

## **User Guidelines – Trusts and Trustees Act (Register of Beneficial Owners) (Amendment) Regulations, 2026**

### **Introduction**

The Trusts and Trustees Act (Register of Beneficial Owners) (Amendment) Regulations, 2026 (the ‘Regulations’) are intended to transpose Articles 11, 12, 13 and 15 of Directive (EU) 2024/1640 of the European Parliament and of the Council of 31 May 2024 on the mechanisms to be put in place by Member States for the prevention of the use of the financial system for the purposes of money laundering or terrorist financing (‘AMLD6’), insofar as they relate to trusts and trustees and the reporting of trust beneficial ownership information to the Malta Financial Services Authority (the ‘Authority’) in the relevant register (which register is referred to as ‘TUBOR’). In this respect, the Authority is competent authority for such register, in accordance with the Trusts and Trustees Act, Cap 331 of the Laws of Malta.

### **Overview of the amendments**

*This section is intended to provide beneficial owners, trustees and any person requesting access to TUBOR an overview of the amendments to existing provisions and the introduction of new provisions in the Trusts and Trustees Act (Register of Beneficial Owners) Regulations, resulting from the transposition of the above-mentioned Directive.*

### **Access to TUBOR**

One of the primary objectives of the Regulations is to broaden the list of persons with access to beneficial ownership information of express trusts held on TUBOR. Authorities which focus on investigating or prosecuting money laundering, its predicate offences or terrorist financing, or that have the function of tracing, seizing or freezing and confiscating criminal assets, or having designated responsibilities for combating Money Laundering and Funding of Terrorism will be granted immediate, unfiltered, direct and free access to the information held in the interconnected central registers. Whilst certain authorities already had access through the interconnection of registers, known as BORIS, this now clearly includes national and EU Member State authorities, such as FIAUs and the Police Force, as well as supranational authorities such as EPPO EUROPOL, EUROJUST and OLAF, in accordance with Article 11 of the AMLD6.

Similarly, obliged entities, which will replace the term ‘subject person’ as utilised in the Prevention of Money Laundering and Financing of Terrorism Regulations, will be granted access to TUBOR for the purpose of carrying out customer due diligence. Such access was already granted to subject persons in terms of the applicable Subsidiary Legislation so far, and therefore this is merely an amendment to align terminology in local law with the AMLD6. In line with the amendments, once a person demonstrates that they are

obliged entities in terms of the law, they will be considered as such, and granted access accordingly, thus ensuring that the process is more straightforward.

**Legitimate interest:** Amendments in Regulation 6 also clarify access rules for persons requesting access on the basis of a legitimate interest claim tied to the prevention and combating of money laundering, its predicate offences and terrorist financing. In this respect, the Regulations introduce categories of persons who are considered to have a deemed legitimate interest, namely journalists, civil society organisations, persons likely to enter into a business relationship with a particular trust, third-country counterparts of EU AML/CFT competent authorities, programme authorities identified by EU Member States for the purposes of implementation of EU Funds and certain public authorities, amongst others. Any other person who can demonstrate a legitimate interest for the purpose of preventing and combating money laundering, its predicate offences and terrorist financing may also be granted access to beneficial ownership information, which requests will continue to be assessed on a case-by-case basis. Such claims need to be supported by the necessary evidence and documentation, as explained in the upcoming section.

### **Access requests submitted to the Authority**

Regulation 6a specifies the procedure for the verification and mutual recognition of a legitimate interest to access beneficial ownership information, and the current application process is being amended in order to align it with the Directive, should a person wish to access TUBOR on the basis of a deemed legitimate interest, an application may be submitted online, unless otherwise provided, and fees may apply. Upon receiving a request for access, the Authority will assess the application and carry out checks to verify the existence of a legitimate interest, including the verification of identity of the applicants and the function and occupation thereof, as well as ensure a connection with the trust being searched for. To note that such connection does not need to be proven for journalists and academics.

