeks to safeguard within the industry. In line with achieving its ultimate objectives of being the gatekeeper of the financial industry, the MFSA plays a significant role in ensuring that individuals seeking to take on such roles are fit for purpose and approve the appointment of any prospective MLROs once it is deemed that they can perform their associated functions in an effective and efficient manner.

3. Common Issues and Relevant Outcomes

This section provides insight into common issues encountered by the MFSA while applying scrutiny on proposed individuals for MLRO positions and its approved MLROs, in accordance with the implementation of its 2019 AML/CFT strategy, by considering financial crime related matters both within its authorisation processes and ongoing supervision. This is also commensurate with the European Banking Authority's ('EBA') position in relation to how prudential supervisors should consider AML/CFT. The content presented below has been derived from information accumulated from a total of three years (2021 – 2023). Earlier publications by the FIAU had also highlighted similar issues noted through its own supervisory activities or through the supervisory activity carried out by the MFSA on the FIAU's behalf.

Sections 3.1 and 3.2 refer to several categories of issues that are observed throughout the MFSA's approval and supervisory processes. It is important for readers to understand what these terms are meant to convey. The below table is provided to provide further clarity.

Lack of basic knowledge surrounding AML/CFT	An observable situation where proposed MLROs or an approved MLRO demonstrates an insufficient understanding of the fundamental principles and obligatory practices related to AML/CFT.
Poor legislative proficiency	An observable situation where proposed MLROs or an approved MLRO demonstrates an insufficient understanding of the relevant legislative requirements related to AML/CFT.
Insufficient training or not showcasing an appropriate academic background	An observable situation where proposed MLROs or an approved MLRO lack adequate education, skills, or qualifications relevant to AML/CFT. This suggests that either the training undertaken by the particular individual is inadequate or their academic background does not align appropriately with the requirements related to the MLRO function.
Lack of awareness of their relevant business' (or sector specific) ML/FT risks	An observable situation where proposed MLROs or an approved MLRO are unaware or insufficiently informed about the ML/TF risks that are specific to the particular industry or sector they operate within.
Lack of experience in related roles	An observable situation where a proposed individual possesses limited or no prior involvement or exposure to positions, responsibilities, or tasks that are similar or closely connected to the MLRO Function.

Lack of awareness on the obligations inherent to the role	An observable situation where proposed individual or an approved MLRO exhibits a limited understanding or knowledge of the responsibilities, duties, and legal requirements associated with their position.
Lack of Awareness on other financial crime typologies / relevant predicate crimes.	An observable situation where a proposed individual or an incumbent MLRO demonstrate insufficient awareness of predicate crimes / financial crime typologies (other than ML/FT) that may be relevant to the specific business.
Insufficient time being allocated to the proposed role due to other multiple involvements	An observable situation where a proposed individual's capacity to fulfil the responsibilities and duties of the intended MLRO function is constrained or compromised by their involvement in numerous other involvements.
Insufficient time dedicated to the MLRO function	An observable situation where an MLRO is unable to allocate an adequate amount of time and attention to fulfil their responsibilities effectively either because of attempting to fulfil multiple onerous roles within the same Subject Person, multiple Subject Persons, or a combination of both scenarios.
Insufficient autonomy of the MLRO	An observable situation where an incumbent MLRO lacks the necessary independence, authority, or decision-making power to carry out their responsibilities effectively.
'One-man-show' / poor compliance culture	An observable situation where a single prominent individual within a Subject Person has a high degree of influence over all aspects of the institution, even those not directly related to their role.
Conflicting roles (the same individual fulfilling the MLRO role and other business-driven positions)	An observable situation where an incumbent MLRO also fulfils business-driven functions, where the latter function's interests may not be complementary to those inherent to the MLRO function.
Conflicting roles featuring executive positions	An observable situation where an incumbent MLRO also fulfils executive functions, where the latter function's interests may not be complementary to those inherent to the MLRO function.
Insufficient knowledge on the internal governance of the licence holder	An observable situation where an approved MLRO demonstrates an insufficient understanding of the relevant governance structures that apply to their role.

Insufficient resources allocated to the MLRO function	An observable situation where an approved MLRO is not supported or provided with the necessary support, resources, and tools needed for the effective functioning of their role.
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Highlighting these issues is intended to educate the industry’s practices as well as drive our own expectations as discussed in Section 4.

