

**RULEBOOK APPLICABLE TO LIMITED  
COMPANY SERVICE PROVIDERS UNDER  
THE COMPANY SERVICE PROVIDERS ACT**

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# TABLE OF CONTENTS

<b>INTERPRETATION .....</b>	<b>1</b>
<b>CHAPTER 1 GENERAL SCOPE AND HIGH-LEVEL PRINCIPLES .....</b>	<b>7</b>
TITLE 1           SCOPE AND APPLICATION.....	7
TITLE 2           HIGH-LEVEL PRINCIPLES .....	8
<b>CHAPTER 2 REGISTRATION OF LIMITED COMPANY SERVICE PROVIDERS.....</b>	<b>10</b>
TITLE 1           SCOPE AND APPLICATION.....	10
TITLE 2           THE REGISTRATION REQUIREMENT FOR LIMITED COMPANY SERVICE PROVIDERS...	10
TITLE 3           THE APPLICATION PROCESS .....	11
TITLE 4           REGISTRATION CONSIDERATIONS.....	12
TITLE 5           FITNESS AND PROPERNESS .....	13
TITLE 6           APPOINTMENT OF MONEY LAUNDERING REPORTING OFFICER.....	14
TITLE 7           CESSATION OF BUSINESS.....	15
<b>CHAPTER 3 ONGOING OBLIGATIONS FOR REGISTERED PERSONS .....</b>	<b>18</b>
TITLE 1           SCOPE AND APPLICATION.....	18
TITLE 2           GENERAL REQUIREMENTS.....	18
TITLE 3           NOTIFICATIONS AND PRIOR APPROVALS .....	19
TITLE 4           FINANCIAL RESOURCES REQUIREMENT .....	20
TITLE 5           GOVERNANCE .....	20
TITLE 6           RISK MANAGEMENT .....	21
TITLE 7           COMPLIANCE .....	21
TITLE 8           OUTSOURCING .....	22
TITLE 9           PROCEDURES FOR THE RECORDING OF BREACHES .....	23
TITLE 10          CONDUCT OF BUSINESS OBLIGATIONS .....	23
TITLE 11          RECORD KEEPING .....	25
TITLE 12          REPORTING OBLIGATIONS.....	27
TITLE 13          GENERAL OBLIGATIONS RELATING TO THE PROVISION OF SERVICES .....	28
<b>CHAPTER 4 ENFORCEMENT AND SANCTIONS.....</b>	<b>30</b>
TITLE 1           SCOPE AND APPLICATION.....	30
TITLE 2           GENERAL.....	30
<b>ANNEX 1 .....</b>	<b>33</b>

## REVISIONS LOG

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## Interpretation

Act	Refers to the Company Service Providers Act, Chapter 529 of the Laws of Malta, as amended. Also referred to as 'CSP Act'.
Applicant	refers to the person seeking registration under the Act.
Beneficial Owner	Shall have the same meaning as assigned to it under Regulation 2 of the Prevention of Money Laundering and Funding of Terrorism Regulations.
By way of its business	In the context of Article 3 of the Act, the phrase ' <i>by way of its business</i> ' means that these activities must be provided by a person who either: <ul style="list-style-type: none"> <li>a) holds himself out as providing Company Services <i>inter alia</i> by soliciting the services on offer to members of the public; or</li> <li>b) provides Company Services on a regular and habitual basis; <b>and</b></li> <li>c) is being directly or indirectly in receipt of remuneration or other benefits for the provision of these services.</li> </ul>

Provided that, with respect to (c) above, where the Company Services being provided by a person are being remunerated through another company which is associated or connected with the person providing such services or which belongs to the same group of companies, then the provider of the services would still be deemed to be receiving indirect remuneration for the services it offers and provided that it meets one of the criteria mentioned in (a) and (b) above, it would be subject to authorisation in terms of Article 3 of the Act.

Further to the above, the following factors shall, *inter alia*, indicate that a particular activity is being undertaken '*by way of business*':

- a) the amount of time taken to fulfil the responsibility is considered significant;
- b) the individual has no other form of employment;
- c) the level of income received (both in terms of the quantum and as a proportion of the individuals' total income) is considered significant;

- d) the existence of a business relationship through which habitual or frequent or regular appointments are introduced;
- e) the individual is receiving significant non-financial benefits/benefits in kind;
- f) the individual claiming business expenses within his own tax return;
- g) the individual offering or providing more than one type of company service; and
- h) the turnover of engagements is considered significant.

These indicators represent a non-exhaustive list of considerations, and the Authority would urge individuals either currently undertaking or contemplating commencing CSP activities, who remain unsure as to whether they meet the '*by way of business*' threshold test, to discuss their specific circumstances with the Authority. Furthermore, these indicators are not cumulative; however, the greater the number of indicators an individual meets the greater the probability that a '*by way of its business*' determination would be made by the Authority.

Class A CSP	A company service provider authorised to provide, by way of its business, the following services to third parties: (i) formation of companies or other legal entities; and/or (ii) provision of a registered office, a business correspondence or administrative address and other related services for a company, a partnership or any other legal entity.
Class B CSP	A company service provider authorised to provide, by way of its business, the service to third parties of acting as, or arranging for another person to act as director or secretary of a company, a partner in a partnership or in a similar position in relation to other legal entities.
Class C CSP	A company service provider authorised to provide, by way of its business, all of the services of a company service provider specified under article 2(1) in the definition "company service provider".
Client	Means any natural or legal person to whom a CSP service is provided.
Companies Act	Refers to the Companies Act, Chapter 386 of the Laws of Malta.

