

Guidance Note on Family Offices

Frequently Asked Questions

REVISIONS LOG



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Introduction

The Malta Financial Services Authority ('MFSA' or 'Authority') has streamlined its regulatory frameworks with the aim of facilitating the structuring and operations of single family offices in Malta.

On the 27 November 2024, the MFSA [published](#) amendments to two key frameworks – [i] the Notified Professional Investor Funds ('NPIF') framework; and [ii] the framework for Trustees of Family Trusts. The amendments *inter alia* provide clear definitions of what constitutes a "family office vehicle" and the types of investors they are available to.

This document aims to: [i] publish answers to queries which the Authority has addressed whilst developing the amendments and immediately following their launch, and [ii] provide guidance and further clarity on certain practical aspects of the amendments to interested stakeholders. This Guidance Note has been divided into three sections, as follows:

1. Questions regarding family offices in general;
2. Questions relating to NPIFs within the context of family offices; and
3. Questions regarding Trustees of Family Trusts.

This document should be read in conjunction with, and as supplementary guidance to, the applicable legislation, regulations, and rules. When referring to these FAQs, stakeholders should bear in mind that this document is intended to be a live document and the contents may be updated from time to time, as considered appropriate by the Authority.

It is emphasised that this document is intended to provide guidance and should neither be considered nor construed as advice or in any way, a commitment on the part of the MFSA. Should there be a conflict between this document and the applicable legislation, regulations and/or rules, the respective legislation, regulations and/or rules will prevail.

Section 1 General

Q1.01 What is a family office?

A family office is a structure that manages the financial and personal affairs of a high-net-worth family (single family office) or more than one such family (multi-family office), the primary objective of which is to help families preserve, grow and transfer wealth across generations. Services offered by family offices typically include investment management, estate planning, philanthropic activities, as well as lifestyle management.

Q1.02 How does Malta cater for family offices?

Malta offers a stable and transparent legal and regulatory environment, a skilled, English-speaking workforce, and a strategic location within the European Union amongst other factors. Its robust regulatory framework, overseen by the MFSA, and its extensive network of double taxation treaties are also key advantages. The regulatory amendments by the MFSA in late 2024 have further streamlined the process for establishing and operating single family offices in Malta.

Q1.03 Do the 27 November 2024 amendments establish a new framework for family offices in Malta?

No, it was already possible to establish a family office in Malta before these regulatory amendments were published; however, such amendments sought to facilitate the establishment and operation of single family offices in Malta.

Q1.04 Are family offices in Malta required to be licensed?

The "family office" as a concept is not directly or expressly regulated by the MFSA as a specific license category. However, certain structures and activities adopted or undertaken by a family office may be subject to regulatory approval or notification.

Q1.05 Can structures other than those referred to in the circular of the 27 November 2024 be used to set up a family office in Malta?

Yes. Various legal structures can be used to establish a family office, depending on the specific needs of the family in question.

Q1.06 What are the common legal structures used by family offices in Malta?

Frequently used legal structures include holding companies, private trust companies, special purpose vehicles and collective investment schemes, amongst others. The choice of structure is largely dependent on the family's specific objectives, asset types, and operational needs.

Q1.07 The regulatory amendments introduced in November 2024 are specific to single family offices - what about any regulatory implications for multi-family offices?

Multi-family offices, by their nature of serving multiple unrelated families, generally engage in certain activities by way of business and would therefore typically fall within the full scope of financial services regulation. This could possibly *inter alia* entail the requirement for [i] an investment services license from the MFSA to provide services such as discretionary portfolio management or investment advice to multiple clients, or if they act as fund managers for collective investment schemes that are not exclusively for a single family, and/or [ii] authorisation as a professional trustee when serving multiple unrelated families and therefore deemed to be carrying on trustee activities by way of business.

Q1.08 Are there any specific substance / local presence requirements for family offices in Malta?

Substance / local presence requirements, if any, are highly contingent on the structure adopted by the particular family office and any regulated components it may encompass. For example, if the structure includes a NPIF, the governing body of the NPIF must include at least one local member.

Q1.09 What are the Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT) obligations for MFSA-authorised entities operating as part of a family office structure?

AML/CFT obligations are determined by the specific structure of a family office and the entities it is comprised of. Certain components of a family office in Malta, such as trusts and NPIFs, may be designated as a 'subject person' under the Prevention of Money Laundering and Funding of Terrorism Regulations. It is imperative that a comprehensive assessment be conducted to ensure full compliance with the relevant legal and regulatory provisions of the local AML/CFT framework.

Section 2 Notified Professional Investor Funds

Q2.01 What is a Notified Professional Investor Fund ('NPIF')?

A NPIF is a category of collective investment scheme in Malta that does not need to undergo full licensing but is instead subject to a notification process with the MFSA. This allows for a quicker time to market (10 working days). NPIFs are aimed at qualifying or professional investors and are intended to offer a more streamlined and cost-effective alternative to traditional funds.