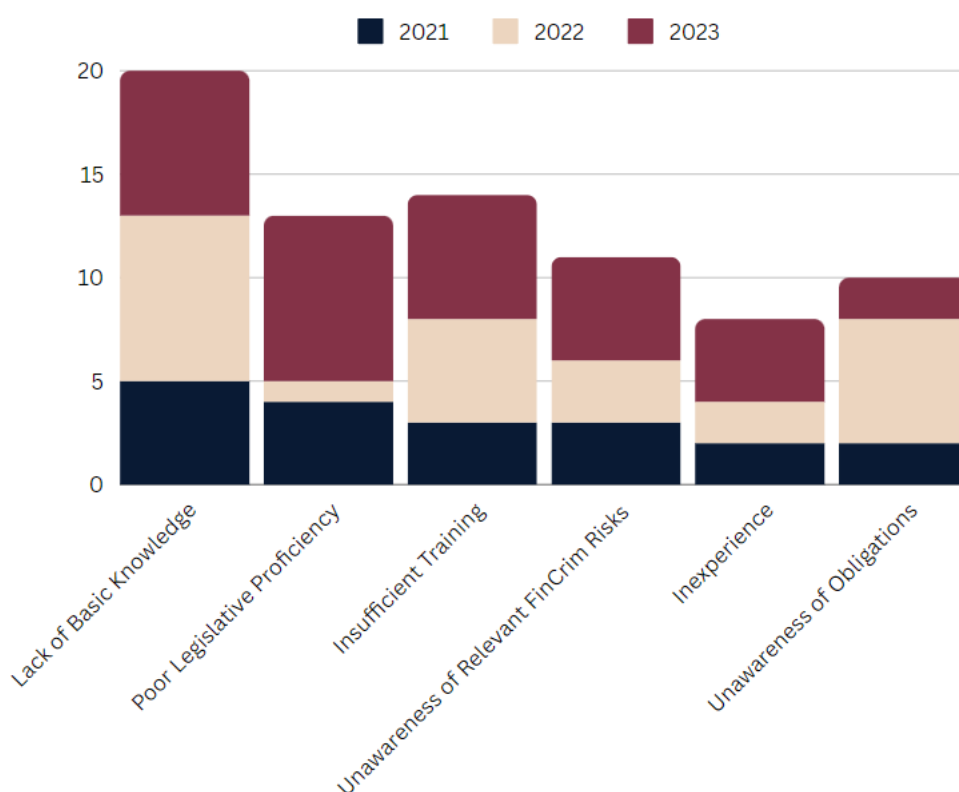
Any quoted figures in the below sections solely relate to those interviews or supervisory interactions that the MFSA’s Financial Crime Compliance Function contributed towards directly.

3.1. Proposed Individuals for MLRO Positions

Throughout 2021, 85 interviews were conducted with proposed individuals for MLRO positions by the MFSA as part of its authorisation process. From these interactions, a series of issues were identified. The most common issue identified was that of a lack of basic knowledge surrounding AML/CFT (5 instances), followed by the applicant exhibiting poor legislative proficiency (4 instances) and having attended an insufficient amount of training (3 instances). Other findings identified include: the candidate not being sufficiently prepared and not being aware of their relevant businesses (or sector specific) main ML/FT related risks, a lack of experience in related roles and a lack of awareness on the obligations that are inherent to the role, and insufficient time being allocated to the proposed role due to other multiple involvements.

Throughout 2022, 43 interviews were conducted with proposed individuals for MLRO positions by the MFSA as part of its authorisation process. The most common finding identified was once again a lack of basic ML/FT knowledge (8 instances), a lack of knowledge on the obligations inherent to the role (6 instances) and having insufficient training and showcasing an inappropriate academic background (5 instances). Other findings identified once again included: poor legislative proficiency, a lack of time allocated to the proposed role due to multiple involvements, a lack of experience in the role and the candidate not being aware of the business/sector specific ML/FT risks. Other issues encountered in 2022 that were not identified in 2021 were: a conflict of interest due to engaging in different roles, a conflict of interest which materialised due to personal, matrimonial, or business relationships with the UBO/Directors, a lack of knowledge on ML/FT related matters and a disinterest in the provision of training to staff.