Company Services	<p>means any of the following services:</p> <ol style="list-style-type: none"> <li>1. the formation of companies or other legal entities;</li> <li>2. acting as, or making arrangements for another person to act as, director or secretary of a company, a partner in a partnership or hold a similar position in relation to other legal entities; and</li> <li>3. the provision of a registered office, a business correspondence or administrative address and other related services for a company, a partnership or any other legal entity.</li> </ol>
Company Service Provider	As per Article 2 of the Act, 'Company Service Providers' or 'CSPs' are those persons, other than Limited Company Service Providers, who <i>by way of business</i> provide company services to third parties,
Competent Authority	Means the Malta Financial Services Authority ("MFSA") established by the Malta Financial Services Authority Act, Chapter 330 of the Laws of Malta, also referred to as the 'Authority'.
Director	Includes any person occupying the position of director of a company, by whatever name he may be called, carrying out substantially the same function in relation to the direction of the company as those carried out by a director.
Exemption Regulations	The Company Service Providers (Exemption) Regulations, 2021, as amended.
FIAU	Means the Financial Intelligence Analysis Unit established by the Prevention of Money Laundering Act, Chapter 373 of the Laws of Malta.
Group of Companies	In relation to any company, means any body corporate which is that company's subsidiary or parent company, or a subsidiary of that company's parent company, and the term "group" shall be construed accordingly as well as meaning a parent undertaking and all its subsidiary undertakings.
Holding oneself out	<p>The term 'Holding oneself out' involves actual representation to third parties. The test on 'holding oneself out' is not confined solely to a determination as to whether advertising or solicitation of CSP services takes place.</p> <p>The following are indicators that a person shall be deemed to be 'holding himself out':</p>



- a) advertising the services provided or solicitation of business either verbally, through print or online (rather than being requested to provide CSP services); or
- b) making it known that the person will act to meet certain requests; or
- c) being equipped so to act e.g. office stationery, application form, business cards, business telephone book entries, website; etc.

These indicators are not cumulative: however, the greater the number of indicators a person meets, the greater the probability that such person would be considered as 'holding oneself out' by the Authority.

#### Involvements

The term shall entail acting as director or company secretary of a company, a partner in a partnership or in a similar position in relation to other legal entities. Involvements of the same person within the same Group of Companies shall only count as one single involvement.

Provided that the following shall not be considered 'involvements' for the purposes of the Act and this Rulebook:

- a) An individual who acts as director or company secretary of a company, a partner in a partnership or in a similar position in relation to other legal entities in virtue of a contract of employment:
- b) An individual who acts as director or company secretary of a company, a partner in a partnership or in a similar position in relation to other legal entities due to a beneficial interest in such company, partnership or other legal entity:  
or
- c) An individual who acts as director or company secretary of a company, a partner in a partnership or in a similar position in relation to other legal entities due to a family relationship.

#### Legal Person

Includes a body corporate or other association of persons whether granted legal personality in accordance with the provisions of the Second Schedule to the Civil Code, or not; and a civil partnership in possession of a warrant, or equivalent, to carry out the profession of advocate, notary public, legal procurator or certified public accountant shall be deemed a legal person for the purposes of this Rulebook.

Also referred to as a 'Legal Entity'.

Limited Company Service Provider	<p>Means any natural person who:</p> <p>(a) <i>by way of business</i>, provides any of the following services to third parties:</p> <ul style="list-style-type: none"> <li>(i) acting or holding himself out as acting, as a director and, or a company secretary in a company and, or a partner in a partnership; and, or</li> <li>(ii) acting, or holding himself out as acting, in a similar position in relation to other legal entities; and</li> </ul> <p>(b) intends to have ten (10) or less involvements at some point in time and that, in any case, shall not have more than ten (10) involvements at any point in time.</p> <p>Also referred to as a 'Limited CSP' or 'Registered Person'.</p>
Limited Company Service Providers Rulebook	Refers to the rulebook applicable to Limited Company Service Providers/ Registered Persons under the Act.
ML/FT	Money Laundering and Funding of Terrorism
Operational function	Means a function within an Authorised Person, the cessation or interruption of which would materially adversely impact the services provided to clients.
Person	Means a natural or legal person.
Qualitative assessment of time commitment	<p>The qualitative assessment of time commitment involves an assessment of qualitative factors that determine the amount of time a person can dedicate to his/her function. These include:</p> <ul style="list-style-type: none"> <li>i. the size and circumstances of the entity with which the position is held;</li> <li>ii. the nature, scale and complexity of the activities of the respective entities;</li> <li>iii. the place or country where the entities are based;</li> <li>iv. the travel time required for the role;</li> <li>v. the number of meetings scheduled for the management body;</li> <li>vi. adequacy, scope and quality of resources (internal and external) available;</li> <li>vii. the time needed for induction and training; and</li> <li>viii. the responsibility to be borne by the person.</li> </ul>

Quantitative assessment of time commitment	The quantitative assessment of time commitment involves an assessment of the number of commitments held by the person. The involvement in multiple roles is an important factor which may affect time commitment.
Recognised jurisdiction	Means a member state of the European Union, the European Economic Area (EEA) or any other jurisdiction which has, in the opinion of the Authority, an equal or comparable level of regulation regarding Company Services in Malta.
Registered Person	means an individual who is a Limited Company Service Provider registered by the Authority in accordance with the Act and who holds an aggregate of not more than ten (10) Involvements. Also referred to as 'Limited Company Service Provider'.
Registration	Refers to the registration requirement in Article 3A(2) of the Act.
Regulations	Means any Regulations applicable to Registered Persons that may be issued under the Act.
Under Threshold Class A CSP	Refers to individuals or civil partnerships in possession of a warrant, or equivalent, to carry out the profession of advocate, notary public, legal procurator or certified public accountant whose revenue from Company Services forms, or is forecast to form, in the upcoming year, not more than: [a] 35% of the combined total revenue in a calendar year from the provision of all professional services; or [b] EUR100,000, whichever is the higher. Provided that this category may not provide the service of "provision of a registered office, a business correspondence or administrative address and other related services for a company, a partnership or any other legal entity."
Under Threshold Class B CSP	Refers to individuals who hold an aggregate of not more than twenty (20) Involvements.

## Chapter 1 General Scope and High-level Principles

### **Title 1**                      **Scope and Application**

R1-1.1                      This Rulebook is being issued pursuant to Article 8 of the Act which provides that the Malta Financial Services Authority as the Competent Authority, may publish rules which shall be binding on Persons providing Company Services under the Act.

#### R1-1.2                      *Rules applicable to natural persons providing Company Services*

A natural person who exclusively acts as a director and, or a company secretary in a company and, or a partner in a partnership and, or holds a similar position in relation to other legal entities is required to assess whether he qualifies as a Restricted Company Service Provider, a Limited Company Service Provider or a Company Service Provider by reference to the Act, any Regulations and the Rules published thereunder.

In so doing, such person shall, *inter alia*, refer to the definition of 'by way of business' in the Act, the applicable rules and to guidance issued by the Authority, so as to assess whether he acts or holds such position 'by way of business'.