The Authority must provide a reply within the specified timeframe, and may also request additional information. Once all checks are complete, the Authority may issue a certificate to anyone who has proven a legitimate interest, which certificate can also be presented in other EU Member States to request access to different beneficial ownership registers. In this respect, the Regulations also set out those circumstances where the Authority will give recognition to certificates issued by other EU Member States. Such certificate may be presented to avoid repeated verifications, however, the connection with the trust being searched for, other than when the applicant is a journalist or academic, will be verified in all cases. That being said, the amendments specify that the Authority shall be entitled to repeat the verification of the function or occupation from time-to-time and in any case, not earlier than twelve (12) months after granting access,

unless the Authority has reasonable grounds to believe that the legitimate interest no longer exists.

The information on beneficial owners of a trust that will be made available is restricted to what is provided in Regulation 6 of the law.

### **Exemption from access to information**

The amendments also tweak the Regulation that specified that access to the Register may be exempted by the Authority in full or in part in very specific circumstances, namely where such access would expose the beneficial owner to disproportionate risk of fraud, kidnapping, blackmail, extortion, harassment, violence or intimidation, or where the beneficial owner is a minor or otherwise legally incapable. Such exceptional circumstances would need to be proven on a case-by-case basis following a detailed evaluation of the situation.

### **Refusal or revocation of access**

the Authority may also refuse or revoke access if the grounds specified in regulation 6AA are met. Prior to refusing access, the Authority shall consider requesting additional information, and should it decide to refuse access, the reasons for such decision shall be communicated accordingly. A right of appeal to the Court of Appeal (Inferior Jurisdiction) does exist from a decision of the Authority to deny or revoke access, and the grounds for such appeal are clearly laid out in the Regulations.

### **Administrative penalties and offences**

In addition to penalties that may already be imposed under the Regulations, the amendments in the Regulations provide for additional instances where the Authority may impose administrative penalties as summarised below:

- a) Where the Authority is obliged to update the beneficial ownership information in the register itself when discrepancies are reported to it, Authority may impose an administrative penalty which may not exceed one hundred thousand euro (€100,000) on the trustee concerned;
- b) Where any person, for the purposes of requesting access to the beneficial ownership information held in the register furnishes information, documentation, or makes a statement or declaration which is known to be inaccurate, false or misleading in any material respect, or recklessly furnishes information, documentation, or makes a statement which is inaccurate, false or misleading in any material respect, the Authority may impose an administrative penalty which may not exceed one hundred and fifty thousand euro (€150,000).

Furthermore, for the avoidance of doubt, a new Regulation 9A is being introduced which replicates the provisions of Article 51(2) of the Trusts and Trustees Act, which provides that it is an offence for any person who for the purposes of, or pursuant to, any of the provisions of these regulations, or any condition, obligation, requirement, directive or order made or given under the Act or these regulations, furnishes information, documentation or makes a statement or declaration which is known to be inaccurate, false or misleading in any material respect, or recklessly furnishes information, documentation, or makes a statement which is inaccurate, false or misleading in any material respect. Such person shall be guilty of an offence, and, saving any higher punishment which may be provided under any other law, shall be liable on conviction to a fine (multa) not exceeding four hundred and sixty-six thousand euro (€466,000) or to a term of imprisonment not exceeding four years, or to both such fine and imprisonment.

### **Concluding Remarks**

Following the publication of implementing acts and technical specifications by the Commission, as mandated by the AMLD6, the Authority will publish rules implementing such legislative instruments, thus clarifying further the requirements relating to the format and minimum details of the submission of beneficial ownership information to central registers, as well as the format of submission relating to requests for access to information held on TUBOR.

In case of any queries on the Act, the Authority may be contacted on +356 2144 1155 or by lodging a query on the MFSA Website.

***N.B. These User Guidelines shall be read in conjunction with the Trusts and Trustees Act (Register of Beneficial Owners) Regulations and shall not substitute a thorough reading thereof.***