Throughout 2023, the MFSA conducted 51 proposed MLRO interviews. In this year’s round of interviews, the main findings identified were those of poor legislative proficiency (8 instances), a lack of basic ML/FT related knowledge (7 instances), insufficient training and academic background (6 instances) and a lack of knowledge on ancillary financial crime related matters (5 instances). Other findings once again included: the candidate not being aware of the business/sector specific risks, a conflict of interest due to different roles, a lack of experience relevant to the role, a lack of knowledge on the obligations inherent to the role and a disinterest in the provision of training to staff.



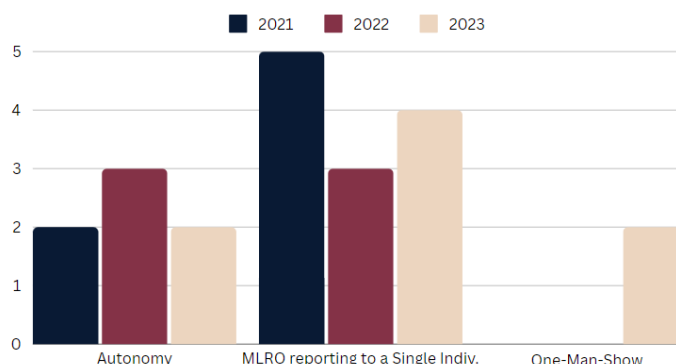
3.2. Incumbent MLROs

3.2.1. *Reporting to the Board and Senior Management Involvement (Independence and Autonomy)*

Throughout 2021, out of all the 54 supervisory interactions conducted by the MFSA that featured an element of financial crime compliance, involving scrutiny of the MLRO function, 2 instances were noted where the autonomy of the MLRO proved to be

insufficient. For the 29 supervisory interactions conducted during 2022, 3 instances where the MLRO did not enjoy sufficient autonomy were observed.

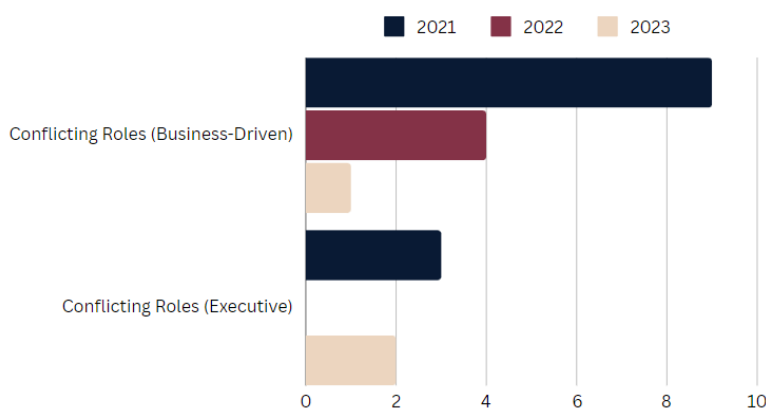
Throughout 2023, in which 31 supervisory interactions were conducted, 2 instances where the MLRO's autonomy was insufficient were encountered. 2 instances of a 'One-Man Show' resulting in a weak compliance culture were also noted during 2023.



3.2.2. Conflict of Interest

Throughout 2021, out of all the 54 supervisory interactions conducted by the MFSA that featured scrutiny on the MLRO, 9 instances of conflicting roles (the same individual fulfilling the MLRO role and other business-driven positions) were encountered. A further 3 instances of conflicting roles featuring executive positions were also noted.

For the 29 supervisory interactions conducted during 2022, 4 instances of conflicting roles (the same individual fulfilling the MLRO role and other business-driven positions).



With respect to the 31 supervisory interactions conducted year 2023, only 1 instance of conflicting roles (the same individual fulfilling the MLRO role and other business-driven positions) and 2 with respect to conflicting roles featuring executive positions were observed.

Comparing the 2023 supervisory information with the information observed in relation to 2021 and 2022, there was a reduction of observations regarding conflicting roles.