In the case of doubt whether a person shall be deemed to be a Restricted Company Service Provider, a Limited Company Service Provider or a Company Service Provider by carrying out a particular activity, the matter shall be conclusively determined by the Authority.

R1-1.3                      This Rulebook shall only apply to Limited Company Service Providers registered in terms of Article 3A the Act and applicants seeking registration as Limited Company Service Providers under Article 4 of the Act.

The "Interpretation" section of this Rulebook shall apply to terms and phrases used in this Rulebook.

Any references in this Rulebook to the masculine gender shall also be deemed to refer to the feminine gender.

- R1-1.4 This Chapter outlines the high-level principles which should guide Registered Persons in the provision of their activity in or from within Malta.
- R1-1.5 Chapter 2 of this Rulebook outlines the Registration requirements and the respective Registration process for applicants.
- R1-1.6 Chapter 3 of this Rulebook outlines the ongoing obligations which Registered Persons must adhere to.
- R1-1.7 Chapter 4 of this Rulebook provides for enforcement measures and sanctions in the event of misconduct by Registered Persons.

**Title 2** ***High-level Principles***

- R1-2.1 Registered Persons shall act in an ethical manner with due care, skill and diligence, taking into consideration the best interests of their clients and the integrity of Malta's financial system.
- R1-2.2 Registered Persons shall act honestly, fairly and professionally and shall comply with the relevant provisions of the Act, the regulations issued thereunder, and these Rules, as well as with other relevant legal and regulatory requirements, including *inter alia* the Prevention of Money Laundering Act, Chapter 373 of the Laws of Malta, as well as any regulations and rules issued thereunder.
- R1-2.3 Registered Persons shall co-operate with the MFSA in an open and honest manner and shall provide the Authority with any information it may require. Registered Persons shall supply the MFSA with such information and returns as the MFSA requires.
- R1-2.4 Registered Persons are also expected to deal openly and in a spirit of cooperation with any other relevant regulatory authority.
- R1-2.5 In complying with R1-2.1, Registered Persons shall:
- i. refer to, and where applicable, comply with the applicable Maltese laws, regulations and rules issued thereunder as well as any Guidance Notes which may be issued by the MFSA or other relevant body to assist the said persons in complying with their legal and regulatory obligations; and

- ii. take due account and, where applicable, comply with any relevant EU legislation as well as any Guidance Notes/Statements/Industry Best Practices which may be issued by local and/or international standard setting bodies.

## Chapter 2 Registration of Limited Company Service Providers

### ***Title 1                    Scope and Application***

R2-1.1                    This Chapter identifies the registration requirements for Applicants wishing to be registered as Limited Company Service Providers under Article 3 and Article 3A(2) of the Act, and the applicable Registration process.

This Chapter applies to all applicants who are seeking such a Registration.

### ***Title 2                    The Registration Requirement for Limited Company Service Providers***

R2-2.1                    Any person, operating in or from Malta, who acts or holds himself out as acting, as a Limited Company Service Provider, by way of their business, shall apply to the Authority for registration in terms of Article 3 and Article 3A(2) of the Act:

Provided that persons who are licensed, authorised, registered or recognised by the Authority in terms of any one of the laws for the purposes of which the MFSA has been designated as competent authority, other than those exempt in terms of the Exemption Regulations, are still subject to authorisation or registration, as applicable, in terms of the Act. These provisions are also without prejudice to any other requirements under the CSP Act, including the authorisation requirement for CSPs, as applicable, and the notification requirement for restricted company service providers.

Provided further that an Applicant shall only be able to apply for one of either (i) a registration or (ii) an authorisation under one of the classes referred to in the Act.

R2-2.2                    Pursuant to R2-2.1, a person providing, or holding themselves out as providing, Company Services in or from Malta, without being so authorised or registered by the MFSA, as applicable, shall be in breach of the Act.

R2-2.3                    Where an individual provides any of the following services to third parties:  
                               (i) acting or holding himself out as acting, as a director and, or a company secretary in a company and, or a partner in a partnership; and, or  
                               (ii) acting, or holding himself out as acting, in a similar position in relation to other legal entities;

and does not meet the requirements established in the rules issued by the Authority in accordance with Article 5(2B) of the Act for a person to be

considered as an over-threshold or an under-threshold Class A CSP or Class B CSP, such person shall be subject to registration as a Registered Person in terms of the Act.

R2-2.4 A person wishing to be registered to provide the services of a Limited Company Service Provider must be a natural person. Such person shall hold an aggregate of not more than ten (10) Involvements.

R2-2.5 Notwithstanding R2-2.4 where the Authority considers, either at Registration stage, or thereafter, that a Registered Person cannot meet the governance and other requirements that are expected to be in place considering the risk presented by the nature, size and complexity of the business of such person, the Authority may at its discretion, require the said natural person to establish a legal person for the purpose of seeking authorisation in terms of the Act.

R2-2.6 A Registered Person shall be required to have an initial capital contribution of two thousand Euro (€2,000).

R2-2.7 A Registered Person shall, at application stage and on an ongoing basis thereafter, maintain and be able to demonstrate adequate financial resources for the nature and scope of his business and shall be solvent at all times. In this context 'solvent' means having assets in excess of liabilities and being able to pay one's debts. Such person shall establish the level of resources which they deem necessary to meet their liabilities as these fall due and to withstand the risks to which the Registered Person may be subject. In making the assessment of the financial resources required, the Registered Person shall take into consideration the risks to which he is exposed as a result of the nature of its business and the extent to which those risks can be avoided or reduced.

A Registered Person shall maintain the minimum capital required as initial capital in terms of R2-2.6 and this shall be maintained for as long as the person remains registered in terms of the Act.

### ***Title 3                   The Application Process***

R2-3.1 Applicants shall submit their registration form and supporting documents, as applicable, and in accordance with this section, to the Authority. Applicants shall ensure that the appropriate registration form, as determined by the Authority, is completed, and that any documentation requested in original and/ or signed in wet ink should be submitted to the Authority.



R2-3.2 The MFSA may require Applicants to submit to the MFSA whatever additional information and documentation it deems appropriate for the purposes of determining whether it should grant Registration to the Applicant as a Registered Person.

R2-3.3 The Authority shall not initiate the review of any application unless:

- i. all the required documentation has been submitted; and
- ii. the non-refundable application fee has been paid upon submission of the actual application.