Q2.02 In what ways can family offices in Malta make use of NPIFs?

NPIFs are particularly suitable for family offices as they can be managed by a fund manager established in Malta that is exempt from the requirement for an investment services license, provided the NPIF is a "family office vehicle" investing the private wealth of investors without raising external capital. This provides a regulated yet flexible structure for pooling and managing family assets, allowing for varying definitions of "family office vehicle" to be applied depending on the structure required by the family in question.

Q2.03 Are there specific investment requirements for family offices utilising NPIFs?

Yes, where NPIFs are managed by exempt fund managers established in Malta, qualifying or professional investors must invest a minimum of €5,000,000 or its currency equivalent in the NPIF, which investment cannot be reduced below this amount through partial redemption. Additionally, qualifying or professional investors must have aggregate net assets in excess of €50,000,000 or its currency equivalent, regardless of whether these assets are wholly invested in the NPIF.

Q2.04 Must each individual investor in a NPIF forming part of a family office structure meet the €50 million aggregate net asset threshold?

No, the MFSA assesses compliance with this requirement on a look-through basis. The qualifying or professional investors within the overall family office structure must collectively hold a minimum of €50,000,000 in aggregate net assets. This threshold applies to the total aggregate net assets held by these investors, regardless of whether such assets are entirely invested in the NPIF or held elsewhere.

Q2.05 What are the ongoing obligations for NPIFs used by family offices?

In addition to the regular ongoing obligations applicable to all NPIFs, those which are managed by local exempt managers within the context of “family office vehicles” must also submit both an initial and annual confirmation. The onus of verifying the applicability of exemptions for the fund manager lies with the Due Diligence Service Provider and the governing body of the NPIF is subsequently expected to provide its endorsement.

Q2.06 What happens if the NPIF no longer meets the eligibility criteria for it to appoint an exempt manager?

Should the relevant conditions for the appointment of an exempt manager no longer remain satisfied, the Due Diligence Service Provider and, or the governing body of the NPIF are to immediately inform the MFSA, including specific reasons why this is no longer the case. Furthermore, the NPIF would be expected to make arrangements to align with regulatory requirements in a timely manner.

Q2.07 Are there restrictions on asset classes for NPIFs forming part of a family office structure?

There are no restrictions on asset classes inherent to NPIFs forming part of a family office structure; however, NPIFs are prohibited from engaging in "Lending" activities, as defined in the *'Standard Licence Conditions Applicable to Collective Investment Schemes authorised to invest through loans'*..

Q2.08 What are the expectations in terms of valuation of assets held by NPIFs forming part of a family office?

Family offices generally hold a diversified portfolio of assets. In the interest of transparency, NPIFs forming part of a family office are expected to establish robust valuation policies and procedures. Where necessary, an independent valuation function would need to be appointed to ensure that a true and fair value of the assets is provided. These arrangements, as well as the valuation methodologies adopted, should also be disclosed in the offering documentation of the NPIF.

Section 3 Trustees of Family Trusts

Q3.01 What is a family trust?

In Malta, a family trust generally refers to a legal arrangement where assets are transferred to a trustee for the benefit of designated family members or family dependents as beneficiaries. It is a common vehicle for estate planning, wealth preservation and the intergenerational transfer of assets, where the trustee is responsible for the management and preservation of the trust assets.

Q3.02 Who regulates trustees of family trusts in Malta?

Trustees of family trusts are regulated by the MFSA. The Trustees of Family Trusts Rulebook applies to trustees registered under Article 43B of the Trusts and Trustees Act (Cap. 331 of the Laws of Malta).

Q3.03 How do family trusts interact with NPIFs in the context of family offices?

When a family trust administered by a registered trustee is established to invest in a NPIF overseen by an exempt manager, the definition of "family member/family dependent" within the regulatory framework applicable to trustees of family trusts may be extended to also include "family clients". This allows for a more comprehensive approach to managing family wealth through integrated structures, by incorporating persons who may not traditionally be deemed as such (e.g. key employees and non-profit or charitable organisations).

Q3.04 How do charitable purposes feature in family trusts?

The Trusts and Trustees Act defines "charitable purpose" broadly to *inter alia* include various philanthropic objectives, such as the advancement of education, religion, health, social and community advancement, culture, arts, national heritage, environmental protection and human rights. The regulatory framework applicable to trustees of family trusts allows for trust instruments to provide for charitable purposes, or an institution set up for a charitable purpose, to benefit as a residual beneficiary upon the termination of the family trust.

Malta Financial Services Authority

Triq L-Imdina, Zone 1

Central Business District, Birkirkara, CBD 1010, Malta

communications@mfsa.mt

www.mfsa.mt