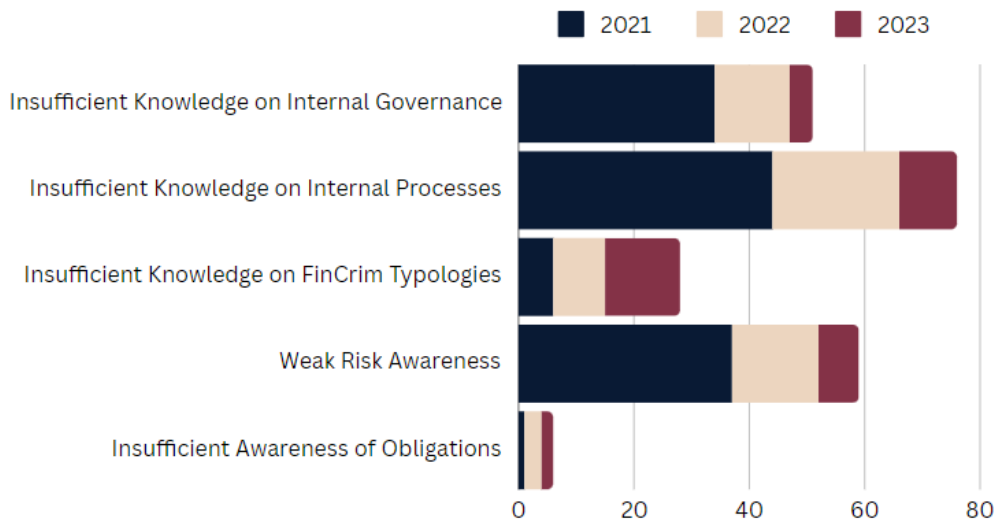
3.2.3. Knowledge and Expertise

Throughout 2021, out of all the 54 supervisory interactions conducted by the MFSA that featured scrutiny on MLROs, 34 instances were encountered where MLROs had insufficient knowledge on the internal governance of the licence holder they work within, 44 instances where the MLRO had insufficient knowledge on internal processes and systems relevant to their function, and a further 6 instances were noted where the MLRO had insufficient awareness on other relevant financial crime typologies. 37 instances within which MLROs' risk-awareness proved to be weak were also observed. Only 1 instance was encountered where the MLRO exhibited insufficient awareness in relation to their functions.

For the 29 supervisory interactions conducted during 2022, 13 instances were recorded where the MLRO had insufficient knowledge on the licence holder's internal governance, 22 instances where the MLRO had insufficient knowledge on internal processes and systems, and a further 9 instances were noted where the MLRO had insufficient awareness on other relevant financial crime typologies. 15 instances within which MLROs' risk-awareness proved to be weak were also observed, and 3 instances were noted where the MLRO exhibited weak awareness in relation to their inherent obligations.

In relation to the 31 supervisory inspections conducted in 2023, only 4 instances were recorded where the MLRO had insufficient knowledge on the licence holder's internal governance, 10 instances where the MLRO had insufficient knowledge on internal processes and systems, and a further 13 instances were noted where the MLRO had insufficient awareness on other relevant financial crime typologies. Additionally, 7 instances there the MLRO's risk-awareness proved to be weak were also observed, and 2 instances were noted where the MLRO exhibited weak awareness in relation to their inherent obligations.

With regards to this theme, a 51% decrease was noted for the information related to instances related to the following issue categories: 'insufficient knowledge on internal governance' and 'insufficient knowledge on internal processes and systems'. On the issues related to 'insufficient awareness on other types of financial crime', the information presented has remained consistent. A 47% decrease was also noted in relation to instances observed where the MLRO had a weak-risk awareness for the given period.

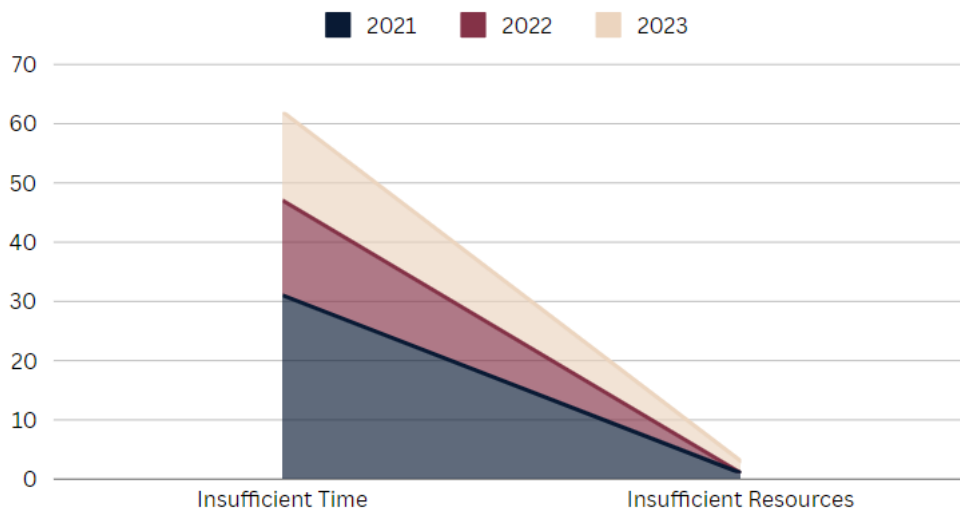


3.2.4. *Resources and Time Commitment*

Throughout 2021, out of all the 54 supervisory interactions conducted by the MFSA that featured scrutiny on the MLRO, 31 instances of insufficient time dedicated to the MLRO function were noted, and 1 instance of insufficient resources allocated to the MLRO function was observed.