#### **Title 4                      Registration Considerations**

R2-4.1 When considering whether to register an Applicant, the Authority shall *inter alia*, have regard to:

- i. the protection of consumers and the general public;
- ii. the protection of the reputation of Malta, taking into account Malta's international commitments;
- iii. the promotion of competition and choice;
- iv. the reputation and suitability of the Applicant and all other parties connected with the Applicant; and
- v. the adequacy of resources including financial and systems.

R2-4.2 Pursuant to considerations outlined in R2-4.1, the Authority may register an Applicant as a Registered Person, subject to the Applicant being a fit and proper person and complying with all the other application requirements as may be determined by the Authority.

R2-4.3 The onus of proving fitness and properness to provide the services of a Registered Person lies with the Applicant.

R2-4.4 Notwithstanding Rule R2-4.3, the Authority shall, as part of its assessment process, avail itself of any additional information which may be available to it. Such information may include information which was not provided by the Applicant.

R2-4.5 The Authority shall base its decision as to whether or not an Applicant is to be registered in terms of the Act, on the basis of the information provided by the Applicant, and any other information that ought to have been disclosed by the Applicant. The MFSA shall not be liable in damages for any acts or omissions on the part of the Applicant.

## **Title 5                      Fitness and Properness**

R2-5.1                      Applicants seeking Registration as Registered Persons shall be subject to a fitness and properness assessment at application stage and required to be fit and proper on a continuous basis.

R2-5.2                      The Authority shall not grant Registration to an Applicant to provide Company Services, if it appears to it that the criteria of fitness and properness are not, and will not, be met by the Applicant.

R2-5.3                      When arriving at its decision as to whether a person concerned has met the fitness and properness criteria, the Authority will take account of all material facts, whether such facts are disclosed or otherwise.

R2-5.4                      Pursuant to R2-5.1, in assessing whether a person is a fit and proper person, the Authority shall assess the following:

- i.      Competence, in terms of R2-5.6;
- ii.     Reputation, in terms of R2-5.7;
- iii.    Conflicts of Interest and Independence of Mind, in terms of R2-5.8; and
- iv.    Time Commitment, in terms of R2-5.9.

In this respect, reference should be made to the [Guidance on the Fitness and Properness Assessments applied by the Authority](#).

R2-5.5                      All criteria referred to in R2-5.4 must be met in satisfaction of the fit and proper test. The onus of proving that a person is fit and proper lies on the individual applying for Registration in the case of limited CSPs. It shall not be the duty of the Authority to prove the converse before it refuses to grant Registration to an Applicant, or before it intends to suspend or withdraw a Registration granted to, or held by, a Registered Person.

R2-5.6                      *Competence*

R2-5.6.1                      Applicants shall demonstrate and provide reasonable assurance to the satisfaction of the Authority that they have an acceptable level of knowledge, professional expertise and experience and that adequate systems and resources are in place for the provision of the Company Services to clients on an ongoing basis.

R2-5.6.2                      The Authority may, at its discretion, on the basis of a risk-based assessment, conduct further assessments as it may deem necessary. Such further assessment, which may be carried out in collaboration and in cooperation with other competent authorities as may be applicable and necessary, may include an in-person interview.

R2-5.7 *Reputation*

R2-5.7.1 An Applicant shall demonstrate to the Authority and provide reasonable assurance to the satisfaction of the Authority that they are of good repute as well as provide reasonable assurance of their intentions to act in an honest, ethical and trustworthy manner

R2-5.7.2 The Authority's assessment of reputation shall be based on an assessment of [i] integrity; and [ii] solvency.

R2-5.8 *Conflicts of Interest and Independence of Mind*

R2-5.8.1 Applicants should be able to make their own sound, objective and independent decisions and judgments. Independence of mind can be affected by conflicts of interest. There is a conflict of interest if the attainment of the personal interests of an Applicant may adversely affect the clients' interests, including but not limited to, those circumstances outlined in R3-10.1.

R2-5.9 *Time Commitment*

R2-5.9.1 Applicants must be able to commit sufficient time to performing their functions efficiently and effectively.

R2-5.10.1 In order for the Authority to carry out its due diligence exercise to establish the "fit and proper" status of an Applicant, the latter would be required to submit a duly completed Personal Questionnaire form.

R2-5.10.2 The Personal Questionnaire form is to be submitted through the online portal.

**Title 6** ***Appointment of Money Laundering Reporting Officer***

R2-6.1 *Money Laundering Reporting Officer*

R2-6.1.1 Registered Persons are deemed to carry out "relevant activity" for the purposes of the Prevention of Money Laundering and Funding of Terrorism Regulations. Accordingly, besides adhering to the Prevention of Money Laundering Act, Registered Persons are required to adhere to the Regulations made thereunder, as well as the Implementing Procedures of the FIAU and any guidance notes issued by the FIAU.

- R2-6.1.2 In terms of the Prevention of Money Laundering and Funding of Terrorism Regulations, as subject persons, Registered Persons are required to appoint a Money Laundering Reporting Officer ('MLRO').
- R2-6.1.3 The Registered Person shall undertake the role of the MLRO, such that no third party and, or external service provider shall be employed to take on this role.
- R2-6.1.4 As part of the Registration process, the Applicant must seek the MFSA's prior written consent and approval to undertake the role of MLRO. The fitness and properness assessment referred to in R2.5.4 above shall extend to ensuring that the Applicant is fit and proper to hold the MLRO role and therefore include an assessment aimed at determining to the Authority's satisfaction whether that person has the necessary competence to be the MLRO.
- R2-6.1.5 Upon being granted approval by the MFSA, the Registered Person shall inform the FIAU of his appointment as MLRO. In this regard, the Registered Person will therefore need to register themselves as the MLRO with the FIAU.
- R2-6.1.6 The role of the MLRO is an onerous one and Registered Persons shall ensure that they fully understand the extent of responsibilities attached to this role. While the Authority expects individuals proposed to undertake the role of MLRO to possess both relevant qualifications and experience in AML/CFT matters, the Authority may still consider applications where the Applicant is able to demonstrate to the Authority's satisfaction that their experience on its own is sufficient.
- R2-6.1.7 In his capacity as MLRO, the Registered Person shall have the responsibilities outlined in the Implementing Procedures of the FIAU, as may be amended from time to time. In addition, the Authority expects the Registered Person to be thoroughly familiar with the Act, the Prevention of Money Laundering Act, the Regulations made thereunder, as well as the Implementing Procedures (including any sector-specific Implementing Procedures) and any guidance notes issued by the FIAU.