For the 29 supervisory interactions that featured scrutiny on the MLRO conducted during 2022, 16 instances of insufficient time dedicated to the MLRO role were noted, and no instances of insufficient resources allocated to the MLRO function were observed.

With respect to the 31 supervisory interactions conducted during 2023, 15 instances of insufficient time dedicated to the MLRO function were noted, and 2 instances of insufficient resources allocated to the MLRO function were observed.



3.2.5. *Training and Awareness*

Throughout 2021, out of all the 54 supervisory interactions conducted by the MFSA that features an element of financial crime compliance, involving an MLRO interview, 15 instances were noted where insufficient training was attended. For the 29 supervisory interactions conducted that featured scrutiny on the MLRO during the following year 2022, 3 instances were noted where insufficient training was attended by the MLRO. For 2023, in which 31 supervisory interactions were conducted that featured scrutiny on the MLRO, 6 instances were noted where insufficient training was attended by the MLRO.

Finally, with respect to any changes examined from the supervisory information throughout the three years, despite there being only 6 instances of insufficient training attended in 2023 compared to 15 in 2021, this only represents a minor proportional change given the higher number of supervisory interactions conducted in 2021.

4. The MFSA's Expectations

4.1. Proposed Individuals for MLRO Positions

The MFSA's expectations at approval stage stem directly from the obligations and provisions relevant to approved MLROs throughout the supervisory lifecycle of their relevant licence holder. Hence, the MFSA works to ensure that proposed individuals are able to operate effectively upon their approval. Hence, it is essential for individuals applying for their approval of MLRO positions to be aware of the relevant obligations, requirements, and regulatory expectations as described below.

4.1.1. Knowledge and Expertise

An MLRO's knowledge and expertise is one of the main elements used to assess their competence and effectiveness. An effective MLRO needs to have knowledge of the main ML/FT risks to which the country and relevant sector are exposed to, including how the specific products and services offered by the appointing Subject Person may be abused for ML/FT. To this end, the MLRO must also know how the Subject Person seeks to mitigate, prevent, and detect any such occurrence. As such, it is important that the individual sufficiently prepares themselves prior to submitting their relevant information / application to the MFSA by ensuring that they are familiar with the following:

- Relevant ML/FT risks, trends, and typologies relevant to the country and to the sector within which the appointing Subject Person operates.
- Relevant guidelines published by the EBA,
- Relevant responsibilities bestowed on the MLRO position by local binding instruments,
- Relevant legislation and regulation that pertains to AML/CFT in Malta, and
- The business and operational model of the licence holder that are being proposed to be the MLRO of.

Naturally, an applicant's active efforts to maintain their expertise and skills will facilitate their knowledge on the above and enhance their application. Still, it is important to note that while achieving academic qualifications and attending regular training does not override the MFSA's consideration of other factors, such as relevant experience. This applies from both an authorisation and ongoing supervisory perspectives.

4.1.2. Governance

In addition to the above, the MFSA places great importance on sound corporate governance practices as detailed in the Corporate Governance Code. Applicants' knowledge on this important topic is another element that the MFSA places substantial importance on. As such, it is important for applicants to be sufficiently knowledgeable on good corporate governance practices that relate to financial crime compliance. This knowledge will aid applicants in thoroughly exhibiting to the Authority that they have the necessary knowledge that will enable them to act as effective MLROs. As such, applicants should ensure that they are sufficiently familiar with the MFSA's Corporate Governance Code and its principles that relate to ML/FT.

Nevertheless, proposed individuals should be fully aware of the functions and expectations relevant to appointed MLROs as they result from the PMLFTR, and the Implementing Procedures issued by the FIAU.

4.2. Incumbent MLROs

4.2.1. Independence, Autonomy, and Accountability

The MLRO must have the necessary independence and autonomy to effectively carry out their role, while still being accountable for their decisions and actions. While the Implementing Procedures – Part I state that the MLRO should have the possibility to communicate directly with the Subject Person's Board of Directors, the same Implementing Procedures allow the MLRO to fall within the normal reporting lines of the given Subject Person. As such, it is an acceptable practice for the MLRO to report directly to someone other than the Board of Directors. Where possible, may be able to report directly to the licence holder's Board of Directors or a Board appointed Committee. Regardless, this is not to say that MLROs cannot report to a single person, however, direct communication with the Board of Directors or other Board appointed Committees may be particularly useful to mitigate potential situations where:

- MLROs encounter obstacles from other senior management officials,
- MLROs hold concerns about higher management, and
- MLROs being pressured to collude / colluding on their own will with a member of the senior management to conceal particular issues.

It should also be considered that the Board of Directors/Senior Management should:

- Understand relevant financial crime risks¹ with particular reference in this case to ML/FT, and
- Ensure that the Subject Person implements effective control mechanisms intended to ensure the firm's compliance with relevant regulatory requirements².

Overall, the MFSA's expectations are that governance structures facilitate the MLRO's independence while ensuring their accountability.

Assurance reviews (such as audits) carried out by an independent body to evaluate the MLRO's compliance with their responsibilities, coupled with regular reporting to the Board of Directors on the MLRO's activities, further enhance accountability.

The level of detail to be included in any disclosures by the MLRO is to take into account the sensitivity of the information that the said function handles. Case-specific information should be disclosed only on a needs-to-know basis, following due consideration of (i) the reasons for which any such information is being required, (ii) whether there are other equally effective mechanisms within the local AML/CFT framework to ensure accountability of the MLRO and (iii) what safeguards can be implemented to effectively ensure the confidentiality of the information to be disclosed considering local and Subject Person specific circumstances. And this to also limit possible instances of tipping-off that are subject to criminal sanctions.

The MFSA expects senior management to take responsibility for the firm's financial crime compliance framework. This includes knowing about the financial crime related risks to which the firm is exposed and ensuring that steps are taken to mitigate those risks effectively. The MLRO is a key individual in facilitating a licence holder's senior management's understanding of their entity's financial crime risks and related mitigating measures. As such it is expected that the MLRO is regarded as a focal point for an entity's anti-financial crime related efforts.

¹ Corporate Governance Code – Provision 2.2.1.2.1.4

² Corporate Governance Code – Provision 2.2.1.1.4

Self-assessment questions:

- Do the firm’s staff, including its senior management, consult the MLRO on matters relating to ML/FT?
- Who has overall responsibility for establishing and maintaining effective financial crime controls?
- Does the MLRO enjoy sufficient seniority to carry out their role effectively?
- What are the MLRO’s reporting lines? Is there the possibility for the MLRO to report directly to the Board of Directors or a Board appointed Committee where he considers this to be necessary?
- Does senior management receive informative, objective information that is sufficient to enable them to meet their AML/CFT obligations? How regularly does the MLRO provide reports to the entity’s senior management? (This should be at least annually)
- Does the MLRO provide senior management with informative, objective information that is sufficient the entity’s satisfaction of the respective AML/CFT obligations? What follow-up action is taken to address recommendations made by the MLRO?

Examples of Good Practice	Examples of Bad Practice
Decisions on accepting or maintaining high risk relationships are reviewed and challenged independently and escalated to senior management / committees.	Limited evidence showing senior management seriously considering matters related to financial crime compliance.
Information is provided to senior management to inform decisions about entering or maintaining business relationships provides an accurate representation of the entity’s risk exposure of a certain business relationship was accepted.	The MLRO does not provide the Board with adequate information.

The MLRO function is independent, knowledgeable, robust and well-resourced.	The MLRO lacks experience, seniority and credibility.
The MLRO is able to pose effective challenge to the business where needed.	The MLRO is unaware or does not understand the policies and procedures they are meant to oversee.
The MLRO reports directly to the Board or a Board appointed Committee where applicable or necessary.	The MLRO is unaware or does not understand sector specific risks relevant to the firm they operate within and does not have oversight over high-risk business relationships.

4.2.2. *Conflict of Interest*

The Licence Holder’s senior management must also recognise and address potential conflicts of interest stemming from the firm’s emphasis on revenue generation versus its responsibility to mitigate the risk of being exploited for financial crime purposes.