## ***Title 7*** ***Cessation of Business***

- R2-7.1 Registered Persons intending to voluntarily cancel their Registration should submit a formal request to the MFSA for the approval of the voluntary cancellation as soon as possible.

- R2-7.2 The Authority shall not proceed with the internal process to approve the voluntary cancellation of a Registration until the Registered Person has paid any pending amounts, *inter alia*, including any fees, due to the Authority.
- R2-7.3 The Authority may request the Registered Person to delay the voluntary cancellation of its Registration or winding-up of its business, should it, at any stage of the voluntary cancellation, or winding up process, determine that this is required in order to ensure consumer protection and protection of market integrity, or to wind-up such business in accordance with the conditions imposed by the MFSA.
- R2-7.4 The general procedure for voluntary cancellation of a Registration is set out in R2-7.5 and R2-7.6. This notwithstanding, the MFSA reserves the right to impose additional requirements as may be necessary.
- R2-7.5 Once a Registered Person informs the MFSA of its intention to voluntarily cancel his Registration, the following confirmations/action/documentation should be submitted to the MFSA:
- a) a formal request to the MFSA asking for approval to voluntarily cancel the Registration; A declaration confirming the Registered Person's intention to voluntarily cancel the Registration, subject to the Authority's approval and once the necessary formalities are finalised;
  - b) the Registered Person must give due notice to its clients of its intention to voluntarily cancel his Registration. Confirmation to this effect should be submitted to the MFSA;
  - c) a confirmation (where appropriate) that the Registered Person seeking to cease providing Company Services has transferred his clients to another person providing Company Services.
  - d) a confirmation that no litigation relating to the Company Services provided by the Registered Person or his clients is pending; and
  - e) a confirmation that the Registered Person will remove from all letterheads, and any other stationery, any reference to being registered by the Authority.

Provided that, the above list should not be considered exhaustive, and it is the Registered Person's duty to ensure that all his responsibilities have been satisfied.

Once all the requirements listed above are satisfied, an internal process will be set in motion for the approval of the voluntary cancellation of the Registration. Once a decision is taken, this will be conveyed in writing to the Registered Person who will cease to be registered thereafter. The

Registered Person shall then return his original Registration certificate to the MFSA.

R2-7.6            The MFSA will ordinarily issue a public notice regarding the voluntary cancellation of the Registration.

## Chapter 3      Ongoing Obligations for Registered Persons

### ***Title 1                      Scope and Application***

R3-1.1                      This Chapter provides the ongoing obligations applicable to Registered Persons.

### ***Title 2                      General Requirements***

R3-2.1                      The Registered Person shall, at all times, have adequate business organisation, systems, resources, experience and expertise to act as a Registered Person.

R3-2.2                      The Registered Person shall take reasonable steps to ensure continuous and reliable regularity in the performance of his services. To this end, the Registered Person shall have systems and resources that are appropriate and proportionate to the nature, scale and complexity of his business.

R3-2.3                      The Registered Person shall co-operate fully with any supervisory interaction or other enquiry, or compliance investigation carried out by the MFSA or an inspector acting on its behalf.

R3-2.4                      The Registered Person shall maintain sufficient records to be able to demonstrate compliance with the conditions of its Registration and with all applicable requirements prescribed by the Act as well as the regulations and rules issued thereunder. In this regard a Registered Person shall conduct sufficient monitoring and regular reviews, including independent audits if necessary.

R3-2.5                      Pursuant to R3-2.4, such records shall be kept available for inspection by the MFSA, for at least five (5) years from the date of the termination of services.

Provided that the Authority may request that such records are kept for a period of up to ten (10) years from the date of the termination of services.

Provided further that the requirements set out in this Rule shall be without prejudice to:

- i.    any other record keeping obligations that the Registered Person may have in terms of this Rulebook and any other law, rules or regulation; and

- ii. the right of any other authority, in terms of applicable law, to access the documents, data or information covered by this Title.

R3-2.6 A Registered Person shall ensure compliance with Rule 3-2.2 and shall implement and maintain systems to ensure that clients' interests are safeguarded in the event of death, incapacity, sickness, holidays or other absence of the Registered Person.

### ***Title 3                      Notifications and Prior Approvals***

R3-3.1 Where a Rule demands that a Registered Person notifies the MFSA of an event, such notification shall be made to the MFSA promptly and formally, in a durable medium. The requirement to notify the MFSA of any event as prescribed hereunder shall not be satisfied merely by the fact that the information which ought to be notified to the MFSA is included in a standard regulatory return or information which is publicly available.

R3-3.2 The Registered Person shall notify the MFSA in writing of:

- a) a change of business address, at least one month in advance of such change;
- b) any material changes in the information supplied to the MFSA immediately upon becoming aware of the matter;
- c) any actual or intended legal proceedings of a material nature by or against the Registered Person immediately after the decision has been taken or on becoming aware of the matter; and
- d) any breach of any Registration condition/s or of any provision of the Act or the regulations and rules issued thereunder, as soon as the Registered Person becomes aware of the breach.

R3-3.3 The Registered Person shall obtain the prior written consent of the MFSA before:

- a) making any change to the CSP's name or business name (if different), at least one month in advance of such change;
- b) any material changes to the business plan as originally registered, including any additional activities that the Registered Person intends to start providing, which do not fall under the Company Services that require registration or authorisation under the Act;
- c) taking any steps to cease the Company Services business; and
- d) agreeing to sell or merge the whole or any part of the regulated business.



#### **Title 4                      Financial Resources Requirement**

- R3-4.1                      The Registered Person shall, at all times, have sufficient financial resources available to enable it to conduct its business effectively and to meet its liabilities.
- R3-4.2                      The Registered Person must maintain and be able to demonstrate, at all times, adequate financial resources in line with the nature, scale and complexity of its business and must therefore satisfy the requirements of R2-2.6 for as long as that person remains registered under the Act.

#### **Title 5                      Governance**

- R3-5.1                      A Registered Person is required to ensure the sound and prudent management of their business and to document all decisions taken.