The local AML/CFT regulations emphasise the necessity for the MLRO to avoid conflicts of interest. While acknowledging that there may be situations where no alternative is pragmatically possible, the MFSA emphasises the importance that where possible, the MLRO function should be fulfilled separately from other roles that may hinder its effectiveness and independence. This is especially important where the MLRO possesses the authority to recommend declining / onboarding of customers or the continuation of business relationships with customers identified as posing financial crime related risks.

From a corporate governance perspective, licence holders should establish and uphold sufficient internal protocols and practices for effectively handling any potential or actual conflicts of interest or violations of their own conflicts of interest policy. This requirement extends to MLROs, especially when they also hold other roles that could pose conflicting interests³.

Self-assessment questions:

- Does the firm have a clear policy and protocols on conflicts of interest?
- Does the MLRO fulfil roles that may limit the function’s effectiveness?

³ Corporate Governance Code – Provision 2.1.8.2.1

- Have any conflicts of interest in relation to the MLRO been properly identified? Are they regularly reviewed?
- Are the mitigating measures being applied to control these identified conflicts of interest commensurate and appropriate?

Examples of Good Practice	Examples of Bad Practice
The individual appointed as the MLRO is fully engaged with fulfilling this single role and supporting the licence holder’s Financial Crime compliance framework.	Senior management prioritises revenue over its duty to combat financial crime. This also includes the MLRO’s performance being incentivised by the firm’s business profit.
The individual appointed as the MLRO fulfils other compliance-related roles that complement their MLRO-related duties.	The MLRO fulfils other prominent business-driven roles (e.g., Chief Executive Officer).
Appropriate controls are being applied (e.g., Board appointed committees) to mitigate identified conflicts of interest that cannot be entirely removed.	Senior management believes that the license holder’s financial crime obligations are met solely by submitting a Suspicious Transaction Report.

4.2.3. Knowledge and Expertise

An effective MLRO is one that is knowledgeable and possesses necessary expertise. As set out in the Implementing Procedures – Part I, these are indispensable qualities to ensure that the MLRO exercises his functions in an effective manner. In addition, the MFSA Corporate Governance Code specifically provides that firm’s compliance functions should be supported by an MLRO that is sufficiently knowledgeable, skilled, and experienced⁴. It is important for MLROs to maintain their skills through regular training to ensure their ability to provide effective challenge, where necessary and fulfil their duties appropriately.

Self-assessment questions:

- Does the MLRO regularly attend relevant conferences and training events organised by both the regulators and the industry?

⁴ Corporate Governance Code – Provision 2.2.1.2.2.3 (ii)

- Does the MLRO regularly refer to European-level and domestic publications in their day-to-day work?
- Is the MLRO knowledgeable on the products and business activity of the licence holder and relevant ML/FT risks?
- Does the MLRO provide effective and beneficial challenge in the day-to-day decisions of the licence holder?
- Is the MLRO provided with sufficient training opportunities that allow them to remain abreast of developments related to AML/CFT and the licence holder’s business activity?

Examples of Good Practice	Examples of Bad Practice
The MLRO regularly attends conferences and training events organised by the authorities and the industry.	Maintaining the MLRO’s knowledge and expertise on ML/FT through regular training is seen as an unnecessary effort since the individual appointed is already a qualified professional.
The MLRO is able to provide fruitful challenge and an educated perspective to the licence holder’s decision making.	The MLRO’s knowledge is not sufficient enough to understand the business activity of the licence holder and is unable to effectively identify relevant risks.
The MLRO is well versed and familiar with their obligations according to local regulation and with European-level publications (e.g., EBA ML/FT Risk Factor Guidelines).	The MLRO is not knowledgeable on recent regulatory developments and limits their resources to local literature.

4.2.4. *Resources and Time Commitment*

Ensuring that a compliance function has the essential resources to fulfil its duties is paramount for maintaining regulatory adherence the integrity of a licence holder. The same applies to the MLRO as a financial crime control in and of itself. Adequate resources, including sufficient staffing, technological tools, and financial support,

enable the MLRO to effectively identify, assess, and mitigate risks and suspicious activity.

While business volumes and transactional activity are different for each and every licence holder, it is essential that MLRO dedicates sufficient time to ensure that they fulfil their duties and obligations successfully. Given the complexity that is attributed to the financial services sector, MLROs should ensure that they have ample time to assess single transactions as well as transactional patterns for potential risks and report to the FIAU as needed, while also fulfilling other ancillary AML/CFT related responsibilities that may be entrusted to them.