- R3-5.2                      The Registered Person shall:
- i.      ensure the proper discharge of their responsibilities;
  - ii.     ensure that they possess the skills, knowledge and expertise necessary for the discharge of responsibilities;
  - iii.    maintain adequate and orderly records of their business.

For these purposes, the Registered Person shall take into account the nature, scale and complexity of its business, and the nature and range of the activity being undertaken in the course of that business.

- R3-5.3                      The Registered Person shall establish measures to safeguard the security, integrity and confidentiality of information, taking into account the nature of the information in question.

- R3-5.4                      The Registered Person shall ensure compliance with his obligations under the Act, any Regulations issued thereunder and these Rules as well as with his obligations under other applicable legislation, in particular the Prevention of Money Laundering Act, the Regulations issued thereunder and the Implementing Procedures issued by the FIAU, as well as to detect the associated risks, and shall put in place adequate measures and procedures designed to minimise such risk and to enable the MFSA to exercise its powers effectively.

The Registered Person shall, in implementing measures to ensure compliance with this Rule, take into account the nature, scale and complexity of his business.

**R3-5.5                      *Competence and Effective Management*****R3-5.5.1                  The Registered Person shall:**

- a) Understand and comply with their contractual and other legal obligations;
- b) Identify and act in each client's best interest and deal properly with managing and mitigating any conflict of interest between clients or between themselves and a client;
- c) Keep the affairs of clients confidential except where disclosure of information is required or permitted by law or authorised by the person(s) to whom the duty of confidentiality is owed; and
- d) Record and monitor compliance with the Act, any regulations issued thereunder and with these Rules.

***Title 6                      Risk Management***

R3-6.1                      The Registered Person is expected to identify and understand all the risks associated with its business model and target markets and should not be limited to ML/FT risks.

R3-6.2                      For these purposes, the Registered Person shall take into account the nature, scale and complexity of its business, and the nature and range of the activity being undertaken in the course of that business.

***Title 7                      Compliance***

R3-7.1                      The Registered Person shall be responsible to ensure compliance with the Act, the Regulations and these Rules, as well as any other obligations under other applicable legislation on an ongoing basis.

R3-7.2                      The Registered Person shall be responsible for ensuring that incorrect or misleading information is not provided deliberately or recklessly to the MFSA either in supervisory returns or in any other way.

**Title 8                      Outsourcing**

- R3-8.1                      A Registered Person is expected to ensure that contingency plans, exit strategies and agreements are in place with respect to outsourcing, including any non-material outsourcing.
- R3-8.2                      A Registered Person shall ensure, when relying on a third party for the performance of any operational function, that it takes reasonable steps to avoid undue additional operational risk to the provision of continuous and satisfactory service to clients and the performance of its services on a continuous and satisfactory basis.
- R3-8.3                      When the Registered Person outsources any function, the Registered Person shall remain fully responsible for discharging all of its obligations under the Act or these Rules and shall adequately manage the risks relating to such outsourcing arrangements at all times.
- R3-8.4                      The Registered Person shall exercise due skill, care and diligence when entering into, managing or terminating any arrangement for the outsourcing to a service provider of any operational functions.
- R3-8.5                      The Registered Person shall carry out an ongoing assessment of the operational risks and the concentration risk associated with all its outsourcing arrangements. The Registered Person shall notify the MFSA of any material adverse developments relating to such arrangements.
- R3-8.6                      The Registered Person retains full regulatory responsibility and shall ensure that the proper management of the risks associated with the outsourced activities lies with the Registered Person.
- R3-8.7                      When the Registered Person outsources any function, the Registered Person shall ensure that the outsourcing arrangements do not result in the delegation of responsibility.
- R3-8.8                      The outsourcing of operational functions may not be undertaken in such a way as to materially impair:
- i.    the ability of the MFSA to monitor the Registered Person's compliance with all its obligations;
  - ii.   the orderly conduct of the Registered Person's business;
  - iii.   the quality of the Registered Person's operations; or
  - iv.   the Registered Person's ability to manage and monitor its business and activities;

## **Title 9                      *Procedures for the Recording of Breaches***

R3-9.1                      The Registered Person is required to have in place a breaches log which lists any breaches of the Act, Rules or other relevant laws and Regulations. This shall be made readily available for inspection upon the Authority's request.

## **Title 10                      *Conduct of Business Obligations***

R3-10.1                      *Conflicts of Interest*

R3-10.1.1                      Registered Persons shall ensure that adequate measures are taken and recorded, in line with Rule R3-10.1.3, when faced with a situation that can result in a conflict of interest and which can adversely affect the interests of their clients.

R3-10.1.2                      The circumstances which should be treated as giving rise to a conflict of interest should cover cases where there is a conflict between the interests of the Registered Person or certain persons connected to the Registered Person, or from the performance of services and activities, and the duty the Registered Person owes to a Client; or between the differing interests of two or more of its clients, to whom the Registered Person owes in each case a duty.

R3-10.1.3                      A Registered Person shall keep and regularly update a record of the situations or services carried out by or on behalf of the Registered Person in which a conflict of interest entailing a risk of damage to the interests of one or more clients has arisen or, in the case of an ongoing service, may arise.

R3-10.1.4                      A Registered Person shall ensure that a personal transaction should not give rise to a conflict of interest, especially when the Registered Person has access to inside information or to other confidential information relating to clients or transactions with or for clients by virtue of an activity carried out by him on behalf of the Registered Person.

R3-10.1.5                      Registered Persons shall not enter into a personal transaction which meets any one of the following criteria:

- i. it involves the misuse or improper disclosure of confidential information; or
- ii. it conflicts, or is likely to conflict, with any obligation of the Registered Person.

## R3-10.2 *Segregation of Funds*

R3-10.2.1 A Registered Person shall ensure that any funds in its possession, but belonging to a client, are kept at all times separately from its own funds and not co-mingled with funds of other clients.

R3-10.2.2 For purposes of R3-10.2.1, non-fungible assets belonging to clients and which may come into the possession of the Registered Person, shall be kept separate and distinct both from the Registered Person's own assets and from other assets belonging to other clients.

R3-10.2.3 Furthermore, also for purposes of R3-10.2.1, in the case of fungibles, it is not necessary for Registered Persons to open separate accounts for each client as long as appropriate records are kept, and effective reconciliation procedures are in place.

## R3-10.3 *Customer Acceptance and Due Diligence*

R3-10.3.1 The requirements set out in this rule (R3-10.3), shall apply in addition to the Implementing Procedures issued by the FIAU.

R3-10.3.2 Prior to accepting to offer its services to any client, a Registered Person shall, in so far as it can determine, ensure that such person is of sufficient good standing and repute. The Registered Person shall, *inter alia*, ensure that the proposed activities, or the engagement itself would not breach any international sanctions.

## R3-10.4 *Disclosure Requirements*

R3-10.4.1 Once registered, a Registered Person shall ensure that its status as a Registered Person is disclosed in all advertisements and correspondence. The following wording is to be included: "a Registered Company Service Provider by the Malta Financial Services Authority, in terms of the Company Service Providers Act."

## R3-10.5 *Client Agreements*

R3-10.5.1 Registered Persons, prior to entering into a client relationship, shall discuss terms of business with each prospective client and keep a written record of the terms of the agreement with each client, including evidence of the client's agreement to those terms. Such agreement shall include, as a minimum:

- a) details of the services to be provided and the fees charged;

- b) a record of how and by whom requests for action are to be given;
- c) provision dealing with situations where the Registered Person loses contact with a client; and
- d) a provision granting right of access to the MFSA to all information pertaining to the services being provided to the client as well as the client.

R3-10.5.2 The terms of the agreement shall also set out:

- a) A clear description of the grounds and procedure for the termination of the agreement and the consequences of termination;
- b) A description of the Registered Person's procedure for dealing with any complaints;
- c) A statement that the Registered Person is registered by the MFSA; and
- d) A requirement on the client to cooperate and comply with requests for information promptly.

R3-10.6 *Fees*

R3-10.6.1 Registered Persons shall agree on a clear fee structure with each of their clients before providing Company Services thereto and must ensure that the fees charged are transparent at all times.

R3-10.6.2 Pursuant to the preceding rule, Registered Persons shall ensure that adequate notice is given to clients before any material change in the fee structure is introduced.

R3-10.7 *Complaints*

R3-10.7.1 Registered Persons shall deal with complaints in an effective and transparent manner. The Registered Person shall promptly handle complaints received from clients and keep a record of each complaint and the measures taken for its resolution.

## **Title 11                      *Record Keeping***

R3-11.1 The Registered Person shall arrange for records to be kept of all services provided, which shall be sufficient to enable the MFSA to monitor compliance with the requirements under these Rules and in particular to ascertain that the Registered Person has complied with all obligations with respect to clients or prospective clients. The Registered Person shall arrange to keep sufficient backup of all such records.

- R3-11.2                    The Registered Person shall obtain and make available to the MFSA upon request, for at least five years after the termination of the relationship, the records relating to the provision of Company Services to clients. This requirement does not extend to any documentation which the Registered Person is precluded from sharing with the MFSA due to other restrictions imposed under any other applicable law, including but not limited to requests for information by the FIAU, internal Suspicious Transaction Reports and assessments thereto, and Suspicious Transaction Reports made to the FIAU.
- The MFSA may, in exceptional circumstances, require the Registered Person to retain any or all of those records for such longer period as it may deem necessary to enable the MFSA to exercise its supervisory functions. Such period shall not exceed ten (10) years, and shall be subject to the outcome of a thorough assessment of the necessity and proportionality of such further retention.
- R3-11.3                    The records shall be retained in a medium that allows the storage of information in a way which would be accessible for future reference by the MFSA, and in such a form and manner that the following conditions are met:
- a) the MFSA must be able to access them readily and to reconstitute each key stage of the processing of each transaction;
  - b) it must be possible for any corrections or other amendments and the contents of the records prior to such corrections or amendments to be easily ascertained; and
  - c) it must not be possible for the records otherwise to be manipulated or altered.
- R3-11.4                    Registered Persons must keep and preserve appropriate records in Malta which will at least include such records as are appropriate for their functions, as required by any applicable law and as will enable the provision of information to persons entitled to such information, on a timely basis. This should include, as a minimum, the identity of all their clients and the beneficial owners thereof, as well as their residential addresses. The records retained should be sufficient to enable the Registered Person to comply with any notification and reporting requirements.
- R3-11.5                    Where the Registered Person avails itself of digital record keeping solutions, such as cloud-based systems, the Registered Person shall ensure the security and availability of data and shall assess the cyber security of such solution.

- R3-11.6 The Registered Person shall retain its records in a centralised location, whether in paper or in soft copy format. Such records shall include, but not be limited to:
- i. Correspondence regarding initial contact and introductions with clients;
  - ii. Correspondence regarding client on-boarding and acceptance; and
  - iii. any other correspondence with clients.

- R3-11.7 A Registered Person shall, taking into account the size, nature, scale and complexity of the said undertaking and on a best effort basis, refer to the [Guidance on Technology Arrangements, ICT and Security Risk Management, and Outsourcing Arrangements](#), issued by the MFSA.

## ***Title 12                      Reporting Obligations***

- R3-12.1 The Registered Person shall have internal control systems and mechanisms which permit the verification of their compliance with these Rules.
- R3-12.2 The Registered Person shall in each year prepare an Annual Compliance Return in the form prescribed by the MFSA; such Annual Compliance Return shall be signed by the Registered Person. The Annual Compliance Return shall be submitted to the Authority within the deadline specified in Annex 1.
- R3-12.3 A Registered Person shall only be required to provide the Registered Person's financial information to the Authority through the Annual Compliance Return referred to in R3-12.2. The Registered Person shall ensure that the financial information so provided is complete and correct to the fullest extent possible.
- R3-12.4 Registered Persons shall be required to declare in the Annual Compliance Return that they fall within the applicable threshold to qualify as a Registered Person under the Act.
- R3-12.5 Registered Persons shall be responsible for the accuracy and correctness of the information submitted in the Annual Compliance Return in relation to their Registration under the Act.
- R3-12.6 Without prejudice to a Registered Person's obligations under R3-3.2(d), where there have been breaches of the Act, of any regulations issued thereunder or of these Rules, the Registered Person shall disclose all such breaches in the Annual Compliance Return.



- R3-12.7 The Registered Person shall notify the MFSA immediately if it becomes aware of actual or intended legal proceedings against it.
- R3-12.8 Deadlines for submission of the Annual Compliance Return and payment of Registration and supervisory fees to the Authority are listed in Annex 1.