Dedicating insufficient time to this role may lead to suspicious activities remaining unidentified and delayed reporting, exposing the licence holder to legal, reputational, financial, and regulatory risks.

Self-assessment questions:

- Does the MLRO have sufficient human and technological resources to carry out their role effectively?
- Does the MLRO fulfil other onerous roles within the same or different licence holders?
- Does the time dedicated by the MLRO adequately correspond to the business activity and transactional volumes of the particular licence holder?

Examples of Good Practice	Examples of Bad Practice
The MLRO is experienced and qualified on a particular sector within financial services and takes on roles specifically related to their knowledge and expertise.	The MLRO takes on several MLRO positions within different areas across the financial sector (engagements that do not complement each other).
The time dedicated by the MLRO towards their given role is proportionate to the needs of the particular Subject Person.	The MLRO dedicates too little time to the given role, and it is difficult to justify their effectiveness.
The MLRO is supported by knowledgeable staff (where applicable)	Financial crime compliance staff are relatively junior and lack access to senior

and has access to technological resources that facilitate their efficiency.	management. Their concerns are often overruled without documented justification.
	Financial crime compliance teams are under-resourced and senior management are reluctant to address this.

4.2.5. *Training and Awareness*

Subject Persons should hire personnel with the necessary skills, expertise, and knowledge to perform their duties effectively and actively mitigate the risk of incentivising staff to engage in unacceptable financial crime risks. It is essential for firms to regularly assess the competence of their employees and take necessary measures to maintain their competency levels. Employee training programs should align with their respective roles within the licence holder. As a major contact point for financial crime, the MLRO is in an advantageous position with regards to contributing to training relative to ML/FT.

Self-assessment questions:

- How does your firm ensure that its employees are aware of financial crime, and especially of ML/FT, risks and of their obligations in relation to those risks?
- Is staff provided with training on sector specific financial crime risks?
- How does the firm ensure that quality of the training provided to its staff and is training content updated?
- Is training tailored to particular roles (e.g., first line, second line, third line of defence)?
- How do you assess the effectiveness of your training on topics related to financial crime?

Examples of Good Practice	Examples of Bad Practice
Staff is provided with specifically tailored training in line with their role and seniority to ensure that their knowledge is adequate.	Staff are not sufficiently competent and knowledgeable, rendering themselves unable to identify financial crime risks.
New recruits in customer-facing roles are provided with financial crime related training before interacting with customers.	Training content focuses on explanations of legislation and regulation without providing practical examples relevant to the Subject Persons/licence holders.
The training content provided has practical elements.	Training material is not updated periodically, and the licence holders fails to conduct training needs exercises.
The Subject Persons satisfy themselves that their staff complement is aware of and understand their responsibilities in relation to financial crime compliance.	The MLRO does not provide training directly to the staff or oversees the quality of the same.
The MLRO provides training directly to the staff or oversees the quality of the same.	

5. Concluding Remarks

The MFSA will keep the content provided in this guidance under review and will continue to update it to reflect the findings and observations of future thematic reviews, enforcement actions, and additional regulatory releases. The MFSA's aim, in cooperation with other relevant authorities, is to ensure that it remains current, addressing emerging risks, and evolving concerns within the financial sector.

6. Other References

- [Opinion of the European Banking Authority on communications to supervised entities regarding money laundering and terrorist financing risks in prudential supervision](#)
- [European Banking Authority: Guidelines on cooperations and information exchange between prudential supervisors, AML/CFT supervisors and financial intelligence units under Directive 2013/36/EU](#)
- [Guidelines on policies and procedures in relation to compliance management and the role and responsibilities of the AML/CFT Compliance Officer under Article 8 and Chapter VI of Directive \(EU\) 2015/849](#)
- [National Coordinating Committee – National AML/CFT/TFS/PF Strategy 2021 – 2023](#)
- [Financial Intelligence Analysis Unit: Implementing Procedures Part 1](#)
- [Financial Intelligence Analysis Unit: Guidance Note on Common Issues related to the Money Laundering Reporting Officer](#)
- [Malta Financial Services Authority: What is a Money Laundering Reporting Officer \(MLRO\)?](#)
- [Malta Financial Services Authority: Corporate Governance Code](#)
- [Malta Financial Services Authority: AML and CFT Strategy](#)

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