**Title 13** ***General Obligations relating to the provision of services***

- R3-13.1 In acting as directors or company secretaries of a company, partners in a partnership or in a similar position in relation to other legal entities, in terms of their Registration under the Act, Registered Persons shall, as applicable:
- a) understand and act in accordance with their legal duties and the constitutional document of the client and seek advice where necessary;
  - b) when acting as director of a company, partner in a partnership or a similar position in relation to other legal entities, the individual shall ensure that the board of directors has effective control of the client company or the management body in case of any other legal entity has effective control of the legal person;
  - c) treat the company as a separate legal entity from its shareholders, directors and avoid or manage conflicts of interest in accordance with the company's constitutional document;
  - d) know who ultimately owns the client company;
  - e) know the company's business and finances and have full and up to date information on them;
  - f) when acting as director of a company, partner in a partnership or a similar position in relation to other legal entities, the Registered Person shall ensure that the client company keeps proper accounts in accordance with applicable law;
  - g) ensure that the client company keeps proper records, observes the minimum record retention periods under any applicable laws, and files accounts and returns as required by law;
  - h) comply with, and take reasonable steps to ensure that any client company of which they are a director, complies with the Prevention of Money Laundering Act and any Regulations issued thereunder, where applicable;
  - i) consider whether to resign from office and to notify the MFSA of the circumstances if they believe that the client company is being used for illegal purposes, trading wrongfully or breaking the law in other ways, without prejudice to complying with any other legal obligation the director is subject to;

- j) ensure that they have adequate experience, expertise and resources to enable them to discharge their responsibilities as director and, or company secretary;
- k) ensure that the basis on which they are to be remunerated is agreed or recorded in writing;
- l) co-operate fully with any regulator, including the MFSA, which is entitled to information about the company's affairs; and
- m) not attempt to avoid those responsibilities by proposing contracting out of them or assign them to others.

In a) to m) any reference to 'company' shall be deemed to include a reference to other legal persons and any reference to 'director' shall be deemed to include a reference to any person holding an equivalent position in another legal entity.

R3-13.2 Registered Persons shall ensure that they can commit sufficient time to perform their functions efficiently and effectively in any role they take on. In this respect, Registered Persons are expected to conduct both a qualitative and quantitative assessment of time commitment.

R3-13.3 If a Registered Person exceeds the applicable threshold Registration as set out by these Rules, such Registered Person shall inform the Authority in writing immediately upon becoming aware of such changes in circumstances. Such Registered Person shall, within three (3) months of becoming aware of such circumstances, take reasonable steps to determine whether to apply for authorisation and shall inform the Authority and apply accordingly at the expiry of the three (3) months.

## Chapter 4      Enforcement and Sanctions

### **Title 1                      Scope and Application**

R4-1.1                      This Title provides detail with regard to administrative penalties and sanctions. It *inter alia* provides the principles which guide the MFSA when imposing an administrative penalty and provides for aggravating and mitigating circumstances in case of misconduct by Registered Persons registered under the Act.

### **Title 2                      General**

R4-2.1                      The Registered Person shall at all times observe the legal requirements, Regulations and the Rules which are applicable to it, as well as all the relative requirements which emanate from the Act and regulations issued thereunder. In terms of the Act, the MFSA has various sanctioning powers which may be used against a Registered Person which does not comply with its regulatory obligations. Such powers include the right to impose administrative penalties.

R4-2.2                      Where a Registered Person breaches a Rule, the MFSA may, by virtue of the Authority granted to it under Article 9 of the Act, impose administrative penalties, without recourse to a court of law, up to a maximum of fifty thousand Euro (€50,000).

R4-2.3                      In determining whether to impose a penalty or other sanction, and in determining the appropriate penalty or sanction, the MFSA shall be guided by the principle of proportionality, deterrence and the disgorgement of profits derived from wrongdoing where the findings were systemic and their scale. The MFSA shall, where relevant, take into consideration the circumstances of the specific case, which may *inter alia* include:

- i.     the repetition, frequency, gravity or duration of the infringement by the Registered Person;
- ii.    the degree of responsibility of the Registered Person;
- iii.   the financial strength of the Registered Person;
- iv.    the profits gained or losses avoided by the Registered Person by reason of the infringement, insofar as they can be determined;
- v.     the losses for third parties caused by the infringement, insofar as they can be determined;

- vi. the level of cooperation of the Registered Person with the Authority;
- vii. previous infringements by the Registered Person and prior sanctions imposed by MFSA or other regulatory authorities on the same Registered Person;
- viii. the good faith, the degree of openness and diligence of the Registered Person in the fulfilment of his obligations under the Act, relative regulations, Rules and Registration conditions or of decisions of the Competent Authority in this regard;
- ix. any evidence of wilful deceit on the part of the Registered Person or its officers;
- x. any potential systemic consequences of the infringement; and
- xi. the reputation of Malta.

R4-2.4 Whenever the infringement consists of a failure to perform a duty, the application of a sanction shall not exempt the Registered Person from its performance, unless the decision of the MFSA explicitly states the contrary.

R4-2.5 These Rules stipulate various requirements for the submission of documents within set timeframes. In the instance when such timeframes are not complied with, and unless there is reasonable excuse for the delay, the Registered Person will be considered as breaching the relevant Rule/s and will be penalised accordingly.

R4-2.6 Documents may be submitted in various ways. The date of receipt will be as follows:

- i. if it is sent by fax and/or email, the date of receipt recorded shall be the time stamp of the fax and/or email, respectively;
- ii. if it is sent by post, this will be the date indicated by the MFSA stamp evidencing receipt; or
- iii. if it is delivered by hand, on the date such delivery was made and recorded by the MFSA.

R4-2.7 The MFSA will use its discretion to decide what action to take in respect of Registered Person who do not submit documents by their due date, after taking into consideration the reasons, if any, put forward by the Registered Person for the delay.

R4-2.8 Late submission gives rise to liability to an initial penalty and an additional daily penalty. If the conditions imposed by the MFSA are not met, the Authority reserves the right to take any further action it may deem adequate in the circumstances.

R4-2.9                    A right of appeal to the Financial Services Tribunal is available to Registered Persons on whom penalties are imposed.

## Annex 1

### *Deadlines for submissions to the Authority*

Submissions to the Authority	Deadline
Annual Compliance Return	30 April
Application Fee	On the date of submission of the application for Registration
Annual Supervisory Fee	31 January

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